



General Assembly

Amendment

February Session, 2012

LCO No. 3496

HB0549803496HDO

Offered by:

REP. RITTER E., 38th Dist.
SEN. GERRATANA, 6th Dist.
REP. PERILLO, 113th Dist.

SEN. WELCH, 31st Dist.
SEN. KANE, 32nd Dist.
REP. WILLIAMS, 68th Dist.

To: Subst. House Bill No. 5498

File No. 358

Cal. No. 284

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

1 Strike lines 43 to 72, inclusive, in their entirety and insert the
2 following in lieu thereof:

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 Section 42-200 of the general statutes is repealed and the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

5 (a) For the purposes of this section and sections 42-201 to [42-206c]
6 42-207, inclusive, as amended by this act, "funeral service contract"
7 means a contract which requires the payment of money, [or] the
8 delivery of securities or the assignment of a death benefit payable
9 under an individual or group life insurance policy in exchange for the
10 final disposition of a dead human body, including funeral, burial or
11 other services, or the furnishing of personal property or funeral
12 merchandise in connection with any such disposition, wherein the use
13 or delivery of such services, property or merchandise is not required

14 immediately, "beneficiary" means the person for whom the goods or
15 services purchased in a funeral service contract are to be provided, and
16 "purchaser" means the person who signs the funeral service contract.

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

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

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

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

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

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

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

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

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

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

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

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

49 (c) A funeral service contract that is funded through an assignment
50 of a death benefit payable under an individual or group life insurance
51 policy, need not contain the provisions described in subdivisions (4),
52 (6), (7) and (8) of subsection (b) of this section.

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

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

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

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

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

98 (c) Assets held in escrow accounts established pursuant to this
99 section shall be invested in one or more of the following: (1) Deposit
100 accounts insured by the Federal Deposit Insurance Corporation; (2)
101 accounts insured against loss of principal by an agency or
102 instrumentality of the United States government; (3) bonds in which
103 savings banks in this state may, by law, invest; (4) bonds of the United
104 States or any agency thereof or of this state or any municipality of this
105 state; (5) insurance contracts with an insurance company licensed by
106 the state of Connecticut to offer such contracts and maintaining not

107 less than a B plus rating for financial security by A.M. Best; or (6) any
108 other deposit account or security of a quality, safety and expense
109 comparable to those set forth in this subsection.

110 (d) All interest, dividends and other income earned on the amounts
111 deposited in an escrow account pursuant to this section shall be
112 retained in such escrow account and credited, less any administration
113 expenses, to the respective interests of those persons for whose benefit
114 the escrow account is maintained. Amounts in an escrow account shall
115 be removed from such account only as provided in sections 42-200 to
116 42-206, inclusive. Each party to a funeral service contract shall receive
117 an annual statement of the amount credited to such party's escrow
118 account. Such statement shall include the name and address of the
119 escrow agent.

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

135 (f) A person, firm or corporation licensed in accordance with the
136 provisions of chapter 385 which enters into a funeral service contract
137 shall furnish the agent of an escrow account established in accordance
138 with the provisions of this section with the name of the purchaser of
139 such services, property or merchandise, the address and name of the

140 beneficiary of the funeral service contract and the amount contracted
141 for, together with a copy of the contract listing the services, personal
142 property or merchandise to be furnished by the funeral service
143 establishment. Nothing in this section shall prohibit the commingling
144 within an escrow account of the money or securities received under
145 more than one funeral service contract for the purpose of management
146 and investment of funds in such escrow account.

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

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

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

157 (a) Funds held in an escrow account in accordance with the
158 provisions of a funeral service contract shall remain intact unless such
159 funds are commingled in accordance with the provisions of subsection
160 (f) of section 42-202, as amended by this act, or the purchaser of funeral
161 services, property or merchandise defaults in making payments
162 required under the terms of the contract, as provided in subsection (e)
163 of section 42-202, as amended by this act, or until the services
164 contracted for have been performed or the contracted for property or
165 merchandise has been delivered. Upon submission to the escrow
166 agent, by the funeral service establishment, of proof that the services,
167 personal property and merchandise contracted for have been fully
168 performed or delivered, the escrow agent shall pay to such funeral
169 service establishment the amounts deposited therein pursuant to such
170 funeral service contract, and all income earned thereon and retained in
171 the escrow account. If, for any reason, the funeral service establishment

172 [which] that has entered into a funeral service contract for the sale of
173 services, personal property, or merchandise and [which] that has
174 deposited the funds into an escrow account in accordance with the
175 provisions of sections 42-200 to 42-206, inclusive, as amended by this
176 act, fails to meet its obligation under such contract promptly after the
177 death of the person to be benefited, the family, the next of kin, or the
178 legal representative of the deceased person, having provided for such
179 services, personal property or merchandise on behalf of the deceased
180 person, may receive from the escrow agent the amount of money in
181 such escrow account. An affidavit [which] that states that services have
182 been performed or property delivered, signed by a member of the
183 family, next of kin, or legal representative of the deceased, and by the
184 funeral service establishment [which] that has provided such services,
185 personal property or merchandise, and [which] that is delivered to the
186 escrow agent shall be sufficient to authorize an escrow agent, acting
187 alone, to make such payment without liability to the person making
188 the deposit of such money into the escrow account or to any other
189 person. Nothing contained in this section shall relieve the funeral
190 service establishment of its liability for nonperformance.

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

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

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

205 such contract, shall be returned to such person.

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

208 An irrevocable funeral service contract may be entered into in which
209 the amount held in escrow or a death benefit payable under an
210 individual or group life insurance policy may be disbursed only upon
211 the death of the beneficiary, provided such a contract does not exceed
212 five thousand four hundred dollars and all interest, growth or
213 dividends accumulates to the escrow account or insurance policy and
214 [is] are inaccessible to the beneficiary. Such irrevocable funeral service
215 contracts may be transferred from one funeral service establishment to
216 another upon request of the beneficiary or a legal representative of the
217 beneficiary. The purchase of an irrevocable funeral service contract
218 shall not preclude an individual from purchasing other funeral service
219 contracts that are revocable, provided any such revocable funeral
220 service contract purchased by a Medicaid beneficiary may be revoked
221 only upon written notice by the Medicaid beneficiary to the
222 Commissioner of Social Services.

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

226 (a) The commissioner shall exclude, in the determination of
227 eligibility for the state supplement program and the temporary family
228 assistance program, burial funds in an amount not to exceed the
229 maximum amount provided in section 17b-84. Such funds may be in
230 the form of [prepaid] funeral service contracts as described in section
231 42-200, as amended by this act, irrevocable funeral service contracts or
232 the face value of life insurance policies if the cash surrender value is
233 excluded through the irrevocable transfer of the ownership of the
234 policy to a trust, or any combination thereof, not to exceed the
235 maximum amount provided in said section 17b-84."