



House of Representatives

File No. 584

General Assembly

February Session, 2012 **(Reprint of File No. 358)**

Substitute House Bill No. 5498
As Amended by House Amendment
Schedule "A"

Approved by the Legislative Commissioner
April 23, 2012

***AN ACT CONCERNING CHANGES TO THE FUNERAL SERVICES
STATUTES.***

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

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2 repealed and the following is substituted in lieu thereof (*Effective*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

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

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 Section 20-230c of the general statutes is repealed and the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

17 If the person who has custody and control of the remains of a
18 deceased person pursuant to section 45a-318 requests the disposal of
19 the deceased person's body by cremation or if the deceased person had
20 executed a cremation authorization document in accordance with the
21 provisions of section 45a-318, the funeral director shall complete a
22 written form containing the following information: (1) The name and
23 address of the funeral service business that is responsible for the
24 disposal of the deceased person's body; (2) the name of the deceased
25 person; (3) the place and time of the cremation; (4) the name of the
26 licensed funeral director or embalmer; (5) the name and address of the
27 person who has custody and control of the remains of the deceased
28 person; (6) a summary of the disposition, in accordance with section
29 20-230d, of the cremated remains, if unclaimed; and (7) a statement
30 indicating the disposition of the cremated remains requested by the
31 person who has custody and control of the remains of the deceased
32 person or a statement indicating that the deceased person had
33 executed a cremation authorization document in accordance with the
34 provisions of section 45a-318. The written form shall be signed and
35 dated by the person who has custody and control of the remains of the
36 deceased person and by the funeral director. A copy of the signed form
37 shall be provided to the person who has custody and control of the
38 remains of the deceased person. The original signed form shall be
39 [retained] maintained at the funeral service business, as required by
40 section 20-222, for not less than [twenty] six years from the date on
41 which such form is signed by the person who has custody and control
42 of the remains of the deceased person.

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

45 (a) For the purposes of this section and sections 42-201 to [42-206c]
46 42-207, inclusive, as amended by this act, "funeral service contract"
47 means a contract which requires the payment of money, [or] the

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

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

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

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

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

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

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

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

76 (7) A written representation, in clear and conspicuous type, that the
77 purchaser should receive a notice from the escrow agent

78 acknowledging receipt of the initial deposit not later than twenty-five
79 days after receipt of such deposit by a licensed funeral director;

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

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

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

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

89 (c) A funeral service contract that is funded through an assignment
90 of a death benefit payable under an individual or group life insurance
91 policy, need not contain the provisions described in subdivisions (4),
92 (6), (7) and (8) of subsection (b) of this section.

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

106 ~~[(d)]~~ (e) A funeral service establishment shall notify the purchaser of
107 each ~~[prepaid]~~ funeral service contract with such establishment not

108 later than ten days after any transfer of more than a fifty per cent
109 ownership share of such establishment to another person or of the
110 closure of such establishment.

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

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

128 (b) Each escrow account established pursuant to this section shall be
129 administered and maintained by an escrow agent. The funeral service
130 establishment which deposits money or securities in such escrow
131 account shall appoint such agent who shall be one of the following: (1)
132 A national banking association; (2) a state bank and trust company; (3)
133 a federal or state chartered savings bank; (4) a federal or state
134 chartered savings and loan association; (5) a licensed insurance
135 company; or (6) a registered broker-dealer. No such institution shall be
136 appointed as an agent unless such institution is authorized by law to
137 act as an escrow agent.

138 (c) Assets held in escrow accounts established pursuant to this
139 section shall be invested in one or more of the following: (1) Deposit

140 accounts insured by the Federal Deposit Insurance Corporation; (2)
141 accounts insured against loss of principal by an agency or
142 instrumentality of the United States government; (3) bonds in which
143 savings banks in this state may, by law, invest; (4) bonds of the United
144 States or any agency thereof or of this state or any municipality of this
145 state; (5) insurance contracts with an insurance company licensed by
146 the state of Connecticut to offer such contracts and maintaining not
147 less than a B plus rating for financial security by A.M. Best; or (6) any
148 other deposit account or security of a quality, safety and expense
149 comparable to those set forth in this subsection.

150 (d) All interest, dividends and other income earned on the amounts
151 deposited in an escrow account pursuant to this section shall be
152 retained in such escrow account and credited, less any administration
153 expenses, to the respective interests of those persons for whose benefit
154 the escrow account is maintained. Amounts in an escrow account shall
155 be removed from such account only as provided in sections 42-200 to
156 42-206, inclusive. Each party to a funeral service contract shall receive
157 an annual statement of the amount credited to such party's escrow
158 account. Such statement shall include the name and address of the
159 escrow agent.

160 (e) If a purchaser of funeral services, property or merchandise
161 defaults in making payments required under the terms of such
162 contract, or if the purchaser or the person responsible for making
163 funeral arrangements for a deceased beneficiary fails to have the
164 funeral service establishment provide services specified in the funeral
165 services contract, the funeral service establishment may retain any
166 origination fee and any costs actually and reasonably incurred by such
167 establishment in the performance of the contract as liquidated
168 damages, provided the sum of the amount retained as an origination
169 fee and the amount retained to pay for costs incurred by the funeral
170 establishment in the performance of the contract shall not exceed an
171 amount equal to five per cent of the amount in the escrow account at
172 the time the purchaser of such funeral services defaults in making such
173 payments. The balance of any amount remaining in the escrow account

174 shall be paid to such purchaser upon request.

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

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

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

195 Sec. 5. Section 42-203 of the general statutes is repealed and the
196 following is substituted in lieu thereof (*Effective from passage*):

197 (a) Funds held in an escrow account in accordance with the
198 provisions of a funeral service contract shall remain intact unless such
199 funds are commingled in accordance with the provisions of subsection
200 (f) of section 42-202, as amended by this act, or the purchaser of funeral
201 services, property or merchandise defaults in making payments
202 required under the terms of the contract, as provided in subsection (e)
203 of section 42-202, as amended by this act, or until the services
204 contracted for have been performed or the contracted for property or
205 merchandise has been delivered. Upon submission to the escrow

206 agent, by the funeral service establishment, of proof that the services,
207 personal property and merchandise contracted for have been fully
208 performed or delivered, the escrow agent shall pay to such funeral
209 service establishment the amounts deposited therein pursuant to such
210 funeral service contract, and all income earned thereon and retained in
211 the escrow account. If, for any reason, the funeral service establishment
212 [which] that has entered into a funeral service contract for the sale of
213 services, personal property, or merchandise and [which] that has
214 deposited the funds into an escrow account in accordance with the
215 provisions of sections 42-200 to 42-206, inclusive, as amended by this
216 act, fails to meet its obligation under such contract promptly after the
217 death of the person to be benefited, the family, the next of kin, or the
218 legal representative of the deceased person, having provided for such
219 services, personal property or merchandise on behalf of the deceased
220 person, may receive from the escrow agent the amount of money in
221 such escrow account. An affidavit [which] that states that services have
222 been performed or property delivered, signed by a member of the
223 family, next of kin, or legal representative of the deceased, and by the
224 funeral service establishment [which] that has provided such services,
225 personal property or merchandise, and [which] that is delivered to the
226 escrow agent shall be sufficient to authorize an escrow agent, acting
227 alone, to make such payment without liability to the person making
228 the deposit of such money into the escrow account or to any other
229 person. Nothing contained in this section shall relieve the funeral
230 service establishment of its liability for nonperformance.

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

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

236 The legal representative of the decedent or a person who has
237 entered into a revocable funeral service contract with a funeral service
238 establishment, upon written notice to such establishment and to the

239 escrow agent, if any, and subject to the provisions of section 17b-91, as
240 amended by this act, may cancel any revocable funeral service contract
241 prior to the performance by such establishment. In the event of such a
242 cancellation, all money in the escrow account paid by such person,
243 together with all accrued income, less costs actually and reasonably
244 incurred by the funeral service establishment in the performance of
245 such contract, shall be returned to such person.

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

248 An irrevocable funeral service contract may be entered into in which
249 the amount held in escrow or a death benefit payable under an
250 individual or group life insurance policy may be disbursed only upon
251 the death of the beneficiary, provided such a contract does not exceed
252 five thousand four hundred dollars and all interest, growth or
253 dividends accumulates to the escrow account or insurance policy and
254 [is] are inaccessible to the beneficiary. Such irrevocable funeral service
255 contracts may be transferred from one funeral service establishment to
256 another upon request of the beneficiary or a legal representative of the
257 beneficiary. The purchase of an irrevocable funeral service contract
258 shall not preclude an individual from purchasing other funeral service
259 contracts that are revocable, provided any such revocable funeral
260 service contract purchased by a Medicaid beneficiary may be revoked
261 only upon written notice by the Medicaid beneficiary to the
262 Commissioner of Social Services.

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

266 (a) The commissioner shall exclude, in the determination of
267 eligibility for the state supplement program and the temporary family
268 assistance program, burial funds in an amount not to exceed the
269 maximum amount provided in section 17b-84. Such funds may be in
270 the form of [prepaid] funeral service contracts as described in section

271 42-200, as amended by this act, irrevocable funeral service contracts or
 272 the face value of life insurance policies if the cash surrender value is
 273 excluded through the irrevocable transfer of the ownership of the
 274 policy to a trust, or any combination thereof, not to exceed the
 275 maximum amount provided in said section 17b-84.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2012</i>	7-62b(a)
Sec. 2	<i>October 1, 2012</i>	20-230c
Sec. 3	<i>from passage</i>	42-200
Sec. 4	<i>from passage</i>	42-202
Sec. 5	<i>from passage</i>	42-203
Sec. 6	<i>from passage</i>	42-204
Sec. 7	<i>from passage</i>	42-207
Sec. 8	<i>from passage</i>	17b-91(a)

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact: None

Municipal Impact: None

Explanation

There is no fiscal impact to the state or municipalities associated with changes to funeral services statutes.

House "A" made changed statutes related to funeral service contracts and the death benefit payable under an individual or group life insurance policy and did not result in a fiscal impact.

The Out Years

State Impact: None

Municipal Impact: None

OLR Bill Analysis**sHB 5498 (as amended by House "A")******AN ACT CONCERNING CHANGES TO THE FUNERAL SERVICES STATUTES.*****SUMMARY:**

This bill allows people to pay for funeral service contracts by assigning the death benefit under a life insurance policy. It exempts contracts that are funded in this way from the general requirement that funeral service establishments ("funeral homes") deposit into escrow the money or securities they receive under contracts.

The bill allows a legal representative of the beneficiary to authorize the transfer of an irrevocable funeral service contract from one funeral home to another. Current law allows only the beneficiary to authorize a transfer. The bill also makes a technical change specifying that the law's definition of funeral service contract applies to irrevocable funeral service contracts. This specifies that the law's requirements for funeral service contracts, and penalties for violations of such requirements, also apply to irrevocable contracts.

The bill requires death certificates filed in paper form to be filed within five business days, rather than five calendar days, after death.

It requires funeral homes to maintain the original, signed cremation authorization documentation form for at least six years, rather than at least 20 years, after it was signed by the person with custody and control of the deceased person's remains. This change conforms to another provision in existing law requiring funeral homes to keep cremation authorizations and several other documents for at least six years.

The law prohibits the Department of Social Services from counting up to \$1,800 in burial funds when determining eligibility for the state supplement and temporary family assistance programs. Burial funds may be in the form of, among other things, the face value of life insurance policies if the cash surrender value is excluded. The bill specifies that the value must be excluded through the irrevocable transfer of the policy's ownership to a trust.

The bill also makes minor, technical, and conforming changes.

*House Amendment "A" (1) changes the definition of funeral service contract by including the reference to assignments of life insurance benefits as part of the definition itself, rather than as part of the "delivery of securities," (2) adds the provisions exempting such contracts from escrow requirements, (3) changes the effective date for some sections, and (4) makes minor, technical, and conforming changes.

EFFECTIVE DATE: Upon passage, except the provisions on death certificates and cremation authorizations are effective October 1, 2012.

LIFE INSURANCE BENEFIT AS PAYMENT FOR FUNERAL SERVICE CONTRACT

The bill allows people to pay for funeral service contracts by assigning the death benefit under a life insurance policy. Currently, these types of payment arrangements do not fall within the law's definition of funeral service contract.

Current law defines a funeral service contract as a contract that requires the payment of money or the delivery of securities 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 such disposition, where the use or delivery of such services, property, or merchandise is not required immediately. Such contracts are sometimes referred to as "prepaid" or "preneed" funeral service contracts because the person is paying for services that will be provided in the future.

The bill adds to this definition contracts that require the assignment of a death benefit payable under an individual or group life insurance policy in exchange for such a final disposition.

Exemption from Escrow Requirements

Current law requires funeral homes to deposit any money or securities they receive under a funeral service contract in an escrow account, and sets various related requirements. These requirements include, among other things, that (1) the funeral home appoint an escrow agent to administer the account; (2) account assets be invested only in specified ways; (3) money in the account be removed only as specified by law; and (4) parties to the contract receive annual statements. There are also various provisions concerning how the funds must be managed, including how funds must be paid out when the funeral home does or does not perform its obligations under the contract.

Under the bill, funeral service contracts funded through an assignment of a death benefit payable under a life insurance policy are exempt from these escrow-related requirements.

As a corollary, the bill also exempts contracts funded through an assignment of a life insurance policy's death benefit from the law's requirement that funeral service contracts contain various provisions related to the escrow provisions.

The bill makes related conforming changes. For example, the law requires funeral homes to keep a list of the names and addresses of the escrow agents for their contracts; the bill requires them to also keep a list of the names and addresses of insurance companies issuing life insurance policies related to their contracts.

DEADLINE FOR FILING DEATH CERTIFICATE

Current law requires that death certificates be completed in their entirety and filed with the registrar of vital statistics in the town where the death occurred within (1) five days after death if filing a paper

certificate and (2) three days after death if filing through an electronic death registry system, to obtain a burial permit. The bill specifies that the deadline for filing paper certificates is five business days, not five calendar days. Electronic filings must be completed within three calendar days as under current law.

BACKGROUND

Related Bill

Among other things, sSB 412 (File 340) (1) requires the Department of Consumer Protection (DCP) commissioner to establish a guaranty fund for the payment of certain claims against funeral homes; (2) requires funeral homes to provide a copy of DCP’s funeral service contract fact sheet to anyone who inquires in person about purchasing a funeral service contract or purchases such a contract, before signing it; and (3) makes a technical change to the definition of funeral service contract.

COMMITTEE ACTION

Public Health Committee

Joint Favorable Substitute

Yea 26 Nay 0 (03/26/2012)