

OFFICE OF LEGISLATIVE RESEARCH
PUBLIC ACT SUMMARY



PA 12-36—sHB 5498
Public Health Committee

AN ACT CONCERNING CHANGES TO THE FUNERAL SERVICES STATUTES

SUMMARY: This act 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 funeral service contracts.

The act allows a legal representative of a funeral service contract beneficiary to authorize the transfer of an irrevocable contract from one funeral home to another. Prior law allowed only the beneficiary to authorize a transfer. The act also makes a technical change specifying that the law’s definition of funeral service contract applies to irrevocable funeral service contracts.

The act requires death certificates filed in paper form to be filed with the registrar of vital statistics in the town where the death occurred within five business days, rather than five calendar days, after death, to obtain a burial permit.

It requires funeral homes to maintain the original, signed cremation authorization 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.

Under existing law, the Department of Social Services must exclude 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 a life insurance policy if the cash surrender value is excluded. The act specifies that the value must be excluded through the irrevocable transfer of the policy’s ownership to a trust.

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

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

LIFE INSURANCE BENEFIT AS PAYMENT FOR FUNERAL SERVICE CONTRACT

The act allows people to pay for funeral service contracts by assigning the death benefit payable under a life insurance policy. Previously, these types of payment arrangements did not fall within the law’s definition of a funeral service contract.

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Prior law defined 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 the disposition, where the use or delivery of the 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 to be provided in the future.

The act expands this definition to include 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

The 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.

Under the act, 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 act also exempts such contracts from the law’s requirement that funeral service contracts contain various provisions related to the escrow requirement.

The act 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 act requires them to also keep a list of the names and addresses of insurance companies issuing life insurance policies related to their contracts.

OLR Tracking: JO:RP:JL:ro