



General Assembly

February Session, 2012

**Raised Bill No. 412**

LCO No. 2080

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Referred to Committee on Program Review and Investigations

Introduced by:  
(PRI)

**AN ACT IMPLEMENTING THE RECOMMENDATIONS OF THE  
PROGRAM REVIEW AND INVESTIGATIONS COMMITTEE  
CONCERNING THE REGULATION OF EMBALMERS AND FUNERAL  
SERVICE ESTABLISHMENTS AND CERTAIN PROFESSIONAL  
BOARD AND COMMISSION HEARINGS.**

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

1 Section 1. Section 42-200 of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective October 1, 2012*):

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

13 (b) Each funeral service establishment shall provide each person

14 who has made inquiries in person about purchasing a funeral service  
15 contract with a copy of the funeral service contract fact sheet prepared  
16 by the Department of Consumer Protection and shall provide each  
17 purchaser with a copy of such sheet prior to the purchaser's signing of  
18 a funeral service contract.

19 [(b)] (c) A funeral service contract shall be in writing and shall  
20 contain the following:

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

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

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

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

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

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

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

41 (8) A description of any fees to be paid from the escrow account to

42 the escrow agent or any third party provider;

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

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

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

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

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

66 Sec. 2. (NEW) (*Effective October 1, 2012*) (a) The Commissioner of  
67 Consumer Protection shall establish and maintain the Connecticut  
68 Funeral Service Contract Guaranty Fund in accordance with the  
69 provisions of this section.

70 (b) The Department of Public Health shall retain ten dollars from  
71 each licensing fee or renewal fee received by the department pursuant

72 to section 20-213 or 20-217 of the general statutes, and shall transfer  
73 such fees quarterly to the Commissioner of Consumer Protection for  
74 deposit in the guaranty fund or the General Fund in accordance with  
75 subsection (c) of this section.

76 (c) Payments received under subsection (b) of this section shall be  
77 credited to the guaranty fund whenever the fund balance is less than  
78 two hundred fifty thousand dollars. Money in the fund may be  
79 invested or reinvested in the same manner as funds of the state  
80 employees retirement system, and the interest derived from such  
81 investments shall be credited to the guaranty fund whenever the fund  
82 balance is less than two hundred fifty thousand dollars. Any such  
83 payments or interest not deposited in the guaranty fund shall be  
84 credited to the General Fund.

85 (d) If a licensed funeral service establishment fails to deposit funds  
86 received from a funeral service contract in an escrow account as  
87 required by section 42-202 of the general statutes and refuses to honor  
88 such contract, the purchaser or beneficiary, as such terms are defined  
89 in section 42-200 of the general statutes, as amended by this act, upon  
90 discovery of such failure, may apply to the Commissioner of  
91 Consumer Protection for payment of such claim from the guaranty  
92 fund.

93 (e) Purchasers or beneficiaries with a claim shall apply for payment  
94 from the guaranty fund on forms prescribed by the Commissioner of  
95 Consumer Protection. The application shall include the name and  
96 address of the funeral service establishment, the date the contract was  
97 entered into, the price of the contract, the amount and the basis of the  
98 claim and a copy of the contract or other documentation accepted by  
99 the commissioner and any other information required by the  
100 commissioner.

101 (f) If, after examination of the application and an initial investigation  
102 of the claim, the Commissioner of Consumer Protection determines  
103 there is some factual basis to the claim that funds were not deposited

104 in an escrow account as required under section 42-202 of the general  
105 statutes, and the funeral service establishment has refused to honor the  
106 contract, the commissioner shall hold a hearing upon such application  
107 in accordance with the provisions of chapter 54 of the general statutes.  
108 Notwithstanding the provisions of chapter 54 of the general statutes,  
109 the decision of the commissioner shall be final with respect to the  
110 application. The commissioner may hear applications of all purchasers  
111 or beneficiaries submitting claims against a single funeral service  
112 establishment in one proceeding.

113 (g) After notice and a hearing, if the commissioner finds in favor of  
114 the purchaser or beneficiary, the commissioner shall issue an order  
115 requiring payment from the guaranty fund of any sum the  
116 commissioner finds to be payable upon such application.

117 (h) If the commissioner pays any amount pursuant to an order  
118 under subsection (g) of this section, the commissioner shall notify the  
119 Department of Public Health of such payment and such funeral service  
120 establishment shall not be eligible to receive a new or renewed license  
121 from the Department of Public Health until it has repaid such amount  
122 in full, plus interest at a rate to be determined by the Commissioner of  
123 Consumer Protection.

124 (i) If the commissioner pays any amount as a result of a claim  
125 against a funeral service establishment pursuant to an order under  
126 subsection (g) of this section, the commissioner shall determine if the  
127 funeral service establishment is possessed of real or personal property  
128 or other assets, liable to be sold or applied in satisfaction of the claim  
129 on such fund. Upon discovery of any such assets, the commissioner  
130 may request the Attorney General to take any action necessary for the  
131 realization thereof for the reimbursement of the guaranty fund.

132 (j) The commissioner may, in order to preserve the integrity of the  
133 guaranty fund, order payments to be made out of said fund for  
134 amounts less than the actual loss incurred by any purchaser or  
135 beneficiary of a funeral service contract.

136 (k) When the commissioner has caused any sum to be paid from the  
137 guaranty fund to a purchaser or beneficiary of a funeral service  
138 contract, the commissioner shall be subrogated to all of the rights of  
139 the purchaser or beneficiary up to the amount paid, and the purchaser  
140 or beneficiary shall assign all rights, title and interest in the claim up to  
141 such amount to the commissioner, and any amount and interest  
142 recovered by the commissioner on the claim shall be deposited to the  
143 guaranty fund, except as provided in subsection (c) of this section.

144 (l) The commissioner may adopt regulations in accordance with  
145 chapter 54 of the general statutes to carry out the purposes of this  
146 section.

147 Sec. 3. Section 19a-10 of the general statutes is repealed and the  
148 following is substituted in lieu thereof (*Effective October 1, 2012*):

149 The boards and commissions listed in subsection (b) of section 19a-  
150 14 may conduct hearings on any matter within their statutory  
151 jurisdiction. Such hearings shall be conducted in accordance with  
152 chapter 54 and the regulations established by the Commissioner of  
153 Public Health. At least one public board or commission member and  
154 one member who is a member of the profession regulated by such  
155 board or commission, shall preside at any such hearing. In connection  
156 with any such hearing, any member of a board or commission, upon  
157 being designated by the board or commission, may administer oaths,  
158 issue subpoenas, compel testimony and order the production of books,  
159 records and documents. If any person refuses to appear, to testify or to  
160 produce any book, record or document when so ordered, a judge of  
161 the Superior Court may make such order as may be appropriate to aid  
162 in the enforcement of this section.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2012</i>	42-200
Sec. 2	<i>October 1, 2012</i>	New section

Sec. 3	October 1, 2012	19a-10
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**Statement of Purpose:**

To implement the recommendations of the Legislative Program Review and Investigations Committee (1) to require funeral service establishments and embalmers to distribute fact sheets concerning funeral service contracts and to establish a funeral service contract guaranty fund to reimburse consumers for purchased contracts where the establishment did not deposit the funds in an escrow account as required by law, and (2) to require one public and one professional board or commission member to be present at certain professional board hearings.

*[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]*