



House of Representatives

General Assembly

File No. 278

February Session, 2006

Substitute House Bill No. 5181

House of Representatives, March 31, 2006

The Committee on General Law reported through REP. STONE, C. of the 9th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING PREPAID FUNERAL CONTRACTS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 42-200 of the 2006 supplement to the general
2 statutes is repealed and the following is substituted in lieu thereof
3 (*Effective October 1, 2006*):

4 (a) For the purposes of this section and sections 42-201 to 42-206c,
5 inclusive, as amended, "funeral service contract" means a contract
6 which requires the payment of money or the delivery of securities in
7 exchange for the final disposition of a dead human body, including
8 funeral, burial or other services, or the furnishing of personal property
9 or funeral merchandise in connection with any such disposition,
10 wherein the use or delivery of such services, property or merchandise
11 is not required immediately, "beneficiary" means the person for whom
12 the goods or services purchased in a funeral service contract are to be
13 provided, and "purchaser" means the person who signs the funeral
14 service contract.

15 (b) A funeral service contract shall be in writing and shall contain
16 the following:

17 (1) The name, address, telephone number and Social Security
18 number of the beneficiary and the purchaser;

19 (2) The name, address, telephone number and license number of the
20 funeral director for the funeral service establishment providing the
21 goods or services;

22 (3) A list of the selected goods or services, if any;

23 (4) The amount of funds paid or to be paid by the purchaser for
24 such contract, the method of payment and a description of how such
25 funds will be invested and how such investments are limited to those
26 authorized pursuant to subsection (c) of section 42-202, as amended by
27 this act;

28 (5) A description of any price guarantees by the funeral service
29 establishment or, if there are no such guarantees, a specific statement
30 that the contract contains no guarantees on the price of the goods or
31 services contained in the contract;

32 (6) The name and address of the escrow agent designated to hold
33 the prepaid funeral services funds;

34 (7) A written representation, in clear and conspicuous type, that the
35 purchaser should receive a notice from the escrow agent
36 acknowledging receipt of the initial deposit not later than twenty-five
37 days after receipt of such deposit by a licensed funeral director;

38 (8) A description of any fees to be paid from the escrow account to
39 the escrow agent or any third party provider;

40 (9) A description of the ability of the purchaser or the beneficiary to
41 cancel a revocable funeral service contract and the effect of cancelling
42 such contract;

43 (10) For irrevocable contracts, a description of the ability of the

44 beneficiary to transfer such contract to another funeral home; and

45 (11) The signature of the purchaser or authorized representative and
46 the licensed funeral director of the funeral service establishment.

47 (c) A funeral service establishment shall maintain a copy of all
48 funeral service contracts entered into or assigned to such establishment
49 and a list of each escrow account established pursuant to such
50 contracts. Such list shall include the name and address of the escrow
51 agent, the amount of funds deposited with such agent and the name
52 and address of the purchaser of the funeral services contract. Such
53 contracts shall be maintained by the funeral service establishment for a
54 period of six years after the completion of the contracted services. Such
55 establishment shall disclose such information, upon request, to the
56 Commissioner of Public Health, the Commissioner of Consumer
57 Protection or the Attorney General.

58 (d) A funeral service establishment shall notify the purchaser of
59 each prepaid funeral contract with such establishment not later than
60 ten days after any transfer of more than a fifty per cent ownership
61 share of such establishment to another person or of the closure of such
62 establishment.

63 Sec. 2. Section 42-202 of the general statutes is repealed and the
64 following is substituted in lieu thereof (*Effective October 1, 2006*):

65 (a) A licensed funeral service establishment shall deposit any money
66 or securities which such establishment receives pursuant to a funeral
67 service contract, and [within] not later than fifteen days [of] after its
68 receipt of such money or securities, in one or more escrow accounts
69 established in accordance with the provisions of this section. Not later
70 than ten days after the initial deposit of such money or securities, the
71 escrow agent shall notify the purchaser, in writing, of the agent's
72 receipt of such initial deposit and the amount of such initial deposit.
73 Such escrow agent shall notify the purchaser of any transfer of such
74 funds or securities, except when such transfer is to pay for services as
75 required by the funeral service contract. Such funds or securities shall

76 not be transferred to an insurance contract without a description to the
77 purchaser by the funeral director of any fees, costs or commissions
78 associated with such insurance contract and without obtaining the
79 written consent of the purchaser to such transfer.

80 (b) Each escrow account established pursuant to this section shall be
81 administered and maintained by an escrow agent. The funeral service
82 establishment which deposits money or securities in such escrow
83 account shall appoint such agent who shall be one of the following: (1)
84 A national banking association; (2) a state bank and trust company; (3)
85 a federal or state chartered savings bank; (4) a federal or state
86 chartered savings and loan association; (5) a licensed insurance
87 company; [] or (6) a registered broker-dealer. No such institution shall
88 be appointed as an agent unless such institution is authorized by law
89 to act as an escrow agent.

90 (c) Assets held in escrow accounts established pursuant to this
91 section shall be invested in one or more of the following: (1) Deposit
92 accounts insured by the Federal Deposit Insurance Corporation; (2)
93 accounts insured against loss of principal by an agency or
94 instrumentality of the United States government; (3) bonds in which
95 savings banks in this state may, by law, invest; (4) bonds of the United
96 States or any agency thereof or of this state or any municipality of this
97 state; [or] (5) insurance contracts with an insurance company licensed
98 by the state of Connecticut to offer such contracts and maintaining not
99 less than a B plus rating for financial security by A.M. Best; or (6) any
100 other deposit account [, insurance contract,] or security of a quality,
101 safety and expense comparable to those set forth in this subsection.

102 (d) All interest, dividends and other income earned on the amounts
103 deposited in an escrow account pursuant to this section shall be
104 retained in such escrow account and credited, less any administration
105 expenses, to the respective interests of those persons for whose benefit
106 the escrow account is maintained. Amounts in an escrow account shall
107 be removed from such account only as provided in sections 42-200 to
108 42-206, inclusive, as amended. Each party to a funeral service contract

109 shall receive an annual statement of the amount credited to such
110 party's escrow account. Such statement shall include the name and
111 address of the escrow agent.

112 (e) If a purchaser of funeral services, property or merchandise
113 defaults in making payments required under the terms of such
114 contract, or if the purchaser or the person responsible for making
115 funeral arrangements for a deceased beneficiary fails to have the
116 funeral service establishment provide services, the funeral service
117 establishment may retain any origination fee and any costs actually
118 and reasonably incurred by such establishment in the performance of
119 the contract as liquidated damages, provided the sum of the amount
120 retained as an origination fee and the amount retained to pay for costs
121 incurred by the funeral establishment in the performance of the
122 contract shall not exceed an amount equal to five per cent of the
123 amount in the escrow account at the time the purchaser of funeral
124 services defaults in making such payments. The balance of any amount
125 remaining in the escrow account shall be paid to such purchaser upon
126 request.

127 (f) A person, firm or corporation licensed in accordance with the
128 provisions of chapter 385 which enters into a funeral service contract
129 shall furnish the agent of an escrow account established in accordance
130 with the provisions of this section with the name of the purchaser of
131 such services, property or merchandise, the address and name of the
132 beneficiary of the funeral service contract and the amount contracted
133 for, together with a copy of the contract listing the services, personal
134 property or merchandise to be furnished by the funeral service
135 establishment. Nothing in this section shall prohibit the commingling
136 within an escrow account of the money or securities received under
137 more than one funeral service contract for the purpose of management
138 and investment of funds in such escrow account.

139 (g) A funeral service contract shall provide that, if the particular
140 merchandise provided for in the contract is not available at the time of
141 death, the funeral service establishment shall furnish merchandise

142 similar in style and at least equal in quality of material and
143 workmanship to the merchandise provided for in the contract.

144 Sec. 3. Section 42-207 of the general statutes is repealed and the
145 following is substituted in lieu thereof (*Effective October 1, 2006*):

146 An irrevocable funeral contract may be entered into in which the
147 amount held in escrow may be disbursed only upon the death of the
148 beneficiary, provided such a contract does not exceed five thousand
149 four hundred dollars and all interest accumulates to the escrow
150 account and is inaccessible to the beneficiary. Such irrevocable funeral
151 contracts may be transferred from one funeral service establishment to
152 another upon request of the beneficiary. The purchase of an
153 irrevocable funeral contract shall not preclude an individual from
154 purchasing other funeral contracts that are revocable, provided any
155 such revocable funeral contract purchased by a Medicaid beneficiary
156 may be revoked only upon written notice by the Medicaid beneficiary
157 to the Commissioner of Social Services.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2006</i>	42-200
Sec. 2	<i>October 1, 2006</i>	42-202
Sec. 3	<i>October 1, 2006</i>	42-207

GL *Joint Favorable Subst.*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact: None

Municipal Impact: None

Explanation

The bill requires pre-need funeral service contracts to include certain information. It has no fiscal impact.

The Out Years

State Impact: None

Municipal Impact: None

OLR Bill Analysis
sHB 5181

AN ACT CONCERNING PREPAID FUNERAL CONTRACTS.

SUMMARY:

This bill requires pre-need funeral service contracts to be written and include certain provisions that, among others, describe the parties, identify the goods and services to be provided, state the amount paid or to be paid, and designate an escrow agent who will hold the prepaid funeral service funds. It requires funeral homes to (1) keep copies of the contracts and (2) inform contract purchasers whenever they change majority ownership or close.

The law requires a funeral home to deposit money provided under pre-need funeral service contracts into an escrow account and sets a deadline for making the deposit. The bill sets a deadline for the escrow agent to notify the purchaser that he has received the initial deposit. It also requires the agent to notify the purchaser when transferring funds in the account. It prohibits transfers to an insurance contract except under specified conditions. It also revises the restriction on investing escrow accounts in insurance contracts.

Finally, the bill requires Medicaid beneficiaries to notify the social services commissioner when revoking certain pre-need funeral service contracts.

EFFECTIVE DATE: October 1, 2006

PRE-NEED CONTRACTS

The bill requires pre-need funeral service contracts to include:

1. the beneficiary's and purchaser's names, addresses, telephone numbers, and Social Security numbers;

2. the funeral director's name, address, telephone number, and license number;
3. a list of the selected goods and services, if any;
4. the amount paid or to be paid by the purchaser, the payment method, and descriptions of how the funds will be invested and how the law limits investment options;
5. a description of any price guarantees the funeral home makes or, if there are no guarantees, a specific statement that there are none;
6. the escrow agent's name and address;
7. a written statement, in clear and conspicuous type, that the purchaser should receive a notice from the escrow agent acknowledging receipt of the initial deposit by the 25th day after the funeral director receives the deposit;
8. a description of fees to be paid from the escrow account to the escrow agent or a third party provider;
9. a description of the purchaser's or beneficiary's ability to cancel a revocable pre-need funeral service contract and the effect of cancelling it;
10. for an irrevocable contract, a description of the beneficiary's ability to transfer it to another funeral home; and
11. the signatures of the funeral director and the purchaser or his authorized representative.

The bill requires funeral homes to keep a copy of each service contract it enters into or has assigned to it and a list of each escrow account established according to them. The list must include the escrow agent's name and address, the amount deposited with the escrow agent, and the purchaser's name and address. A home must keep a contract for six years after the completion of the contracted

services. The bill requires the funeral home to disclose this information to the public health and consumer protection commissioners and the attorney general on request.

The bill requires funeral homes to notify each pre-need contract purchaser of a transfer of more than 50% of the home's ownership or of its closure within 10 days after the event.

ESCROW AGENT NOTIFICATION

The law requires funeral homes to deposit money received under a funeral service contract into an escrow account within 15 days after receiving it. The bill requires the escrow agent to notify the purchaser in writing, by the 10th day after the initial deposit, of the agent's receipt of it and its amount. The bill requires the agent to notify the purchaser whenever transferring the funds or securities, other than transfers made to pay for services required by the funeral services contract.

TRANSFERS TO AN INSURANCE CONTRACT

The bill prohibits transfers of contract deposits to an insurance contract unless (1) the funeral director describes the fees, costs, or commissions associated with the insurance contract to the purchaser and (2) the purchaser has given his written consent.

ESCROW ACCOUNT INVESTMENT

The law limits how escrow accounts established under a funeral services account may be invested. It prohibits investing in anything other than (1) deposit accounts insured by the Federal Deposit Insurance Corporation; (2) accounts insured against loss of principal by a United States government agency or instrumentality; (3) bonds in which state savings banks may invest; (4) bonds issued by the United States or one of its agencies and the State of Connecticut or one of its municipalities; or (5) any other deposit account, insurance contract, or security of comparable quality, safety, and cost. The bill, instead of allowing investments in any insurance contract, restricts investments in insurance contracts to those with an insurance company licensed by Connecticut to offer them and that keeps at least a B plus rating for

financial security by A.M. Best.

REVOCABLE AND IRREVOCABLE PRE-NEED CONTRACTS

The law limits the value of an irrevocable pre-need contract to \$5,400 and explicitly provides that purchasing an irrevocable contract does not preclude the purchase of other revocable contracts. The bill allows a Medicaid beneficiary to revoke such a revocable contract only on written notice to the social services commissioner.

BACKGROUND

Related Bill

SB 317, favorably reported by the Public Health Committee, requires funeral homes to notify owners of prepaid funeral service contracts when a home is sold or closed. SB 317 also requires the home to publish two notices of the sale or transfer in a local newspaper, notify anyone for whom it is storing cremated remains, and give the Department of Public Health a list of all unclaimed cremated remains and escrow accounts it holds when the business is sold or transferred.

COMMITTEE ACTION

General Law Committee

Joint Favorable Substitute

Yea 15 Nay 0 (03/14/2006)