



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

HB0295

Introduced 1/29/2021, by Rep. Natalie A. Manley

SYNOPSIS AS INTRODUCED:

215 ILCS 5/245.3 new

225 ILCS 45/2a

305 ILCS 5/3-1.2

from Ch. 23, par. 3-1.2

Amends the Illinois Insurance Code. Provides that no provision of the Illinois Insurance Code or any other law prohibits an insured under any policy of life insurance, or any other person who may be the owner of any rights under such policy, from making an irrevocable assignment of all or any part of his or her rights and privileges, not to exceed the purchase price of the prepaid burial contract, under the policy to a funeral home and to have an individual policy issued in accordance with specified provisions of the Illinois Insurance Code. Amends the Illinois Funeral or Burial Funds Act. Provides that nothing shall prohibit the purchaser of a life insurance policy or tax-deferred annuity contract for the purpose of funding a pre-need contract from irrevocably assigning ownership of the policy or annuity to a funeral home (rather than person) or trust for the purpose of obtaining favorable consideration for Medicaid, Supplemental Security Income, or another public assistance program, as permitted under federal law. Amends the Illinois Public Aid Code. In a provision requiring the Department of Healthcare and Family Services to exempt certain prepaid funeral or burial contracts from consideration when making an eligibility determination for medical assistance, provides that at any time after submitting an application for medical assistance and before the Department makes a final determination of eligibility, an applicant may use available resources to purchase one of the exempted prepaid funeral or burial contracts.

LRB102 04798 KTG 14817 b

1 AN ACT concerning prepaid funeral or burial contracts.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Insurance Code is amended by
5 adding Section 245.3 as follows:

6 (215 ILCS 5/245.3 new)

7 Sec. 245.3. Irrevocable assignment of life insurance to a
8 funeral home. Neither any provision of this Code nor any other
9 law prohibits an insured or any other person who may be the
10 owner of rights under a policy of life insurance from making an
11 irrevocable assignment of all or a part of his or her rights,
12 not to exceed the purchase price of the prepaid funeral or
13 burial contract, under the policy to a funeral home and to have
14 an individual policy issued in accordance with paragraphs (G),
15 (H), and (K) of Section 231.1. Subject to the terms of the
16 policy or a contract relating to the policy, including, but
17 not limited to, a prepaid funeral or burial contract, an
18 irrevocable assignment by an insured or other owner of rights
19 under a policy made before or after the effective date of this
20 amendatory Act of the 102nd General Assembly is valid for the
21 purpose of vesting in the assignee, in accordance with the
22 policy or contract as to the time at which it is effective, all
23 rights assigned. That irrevocable assignment is, however,

1 without prejudice to the company on account of any payment it
2 makes or individual policy it issues in accordance with
3 paragraphs (G), (H), and (K) of Section 231.1 before receipt
4 of notice of the assignment. This amendatory Act of the 102nd
5 General Assembly acknowledges, declares, and codifies the
6 existing right of assignment of interests under life insurance
7 policies.

8 Section 10. The Illinois Funeral or Burial Funds Act is
9 amended by changing Section 2a as follows:

10 (225 ILCS 45/2a)

11 Sec. 2a. Purchase of insurance or annuity.

12 (a) If a purchaser selects the purchase of a life
13 insurance policy or tax-deferred annuity contract to fund the
14 pre-need contract, the application and collected premium shall
15 be mailed within 30 days of signing the pre-need contract.

16 (b) If life insurance or an annuity is used to fund a
17 pre-need contract, the seller or provider shall not be named
18 as the owner or beneficiary of the policy or annuity. No person
19 whose only insurable interest in the insured is the receipt of
20 proceeds from the policy or in naming who shall receive the
21 proceeds nor any trust acting on behalf of such person or
22 seller or provider shall be named as owner or beneficiary of
23 the policy or annuity.

24 (c) Nothing shall prohibit the purchaser from irrevocably

1 assigning ownership of the policy or annuity used to fund a
2 guaranteed price pre-need contract to a funeral home ~~person~~ or
3 trust for the purpose of obtaining favorable consideration for
4 Medicaid, Supplemental Security Income, or another public
5 assistance program, as permitted under federal law. The seller
6 or contract provider may be named a nominal owner of the life
7 insurance policy only for such time as it takes to immediately
8 transfer the policy into a trust. Except for this purpose,
9 neither the seller nor the contract provider shall be named
10 the owner or the beneficiary of the policy or annuity.

11 (d) If a life insurance policy or annuity contract is used
12 to fund a pre-need contract, except for guaranteed price
13 contracts permitted in Section 4(a) of this Act, the pre-need
14 contract must be revocable, and any assignment provision in
15 the pre-need contract must contain the following disclosure in
16 12 point bold type:

17 THIS ASSIGNMENT MAY BE REVOKED BY THE ASSIGNOR OR
18 ASSIGNOR'S SUCCESSOR OR, IF THE ASSIGNOR IS ALSO THE INSURED
19 AND DECEASED, BY THE REPRESENTATIVE OF THE INSURED'S ESTATE
20 BEFORE THE RENDERING TO THE CEMETERY SERVICES OR GOODS OR
21 FUNERAL SERVICES OR GOODS. IF THE ASSIGNMENT IS REVOKED, THE
22 DEATH BENEFIT UNDER THE LIFE INSURANCE POLICY OR ANNUITY
23 CONTRACT SHALL BE PAID IN ACCORDANCE WITH THE BENEFICIARY
24 DESIGNATION UNDER THE INSURANCE POLICY OR ANNUITY CONTRACT.

25 (e) Sales proceeds shall not be used to purchase life
26 insurance policies or tax-deferred annuities unless the

1 company issuing the life insurance policies or tax-deferred
2 annuities is licensed with the Illinois Department of
3 Insurance, and the insurance producer or annuity seller is
4 licensed to do business in the State of Illinois.

5 (Source: P.A. 92-419, eff. 1-1-02.)

6 Section 15. The Illinois Public Aid Code is amended by
7 changing Section 3-1.2 as follows:

8 (305 ILCS 5/3-1.2) (from Ch. 23, par. 3-1.2)

9 Sec. 3-1.2. Need. Income available to the person, when
10 added to contributions in money, substance, or services from
11 other sources, including contributions from legally
12 responsible relatives, must be insufficient to equal the grant
13 amount established by Department regulation for such person.

14 In determining earned income to be taken into account,
15 consideration shall be given to any expenses reasonably
16 attributable to the earning of such income. If federal law or
17 regulations permit or require exemption of earned or other
18 income and resources, the Illinois Department shall provide by
19 rule and regulation that the amount of income to be
20 disregarded be increased (1) to the maximum extent so required
21 and (2) to the maximum extent permitted by federal law or
22 regulation in effect as of the date this amendatory Act
23 becomes law. The Illinois Department may also provide by rule
24 and regulation that the amount of resources to be disregarded

1 be increased to the maximum extent so permitted or required.
2 Subject to federal approval, resources (for example, land,
3 buildings, equipment, supplies, or tools), including farmland
4 property and personal property used in the income-producing
5 operations related to the farmland (for example, equipment and
6 supplies, motor vehicles, or tools), necessary for
7 self-support, up to \$6,000 of the person's equity in the
8 income-producing property, provided that the property produces
9 a net annual income of at least 6% of the excluded equity value
10 of the property, are exempt. Equity value in excess of \$6,000
11 shall not be excluded. If the activity produces income that is
12 less than 6% of the exempt equity due to reasons beyond the
13 person's control (for example, the person's illness or crop
14 failure) and there is a reasonable expectation that the
15 property will again produce income equal to or greater than 6%
16 of the equity value (for example, a medical prognosis that the
17 person is expected to respond to treatment or that
18 drought-resistant corn will be planted), the equity value in
19 the property up to \$6,000 is exempt. If the person owns more
20 than one piece of property and each produces income, each
21 piece of property shall be looked at to determine whether the
22 6% rule is met, and then the amounts of the person's equity in
23 all of those properties shall be totaled to determine whether
24 the total equity is \$6,000 or less. The total equity value of
25 all properties that is exempt shall be limited to \$6,000.

26 In determining the resources of an individual or any

1 dependents, the Department shall exclude from consideration
2 the value of funeral and burial spaces, funeral and burial
3 insurance the proceeds of which can only be used to pay the
4 funeral and burial expenses of the insured and funds
5 specifically set aside for the funeral and burial arrangements
6 of the individual or his or her dependents, including prepaid
7 funeral and burial plans, to the same extent that such items
8 are excluded from consideration under the federal Supplemental
9 Security Income program (SSI). At any time after submitting an
10 application for medical assistance and before a final
11 determination of eligibility has been made by the Department,
12 an applicant may use available resources to purchase one of
13 the prepaid funeral or burial contracts exempted under this
14 Section.

15 Prepaid funeral or burial contracts are exempt to the
16 following extent:

17 (1) Funds in a revocable prepaid funeral or burial
18 contract are exempt up to \$1,500, except that any portion
19 of a contract that clearly represents the purchase of
20 burial space, as that term is defined for purposes of the
21 Supplemental Security Income program, is exempt regardless
22 of value.

23 (2) Funds in an irrevocable prepaid funeral or burial
24 contract are exempt up to \$5,874, except that any portion
25 of a contract that clearly represents the purchase of
26 burial space, as that term is defined for purposes of the

1 Supplemental Security Income program, is exempt regardless
2 of value. This amount shall be adjusted annually for any
3 increase in the Consumer Price Index. The amount exempted
4 shall be limited to the price of the funeral goods and
5 services to be provided upon death. The contract must
6 provide a complete description of the funeral goods and
7 services to be provided and the price thereof. Any amount
8 in the contract not so specified shall be treated as a
9 transfer of assets for less than fair market value.

10 (3) A prepaid, guaranteed-price funeral or burial
11 contract, funded by an irrevocable assignment of a
12 person's life insurance policy to a trust, is exempt. The
13 amount exempted shall be limited to the amount of the
14 insurance benefit designated for the cost of the funeral
15 goods and services to be provided upon the person's death.
16 The contract must provide a complete description of the
17 funeral goods and services to be provided and the price
18 thereof. Any amount in the contract not so specified shall
19 be treated as a transfer of assets for less than fair
20 market value. The trust must include a statement that,
21 upon the death of the person, the State will receive all
22 amounts remaining in the trust, including any remaining
23 payable proceeds under the insurance policy up to an
24 amount equal to the total medical assistance paid on
25 behalf of the person. The trust is responsible for
26 ensuring that the provider of funeral services under the

1 contract receives the proceeds of the policy when it
2 provides the funeral goods and services specified under
3 the contract. The irrevocable assignment of ownership of
4 the insurance policy must be acknowledged by the insurance
5 company.

6 Notwithstanding any other provision of this Code to the
7 contrary, an irrevocable trust containing the resources of a
8 person who is determined to have a disability shall be
9 considered exempt from consideration. A pooled trust must be
10 established and managed by a non-profit association that pools
11 funds but maintains a separate account for each beneficiary.
12 The trust may be established by the person, a parent,
13 grandparent, legal guardian, or court. It must be established
14 for the sole benefit of the person and language contained in
15 the trust shall stipulate that any amount remaining in the
16 trust (up to the amount expended by the Department on medical
17 assistance) that is not retained by the trust for reasonable
18 administrative costs related to wrapping up the affairs of the
19 subaccount shall be paid to the Department upon the death of
20 the person. After a person reaches age 65, any funding by or on
21 behalf of the person to the trust shall be treated as a
22 transfer of assets for less than fair market value unless the
23 person is a ward of a county public guardian or the State
24 Guardian pursuant to Section 13-5 of the Probate Act of 1975 or
25 Section 30 of the Guardianship and Advocacy Act and lives in
26 the community, or the person is a ward of a county public

1 guardian or the State Guardian pursuant to Section 13-5 of the
2 Probate Act of 1975 or Section 30 of the Guardianship and
3 Advocacy Act and a court has found that any expenditures from
4 the trust will maintain or enhance the person's quality of
5 life. If the trust contains proceeds from a personal injury
6 settlement, any Department charge must be satisfied in order
7 for the transfer to the trust to be treated as a transfer for
8 fair market value.

9 The homestead shall be exempt from consideration except to
10 the extent that it meets the income and shelter needs of the
11 person. "Homestead" means the dwelling house and contiguous
12 real estate owned and occupied by the person, regardless of
13 its value. Subject to federal approval, a person shall not be
14 eligible for long-term care services, however, if the person's
15 equity interest in his or her homestead exceeds the minimum
16 home equity as allowed and increased annually under federal
17 law. Subject to federal approval, on and after the effective
18 date of this amendatory Act of the 97th General Assembly,
19 homestead property transferred to a trust shall no longer be
20 considered homestead property.

21 Occasional or irregular gifts in cash, goods or services
22 from persons who are not legally responsible relatives which
23 are of nominal value or which do not have significant effect in
24 meeting essential requirements shall be disregarded. The
25 eligibility of any applicant for or recipient of public aid
26 under this Article is not affected by the payment of any grant

1 under the "Senior Citizens and Disabled Persons Property Tax
2 Relief Act" or any distributions or items of income described
3 under subparagraph (X) of paragraph (2) of subsection (a) of
4 Section 203 of the Illinois Income Tax Act.

5 The Illinois Department may, after appropriate
6 investigation, establish and implement a consolidated standard
7 to determine need and eligibility for and amount of benefits
8 under this Article or a uniform cash supplement to the federal
9 Supplemental Security Income program for all or any part of
10 the then current recipients under this Article; provided,
11 however, that the establishment or implementation of such a
12 standard or supplement shall not result in reductions in
13 benefits under this Article for the then current recipients of
14 such benefits.

15 (Source: P.A. 97-689, eff. 6-14-12; 98-104, eff. 7-22-13.)