



Substitute House Bill No. 5498

Public Act No. 12-36

AN ACT CONCERNING CHANGES TO THE FUNERAL SERVICES STATUTES.

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

Section 1. Subsection (a) of section 7-62b of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2012*):

(a) A death certificate for each death which occurs in this state shall be completed in its entirety and filed with the registrar of vital statistics in the town in which the death occurred [no] not later than five business days after death if filing a paper certificate and [no] not later than three calendar days after death if filing through an electronic death registry system, in order to obtain a burial permit prior to final disposition. The death certificate shall be registered if properly filed. If the place of death is unknown but the body is found in this state, the death certificate shall be completed and filed in accordance with this section, provided the place where the body is found shall be shown as the place of death.

Sec. 2. Section 20-230c of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2012*):

If the person who has custody and control of the remains of a

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deceased person pursuant to section 45a-318 requests the disposal of the deceased person's body by cremation or if the deceased person had executed a cremation authorization document in accordance with the provisions of section 45a-318, the funeral director shall complete a written form containing the following information: (1) The name and address of the funeral service business that is responsible for the disposal of the deceased person's body; (2) the name of the deceased person; (3) the place and time of the cremation; (4) the name of the licensed funeral director or embalmer; (5) the name and address of the person who has custody and control of the remains of the deceased person; (6) a summary of the disposition, in accordance with section 20-230d, of the cremated remains, if unclaimed; and (7) a statement indicating the disposition of the cremated remains requested by the person who has custody and control of the remains of the deceased person or a statement indicating that the deceased person had executed a cremation authorization document in accordance with the provisions of section 45a-318. The written form shall be signed and dated by the person who has custody and control of the remains of the deceased person and by the funeral director. A copy of the signed form shall be provided to the person who has custody and control of the remains of the deceased person. The original signed form shall be ~~[retained]~~ maintained at the funeral service business, as required by section 20-222, for not less than ~~[twenty]~~ six years from the date on which such form is signed by the person who has custody and control of the remains of the deceased person.

Sec. 3. Section 42-200 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) For the purposes of this section and sections 42-201 to ~~[42-206c]~~ 42-207, inclusive, as amended by this act, "funeral service contract" means a contract which requires the payment of money, ~~[or]~~ the delivery of securities or the assignment of a death benefit payable

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under an individual or group life insurance policy in exchange for the final disposition of a dead human body, including funeral, burial or other services, or the furnishing of personal property or funeral merchandise in connection with any such disposition, wherein the use or delivery of such services, property or merchandise is not required immediately, "beneficiary" means the person for whom the goods or services purchased in a funeral service contract are to be provided, and "purchaser" means the person who signs the funeral service contract.

(b) A funeral service contract shall be in writing and shall contain, except as provided in subsection (c) of this section, the following:

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

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

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

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

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

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

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

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

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

(10) For irrevocable contracts, a description of the ability of the beneficiary to transfer such contract to another funeral home; and

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

(c) A funeral service contract that is funded through an assignment of a death benefit payable under an individual or group life insurance policy, need not contain the provisions described in subdivisions (4), (6), (7) and (8) of subsection (b) of this section.

[(c)] (d) A funeral service establishment shall maintain a copy of all funeral service contracts entered into or assigned to such establishment and a list of each escrow account established pursuant to such contracts. Such list shall include (1) the name and address of the escrow agent [,] and the amount of funds deposited with such agent or the name and address of the insurance company issuing the individual or group life insurance policy, and (2) the name and address of the purchaser of the funeral services contract. Such contracts shall be maintained by the funeral service establishment for a period of six years after the completion of the contracted services. Such establishment shall disclose such information, upon request, to the Commissioner of Public Health, the Commissioner of Consumer

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Protection or the Attorney General.

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

Sec. 4. Section 42-202 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) A licensed funeral service establishment shall deposit any money or securities which such establishment receives pursuant to a funeral service contract, and not later than fifteen days after its receipt of such money or securities, in one or more escrow accounts established in accordance with the provisions of this section. Not later than ten days after the initial deposit of such money or securities, the escrow agent shall notify the purchaser, in writing, of the agent's receipt of such initial deposit and the amount of such initial deposit. Such escrow agent shall notify the purchaser of any transfer of such funds or securities, except when such transfer is to pay for services as required by the funeral service contract. Such funds or securities shall not be transferred to an insurance contract without a description to the purchaser by the funeral director of any fees, costs or commissions associated with such insurance contract and without obtaining the written consent of the purchaser to such transfer.

(b) Each escrow account established pursuant to this section shall be administered and maintained by an escrow agent. The funeral service establishment which deposits money or securities in such escrow account shall appoint such agent who shall be one of the following: (1) A national banking association; (2) a state bank and trust company; (3) a federal or state chartered savings bank; (4) a federal or state chartered savings and loan association; (5) a licensed insurance

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company; or (6) a registered broker-dealer. No such institution shall be appointed as an agent unless such institution is authorized by law to act as an escrow agent.

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

(d) All interest, dividends and other income earned on the amounts deposited in an escrow account pursuant to this section shall be retained in such escrow account and credited, less any administration expenses, to the respective interests of those persons for whose benefit the escrow account is maintained. Amounts in an escrow account shall be removed from such account only as provided in sections 42-200 to 42-206, inclusive. Each party to a funeral service contract shall receive an annual statement of the amount credited to such party's escrow account. Such statement shall include the name and address of the escrow agent.

(e) If a purchaser of funeral services, property or merchandise defaults in making payments required under the terms of such contract, or if the purchaser or the person responsible for making funeral arrangements for a deceased beneficiary fails to have the funeral service establishment provide services specified in the funeral services contract, the funeral service establishment may retain any

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origination fee and any costs actually and reasonably incurred by such establishment in the performance of the contract as liquidated damages, provided the sum of the amount retained as an origination fee and the amount retained to pay for costs incurred by the funeral establishment in the performance of the contract shall not exceed an amount equal to five per cent of the amount in the escrow account at the time the purchaser of such funeral services defaults in making such payments. The balance of any amount remaining in the escrow account shall be paid to such purchaser upon request.

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

(g) A funeral service contract shall provide that, if the particular merchandise provided for in the contract is not available at the time of death, the funeral service establishment shall furnish merchandise similar in style and at least equal in quality of material and workmanship to the merchandise provided for in the contract.

(h) The provisions of this section shall not apply to a funeral service contract funded through an assignment of a death benefit payable under an individual or group life insurance policy.

Sec. 5. Section 42-203 of the general statutes is repealed and the

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following is substituted in lieu thereof (*Effective from passage*):

(a) Funds held in an escrow account in accordance with the provisions of a funeral service contract shall remain intact unless such funds are commingled in accordance with the provisions of subsection (f) of section 42-202, as amended by this act, or the purchaser of funeral services, property or merchandise defaults in making payments required under the terms of the contract, as provided in subsection (e) of section 42-202, as amended by this act, or until the services contracted for have been performed or the contracted for property or merchandise has been delivered. Upon submission to the escrow agent, by the funeral service establishment, of proof that the services, personal property and merchandise contracted for have been fully performed or delivered, the escrow agent shall pay to such funeral service establishment the amounts deposited therein pursuant to such funeral service contract, and all income earned thereon and retained in the escrow account. If, for any reason, the funeral service establishment [which] that has entered into a funeral service contract for the sale of services, personal property, or merchandise and [which] that has deposited the funds into an escrow account in accordance with the provisions of sections 42-200 to 42-206, inclusive, as amended by this act, fails to meet its obligation under such contract promptly after the death of the person to be benefited, the family, the next of kin, or the legal representative of the deceased person, having provided for such services, personal property or merchandise on behalf of the deceased person, may receive from the escrow agent the amount of money in such escrow account. An affidavit [which] that states that services have been performed or property delivered, signed by a member of the family, next of kin, or legal representative of the deceased, and by the funeral service establishment [which] that has provided such services, personal property or merchandise, and [which] that is delivered to the escrow agent shall be sufficient to authorize an escrow agent, acting alone, to make such payment without liability to the person making

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the deposit of such money into the escrow account or to any other person. Nothing contained in this section shall relieve the funeral service establishment of its liability for nonperformance.

(b) The provisions of this section shall not apply to a funeral service contract funded through an assignment of a death benefit payable under an individual or group life insurance policy.

Sec. 6. Section 42-204 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

The legal representative of the decedent or a person who has entered into a revocable funeral service contract with a funeral service establishment, upon written notice to such establishment and to the escrow agent, if any, and subject to the provisions of section 17b-91, as amended by this act, may cancel any revocable funeral service contract prior to the performance by such establishment. In the event of such a cancellation, all money in the escrow account paid by such person, together with all accrued income, less costs actually and reasonably incurred by the funeral service establishment in the performance of such contract, shall be returned to such person.

Sec. 7. Section 42-207 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

An irrevocable funeral service contract may be entered into in which the amount held in escrow or a death benefit payable under an individual or group life insurance policy may be disbursed only upon the death of the beneficiary, provided such a contract does not exceed five thousand four hundred dollars and all interest, growth or dividends accumulates to the escrow account or insurance policy and [is] are inaccessible to the beneficiary. Such irrevocable funeral service contracts may be transferred from one funeral service establishment to another upon request of the beneficiary or a legal representative of the

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beneficiary. The purchase of an irrevocable funeral service contract shall not preclude an individual from purchasing other funeral service contracts that are revocable, provided any such revocable funeral service contract purchased by a Medicaid beneficiary may be revoked only upon written notice by the Medicaid beneficiary to the Commissioner of Social Services.

Sec. 8. Subsection (a) of section 17b-91 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) The commissioner shall exclude, in the determination of eligibility for the state supplement program and the temporary family assistance program, burial funds in an amount not to exceed the maximum amount provided in section 17b-84. Such funds may be in the form of [prepaid] funeral service contracts as described in section 42-200, as amended by this act, irrevocable funeral service contracts or the face value of life insurance policies if the cash surrender value is excluded through the irrevocable transfer of the ownership of the policy to a trust, or any combination thereof, not to exceed the maximum amount provided in said section 17b-84.

Approved May 14, 2012