

PUBLIC TESTIMONY
RAISED BILL 5498,
AN ACT CONCERNING CHANGES TO THE FUNERAL SERVICES
STATUTES
PUBLIC HEALTH COMMITTEE – PUBLIC HEARING
MARCH 16, 2012

Co- Chairs Senator Gerratana and Representative Ritter, Vice-Chairs Senator Slossberg and Representative Lyddy and Ranking Members Senator Welch and Representative Perillo and Members of the Public Health Committee.

My name is James Mengacci and I thank you for allowing me the opportunity to address the Public Health Committee to offer comment on RAISED BILL 5498, AN ACT CONCERNING CHANGES TO THE FUNERAL SERVICES STATUTES.

I am a licensed funeral director and embalmer in Connecticut and Florida and a licensed Insurance Producer in Connecticut, Massachusetts and Rhode Island. I have been involved in the

funeral industry in Connecticut for over 30 years, 21 years as a funeral home owner and presently as the owner of a funeral consulting business based in Connecticut and working with funeral homes in Connecticut, Massachusetts, Rhode Island and Vermont.

I am here today to respectfully suggest the following changes to the language of Raised Bill 5498:

Sec. 42-200. Funeral service contracts: Definitions; requirements. Funeral service establishment to maintain copies of contracts. Notification to purchaser of transfer of more than fifty percent ownership or of closure. (a) For the purposes of this section and sections 42-201 to 42-206c, inclusive, "funeral service contract" means a contract which 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 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, **and "prearranged funeral contract" shall mean a contract for 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, but which may not require the immediate payment of money or delivery of securities.**

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(e) Notwithstanding section 42-200 through 42-206, a funeral service establishment may enter into a prearranged funeral contract funded through the assignment of the death benefit payable under a life insurance policy or certificate of insurance issued under a group policy that is filed in accordance with Title 38a.

Sec. 42-207. Irrevocable funeral contract. Revocation of revocable funeral contract purchased by Medicaid beneficiary. An irrevocable funeral contract may be entered into in which the amount held in escrow **or an 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** accumulate to the escrow account **or insurance policy** and **isare** inaccessible to the beneficiary. Such irrevocable funeral contracts may be transferred from one funeral service establishment to another upon request of the beneficiary **or the representative of the beneficiary**. The purchase of an irrevocable funeral contract shall not preclude an individual from purchasing other funeral contracts that are revocable, provided any such revocable funeral contract purchased by a Medicaid beneficiary may be revoked only upon written notice by the Medicaid beneficiary to the Commissioner of Social Services.

Sec. 17b-91. (Formerly Sec. 17-83a). Eligibility exclusions. State supplement program. Temporary family assistance program. (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 or **prearranged funeral contracts** as described in section 42-200, irrevocable funeral contracts or the face value of life insurance policies if the cash surrender value is excluded, or any combination thereof, not to exceed the maximum amount provided in said section 17b-84.

for the following reasons.

- 1. To clear up the confusion that presently exists in CGS 42-200 regarding allowable funding options for a preneed funeral contract.**
- 2. To allow the consumer and the licensed funeral director the choice of mutually selecting the most beneficial investment for a preneed funeral contract for their individual circumstances.**
- 3. The suggested language will not affect the present process for a Connecticut resident applying for Title 19 Assistance nor would passage of this Bill impugn the integrity of the Irrevocability requirement of the Title 19 contract. Insurance proceeds are irrevocably assigned and are payable only to the funeral provider and only upon certification of the death of the insured.**
- 4. Presently, 46 states allow funding of a preneed funeral contract with life insurance. In 2011 almost 2 billion dollars was written throughout the United States in insurance funded prearranged funeral contracts. Most preneed regulators favor insurance funding because of the inherent safeguards, one of which is state by state insurance guaranty funds, which are voluntarily funded**

by the insurance companies that issue preneed insurance policies and is not present with trust and escrow funding. Also, unlike trust and escrow funding, when a funeral director and a consumer choose insurance funding, the consumer makes payment directly to the insurance company, which eliminates the risk of funds intended for a preneed funeral contract being diverted elsewhere.

5. As a funeral director, when I meet with someone who wants to prearrange and pre pay a funeral, and I accept payment and guaranty the price, I have to be assured that the funds I accept and deposit today, can be invested appropriately to keep pace with rising costs. The funeral home should have the ability to legally place preneed funds in the investment that is best suited for each individual case. Trust accounts and insurance policies both play a vital role in giving the consumer and the funeral director responsible and safe investment options for preneed funeral funds.
6. Insurance products used to fund preneed funeral contracts and the companies that underwrite the policies, are required by Connecticut law to be licensed and to have their products approved by the Department of Insurance. A funeral home that offers consumers the insurance option to fund a preneed funeral contract is required to be licensed with the Department of

Insurance, and to have a licensed insurance producer responsible for strict adherence to the laws governing preneed insurance. Additionally, Connecticut law presently requires that the licensed insurance producer complete 24 hours of continued education every two years, which is monitored by the Department of Insurance.

Funeral homes are small businesses that give back to their communities, but they like others, are experiencing difficulties due to economic and regulatory constraints, while dealing with ever changing consumer preferences. Having a choice of viable preneed funding options for these businesses will give them a better chance for continued success, which will benefit consumers as well as the individual cities and towns throughout Connecticut that they serve.

Thank you for your time and for your consideration regarding this matter.

Sincerely,

James A. Mengacci