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**HOUSE BILL 1886**

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**State of Washington 68th Legislature 2024 Regular Session**

**By** Representatives Walen, Robertson, Berg, Reeves, and Santos

AN ACT Relating to prearrangement funeral services; and amending RCW 18.39.010 and 18.39.250.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

**Sec.**  RCW 18.39.010 and 2019 c 432 s 36 are each amended to read as follows:

The definitions in this section and in chapter 68.04 RCW apply throughout this chapter unless the context clearly requires otherwise.

(1) "Board" means the funeral and cemetery board created pursuant to RCW 18.39.173.

(2) "Director" means the director of licensing.

(3) "Embalmer" means a person engaged in the profession or business of disinfecting and preserving human remains for transportation or final disposition.

(4) "Funeral director" means a person engaged in the profession or business of providing for the care, shelter, transportation, and arrangements for the disposition of human remains that may include arranging and directing funeral, memorial, or other services.

(5) "Funeral establishment" means a place of business licensed in accordance with RCW 18.39.145, that provides for any aspect of the care, shelter, transportation, embalming, preparation, and arrangements for the disposition of human remains and includes all areas of such entity and all equipment, instruments, and supplies used in the care, shelter, transportation, preparation, and embalming of human remains.

(6) "Funeral merchandise or services" means those services normally performed and merchandise normally provided by funeral establishments, including the sale of burial supplies and equipment, but excluding the sale by a cemetery of lands or interests therein, services incidental thereto, markers, memorials, monuments, equipment, crypts, niches, or vaults.

(7) "Licensee" means any person or entity holding a license, registration, endorsement, or permit under this chapter issued by the director.

(8) "Prearrangement funeral service contract" means any contract under which, for a specified consideration, a funeral establishment promises, upon the death of the person named or implied in the contract, to furnish funeral merchandise or services. "Prearrangement funeral service contract" does not include funeral merchandise that is delivered either at the time of sale or within 30 days thereafter, nor does it include a transportation protection agreement.

(9) "Public depositary" means a public depositary defined by RCW 39.58.010 or a state or federally chartered credit union.

(10) "Transportation protection agreement" means an agreement that primarily provides for the coordination and arrangement of all professional services related to the preparation of transportation and subsequent transportation of human remains or cremated remains.

(11) "Two-year college course" means the completion of sixty semester hours or ninety quarter hours of college credit, including the satisfactory completion of certain college courses, as set forth in this chapter.

Words used in this chapter importing the singular may be applied to the plural of the person or thing, words importing the plural may be applied to the singular, and words importing the masculine gender may be applied to the female.

**Sec.**  RCW 18.39.250 and 2012 c 206 s 2 are each amended to read as follows:

(1) Any funeral establishment selling funeral merchandise or services by prearrangement funeral service contract and accepting moneys therefore must establish and maintain one or more prearrangement funeral service trusts under Washington state law with two or more designated trustees, for the benefit of the beneficiary of the prearrangement funeral service contract. Funeral establishments may join with one or more other Washington state licensed funeral establishments in a "master trust" provided that each member of the "master trust" complies individually with the requirements of this chapter. A funeral establishment shall not be required to trust moneys received for funeral merchandise that is delivered within 30 days of the sale nor shall a funeral establishment be required to trust moneys received for a transportation protection agreement.

(2) Up to ((~~ten~~)) 20 percent of the cash purchase price of each prearrangement funeral service contract, excluding sales tax, may be retained by the funeral establishment unless otherwise provided in this chapter. If the prearrangement funeral service contract is canceled within thirty calendar days of its signing, then the purchaser must receive a full refund of all moneys paid under the contract.

(3) At least ((~~ninety~~)) 80 percent of the cash purchase price of each prearrangement funeral service contract, paid in advance, excluding sales tax, shall be placed in the trust established or utilized by the funeral establishment. Deposits to the prearrangement funeral service trust must be made not later than the twentieth day of the month following receipt of each payment made on the last ((~~ninety~~)) 80 percent of each prearrangement funeral service contract, excluding sales tax.

(4) All prearrangement funeral service trust moneys must be deposited in an insured account in a commercial bank, trust company, mutual savings bank, savings and loan association, or credit union, whether state or federally chartered. The account or investments shall be designated as the prearrangement funeral service trust of the funeral establishment for the benefit of the beneficiaries named in the prearrangement funeral service contracts. The prearrangement funeral service trust shall not be considered as, or used as, an asset of the funeral establishment. All prearrangement funeral service trust moneys must be invested in accordance with the provisions of RCW 11.100.020 subject to the following restrictions:

(a) No officer or director of the funeral establishment, trustee of the prearrangement trust funds, or spouse, sibling, parent, grandparent, or issue of such officer, director, or trustee, may borrow any of such funds for himself or herself, directly or indirectly;

(b) No funds may be loaned to the funeral establishment, its agents, or employees, or to any corporation, partnership, or other business entity in which the funeral establishment has any ownership interest; and

(c) No funds may be invested with persons or business entities operating in a business field directly related to funeral homes.

(5) After deduction of reasonable fees for the administration of the trust, taxes paid or withheld, or other expenses of the trust, all interest, dividends, or growth earned by a trust become a part of the trust. Adequate records must be maintained to allocate the share of principal and interest to each contract. Fees deducted for the administration of the trust may not exceed one percent per year of the amount in trust. In no instance may the administrative charges deducted from the prearrangement funeral service trust reduce, diminish, or in any other way lessen the value of the trust so that the services or merchandise provided for under the contract are reduced, diminished, or in any other way lessened.

(6) Except as otherwise provided in this chapter, the trustees of a prearrangement funeral service trust must permit withdrawal of all funds deposited under a prearrangement funeral service contract, plus accruals thereon, under the following circumstances and conditions:

(a) If the funeral establishment files a verified statement with the trustees that the prearrangement funeral merchandise and services covered by the contract have been furnished and delivered in accordance therewith; or

(b) If the funeral establishment files a verified statement with the trustees that the prearrangement funeral merchandise and services covered by the contract have been canceled in accordance with its terms.

(7) Subsequent to the thirty calendar day cancellation period provided for in this chapter, any purchaser or beneficiary who has a revocable prearrangement funeral service contract has the right to demand a refund of the amount in trust.

(8) Prearrangement funeral service contracts which have or should have an account in a prearrangement funeral service trust may be terminated by the board if the funeral establishment goes out of business, becomes insolvent or bankrupt, makes an assignment for the benefit of creditors, has its prearrangement funeral service certificate of registration revoked, or for any other reason is unable to fulfill the obligations under the contract. In such event, or upon demand by the purchaser or beneficiary of the prearrangement funeral service contract, the funeral establishment must refund to the purchaser or beneficiary all moneys deposited in the trust and allocated to the contract unless otherwise ordered by a court of competent jurisdiction. The purchaser or beneficiary may, in lieu of a refund, elect to transfer the prearrangement funeral service contract and all amounts in trust to another funeral establishment licensed under this chapter which will agree, by endorsement to the contract, to be bound by the contract and to provide the funeral merchandise or services. Election of this option does not relieve the defaulting funeral establishment of its obligation to the purchaser or beneficiary for any amounts required to be, but not placed, in trust.

(9) Prior to the sale or transfer of ownership or control of any funeral establishment which has contracted for prearrangement funeral service contracts, any person, corporation, or other legal entity desiring to acquire such ownership or control must apply to the director in accordance with RCW 18.39.145. Persons and business entities selling or relinquishing, and persons and business entities purchasing or acquiring ownership or control of such funeral establishments must each verify and attest to a report showing the status of the prearrangement funeral service trust or trusts on the date of the sale. This report must be on a form prescribed by the board and shall be considered part of the application for a funeral establishment license. In the event of failure to comply with this subsection, the funeral establishment is deemed to have gone out of business and the provisions of subsection (8) of this section apply.

(10) Prearrangement funeral service trust moneys may not be used, directly or indirectly, for the benefit of the funeral establishment or any director, officer, agent, or employee of the funeral establishment including, but not limited to, any encumbrance, pledge, or other use of prearrangement funeral service trust moneys as collateral or other security.

(11)(a) If, at the time of the signing of the prearrangement funeral service contract, the beneficiary of the trust is a recipient of public assistance as defined in RCW 74.04.005, or reasonably anticipates being so defined, the contract may provide that the trust will be irrevocable. If after the contract is entered into, the beneficiary becomes eligible or seeks to become eligible for public assistance under Title 74 RCW, the contract may provide for an election by the beneficiary, or by the purchaser on behalf of the beneficiary, to make the trust irrevocable thereafter in order to become or remain eligible for such assistance.

(b) The department of social and health services must notify the trustee of any prearrangement service trust that the department has a claim on the estate of a beneficiary for long-term care services. Such notice must be renewed at least every three years. The trustees upon becoming aware of the death of a beneficiary must give notice to the department of social and health services, office of financial recovery, who shall file any claim there may be within thirty days of the notice.

(12) Every prearrangement funeral service contract financed through a prearrangement funeral service trust must contain language which:

(a) Informs the purchaser of the prearrangement funeral service trust and the amount to be deposited in the trust;

(b) Indicates if the contract is revocable or not in accordance with subsection (11) of this section;

(c) Specifies that a full refund of all moneys paid on the contract will be made if the contract is canceled within thirty calendar days of its signing;

(d) Specifies that, in the case of cancellation by a purchaser or beneficiary eligible to cancel under the contract or under this chapter, up to ten percent of the contract amount may be retained by the seller to cover the necessary expenses of selling and setting up the contract;

(e) Identifies the trust to be used and contains information as to how the trustees may be contacted.

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