



Rep. Natalie A. Manley

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1 AMENDMENT TO HOUSE BILL 295

2 AMENDMENT NO. _____. Amend House Bill 295, AS AMENDED, by
3 replacing everything after the enacting clause with the
4 following:

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

7 (215 ILCS 5/245.3 new)

8 Sec. 245.3. Irrevocable assignment of life insurance to a
9 funeral home. An insured or any other person who may be the
10 owner of rights under a policy of life insurance may make an
11 irrevocable assignment of all or a part of his or her rights
12 under the policy to a funeral home in accordance with Section
13 2b of the Illinois Funeral or Burial Funds Act and have an
14 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

1 not limited to, a prepaid funeral or burial contract, an
2 irrevocable assignment by an insured or other owner of rights
3 under a policy made before or after the effective date of this
4 amendatory Act of the 102nd General Assembly is valid for the
5 purpose of vesting in the assignee, in accordance with the
6 policy or contract as to the time at which it is effective, all
7 rights assigned. That irrevocable assignment is, however,
8 without prejudice to the company on account of any payment it
9 makes or individual policy it issues in accordance with
10 paragraphs (G), (H), and (K) of Section 231.1 before receipt
11 of notice of the assignment. The insurance company shall
12 within 15 business days notify the funeral home and owner of
13 the policy of its receipt of the form. A policy owner who
14 executes a designation of beneficiary form pursuant to Section
15 2b of the Illinois Funeral or Burial Funds Act also
16 irrevocably waives and cannot exercise the following rights:

17 (1) The right to collect from the insurance company
18 the net proceeds of the policy when it becomes a claim by
19 death.

20 (2) The right to surrender the policy and receive the
21 cash surrender value of the policy.

22 (3) The right to obtain a policy loan.

23 (4) The right to designate as primary beneficiary of
24 the policy anyone other than as provided in that Act.

25 (5) The right to collect or receive income,
26 distributions, or shares of surplus, dividend deposits,

1 refunds of premium, or additions to the policy.

2 This amendatory Act of the 102nd General Assembly
3 acknowledges, declares, and codifies the existing right of
4 assignment of interests under life insurance policies.

5 Section 10. The Illinois Funeral or Burial Funds Act is
6 amended by changing Sections 1a and 2a and by adding Section
7 2b as follows:

8 (225 ILCS 45/1a) (from Ch. 111 1/2, par. 73.101a)

9 Sec. 1a. For the purposes of this Act, the following terms
10 shall have the meanings specified, unless the context clearly
11 requires another meaning:

12 "Beneficiary" means the person specified in the pre-need
13 contract upon whose death funeral services or merchandise
14 shall be provided or delivered.

15 "Burial spaces" has the meaning ascribed to that term in
16 20 CFR 416.1231.

17 "Licensee" means a seller of a pre-need contract who has
18 been licensed by the Comptroller under this Act.

19 "Outer burial container" means any container made of
20 concrete, steel, wood, fiberglass or similar material, used
21 solely at the interment site, and designed and used
22 exclusively to surround or enclose a separate casket and to
23 support the earth above such casket, commonly known as a
24 burial vault, grave box or grave liner, but not including a

1 lawn crypt as defined in the Illinois Pre-need Cemetery Sales
2 Act.

3 "Parent company" means a corporation owning more than 12
4 cemeteries or funeral homes in more than one state.

5 "Person" means any person, partnership, association,
6 corporation, or other entity.

7 "Pre-need contract" means any agreement or contract, or
8 any series or combination of agreements or contracts, whether
9 funded by trust deposits or life insurance policies or
10 annuities, which has for a purpose the furnishing or
11 performance of funeral services or the furnishing or delivery
12 of any personal property, merchandise, or services of any
13 nature in connection with the final disposition of a dead
14 human body. Nothing in this Act is intended to regulate the
15 content of a life insurance policy or a tax-deferred annuity.

16 "Provider" means a person who is obligated for furnishing
17 or performing funeral services or the furnishing or delivery
18 of any personal property, merchandise, or services of any
19 nature in connection with the final disposition of a dead
20 human body.

21 "Purchaser" means the person who originally paid the money
22 under or in connection with a pre-need contract.

23 "Sales proceeds" means the entire amount paid to a seller,
24 exclusive of sales taxes paid by the seller, finance charges
25 paid by the purchaser, and credit life, accident or disability
26 insurance premiums, upon any agreement or contract, or series

1 or combination of agreements or contracts, for the purpose of
2 performing funeral services or furnishing personal property,
3 merchandise, or services of any nature in connection with the
4 final disposition of a dead human body, including, but not
5 limited to, the retail price paid for such services and
6 personal property and merchandise.

7 "Purchase price" means sales proceeds less finance charges
8 on retail installment contracts.

9 "Seller" means the person who sells or offers to sell the
10 pre-need contract to a purchaser, whether funded by a trust
11 agreement, life insurance policy, or tax-deferred annuity.

12 "Trustee" means a person authorized to hold funds under
13 this Act.

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

15 (225 ILCS 45/2a)

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

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

21 (b) If life insurance or an annuity is used to fund a
22 pre-need contract, the seller or provider shall not be named
23 as the owner or beneficiary of the policy or annuity. No person
24 whose only insurable interest in the insured is the receipt of
25 proceeds from the policy or in naming who shall receive the

1 proceeds nor any trust acting on behalf of such person or
2 seller or provider shall be named as owner or beneficiary of
3 the policy or annuity.

4 (c) Nothing shall prohibit the purchaser from irrevocably
5 assigning ownership of the policy or annuity used to fund a
6 guaranteed price pre-need contract to a person or trust or
7 from irrevocably assigning the benefits of the policy or
8 annuity to a funeral home for the purpose of obtaining
9 favorable consideration for Medicaid, Supplemental Security
10 Income, or another public assistance program, as permitted
11 under federal law. The seller or contract provider may be
12 named a nominal owner of the life insurance policy only for
13 such time as it takes to immediately transfer the policy into a
14 trust. Except for this purpose, neither the seller nor the
15 contract provider shall be named the owner or the beneficiary
16 of the policy or annuity.

17 (d) If a life insurance policy or annuity contract is used
18 to fund a pre-need contract, except for guaranteed price
19 contracts permitted in Section 4(a) of this Act, the pre-need
20 contract must be revocable, and any assignment provision in
21 the pre-need contract must contain the following disclosure in
22 12 point bold type:

23 THIS ASSIGNMENT MAY BE REVOKED BY THE ASSIGNOR OR
24 ASSIGNOR'S SUCCESSOR OR, IF THE ASSIGNOR IS ALSO THE INSURED
25 AND DECEASED, BY THE REPRESENTATIVE OF THE INSURED'S ESTATE
26 BEFORE THE RENDERING TO THE CEMETERY SERVICES OR GOODS OR

1 FUNERAL SERVICES OR GOODS. IF THE ASSIGNMENT IS REVOKED, THE
2 DEATH BENEFIT UNDER THE LIFE INSURANCE POLICY OR ANNUITY
3 CONTRACT SHALL BE PAID IN ACCORDANCE WITH THE BENEFICIARY
4 DESIGNATION UNDER THE INSURANCE POLICY OR ANNUITY CONTRACT.

5 (e) Sales proceeds shall not be used to purchase life
6 insurance policies or tax-deferred annuities unless the
7 company issuing the life insurance policies or tax-deferred
8 annuities is licensed with the Illinois Department of
9 Insurance, and the insurance producer or annuity seller is
10 licensed to do business in the State of Illinois.

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

12 (225 ILCS 45/2b new)

13 Sec. 2b. Irrevocable designation of beneficiary of
14 existing whole life insurance.

15 (a) In accordance with Section 245.3 of the Illinois
16 Insurance Code, an insured or any other person who may be the
17 owner of rights under an existing policy of whole life
18 insurance may make an irrevocable assignment of all or a part
19 of his or her rights under the policy to a provider in
20 consideration for signing a guaranteed pre-need contract for
21 the purpose of obtaining favorable consideration for Medicaid,
22 Supplemental Security Income, or another public assistance
23 program. The form prepared by the Department of Healthcare and
24 Family Services under paragraph (4) of subsection (c) of
25 Section 3-1.2 of the Illinois Public Aid Code or by the

1 insurance company shall provide for an irrevocable designation
2 of beneficiary of one or more life insurance policies. The
3 insured or any other person who may be the owner of rights
4 under an existing policy of whole life insurance shall sign a
5 guaranteed pre-need contract with the provider that describes
6 the cost of the funeral goods and services to be provided upon
7 the person's death, up to \$6,774, in addition to the purchase
8 of burial spaces. This amount shall be adjusted annually by
9 the Department of Human Services for any increase in the
10 Consumer Price Index. The guaranteed pre-need contract must
11 provide a complete description and cost of the funeral goods
12 and services including burial spaces. More than one policy may
13 be subject to this Section if the total face value of the
14 policies is necessary to pay the amount described in the
15 guaranteed pre-need contract with the provider. All policies
16 shall be listed on the form. The insured or any other person
17 who may be the owner of rights under an existing policy of
18 whole life insurance shall be given a copy of the executed
19 form. The licensee shall retain copies for inspection by the
20 Comptroller and shall report annually to the Comptroller the
21 following: the name of the insured, the insurance policy
22 number, the amount of the guaranteed pre-need contract, the
23 current value of the policy or benefits designated, and the
24 name of the insurance company issuing the policy.

25 (b) The insured or any other person who may be the owner of
26 rights under an existing policy of whole life insurance shall

1 acknowledge that by making this assignment irrevocable, the
2 policy cannot be cancelled, although it does not affect the
3 right of the policy owner to cancel the insurance policy
4 within the examination period provided under the policy.

5 (c) Upon the death of the insured, the proceeds of the life
6 insurance policies subject to this Section shall be paid to
7 the provider, who shall apply such proceeds in the following
8 order or priority:

9 (1) first, to the provider in an amount equal to the
10 lesser of:

11 (A) the amount of the guaranteed pre-need
12 contract; or

13 (B) the actual value of the funeral and burial or
14 cemetery services and merchandise provided;

15 (2) second, to the State of Illinois, up to an amount
16 equal to the total medical assistance paid on behalf of
17 the insured; and

18 (3) third, payment of proceeds to a secondary
19 beneficiary (if any) listed on the policy, or to the
20 estate of the decedent if no secondary beneficiary is
21 named on the policy in the event the proceeds exceed the
22 lesser of the prearranged costs or actual value of the
23 funeral and burial or cemetery merchandise and services
24 provided and the total medical assistance paid on behalf
25 of the insured.

26 (d) The provider shall receive and disburse these proceeds

1 notwithstanding any other prohibition in law against serving
2 as a trustee.

3 (e) Further assignment. The rights and obligations of the
4 provider subject to the irrevocable designation of beneficiary
5 may be assigned to another provider upon the choice of the
6 insured or the approved representative or the power of
7 attorney for property of the insured, or upon the insolvency
8 or bankruptcy of the provider. The assignee provider shall:
9 (i) be bound to the terms of the irrevocable designation of
10 beneficiary; (ii) notify the insurance company or companies of
11 the assignment; (iii) notify the Department of Healthcare and
12 Family Services of the change in provider; and (iv) retain a
13 copy of the assignment for inspection by the Comptroller.

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

16 (305 ILCS 5/3-1.2) (from Ch. 23, par. 3-1.2)

17 Sec. 3-1.2. Need.

18 (a) Income available to the person, when added to
19 contributions in money, substance, or services from other
20 sources, including contributions from legally responsible
21 relatives, must be insufficient to equal the grant amount
22 established by Department regulation for such person. In
23 determining earned income to be taken into account,
24 consideration shall be given to any expenses reasonably

1 attributable to the earning of such income. If federal law or
2 regulations permit or require exemption of earned or other
3 income and resources, the Illinois Department shall provide by
4 rule and regulation that the amount of income to be
5 disregarded be increased (1) to the maximum extent so required
6 and (2) to the maximum extent permitted by federal law or
7 regulation in effect as of the date this amendatory Act
8 becomes law. The Illinois Department may also provide by rule
9 and regulation that the amount of resources to be disregarded
10 be increased to the maximum extent so permitted or required.

11 (b) Subject to federal approval, resources (for example,
12 land, buildings, equipment, supplies, or tools), including
13 farmland property and personal property used in the
14 income-producing operations related to the farmland (for
15 example, equipment and supplies, motor vehicles, or tools),
16 necessary for self-support, up to \$6,000 of the person's
17 equity in the income-producing property, provided that the
18 property produces a net annual income of at least 6% of the
19 excluded equity value of the property, are exempt. Equity
20 value in excess of \$6,000 shall not be excluded. If the
21 activity produces income that is less than 6% of the exempt
22 equity due to reasons beyond the person's control (for
23 example, the person's illness or crop failure) and there is a
24 reasonable expectation that the property will again produce
25 income equal to or greater than 6% of the equity value (for
26 example, a medical prognosis that the person is expected to

1 respond to treatment or that drought-resistant corn will be
2 planted), the equity value in the property up to \$6,000 is
3 exempt. If the person owns more than one piece of property and
4 each produces income, each piece of property shall be looked
5 at to determine whether the 6% rule is met, and then the
6 amounts of the person's equity in all of those properties
7 shall be totaled to determine whether the total equity is
8 \$6,000 or less. The total equity value of all properties that
9 is exempt shall be limited to \$6,000.

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

25 Prepaid funeral or burial contracts are exempt to the
26 following extent:

1 (1) Funds in a revocable prepaid funeral or burial
2 contract are exempt up to \$1,500, except that any portion
3 of a contract that clearly represents the purchase of
4 burial space, as that term is defined for purposes of the
5 Supplemental Security Income program, is exempt regardless
6 of value.

7 (2) Funds in an irrevocable prepaid funeral or burial
8 contract are exempt up to \$6,774 ~~\$5,874~~, except that any
9 portion of a contract that clearly represents the purchase
10 of burial space, as that term is defined for purposes of
11 the Supplemental Security Income program, is exempt
12 regardless of value. This amount shall be adjusted
13 annually for any increase in the Consumer Price Index. The
14 amount exempted shall be limited to the price of the
15 funeral goods and services to be provided upon death. The
16 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.

21 (3) A prepaid, guaranteed-price funeral or burial
22 contract, funded by an irrevocable assignment of a
23 person's life insurance policy to a trust or a funeral
24 home, is exempt. The amount exempted shall be limited to
25 the amount of the insurance benefit designated for the
26 cost of the funeral goods and services to be provided upon

1 the person's death. The contract must provide a complete
2 description of the funeral goods and services to be
3 provided and the price thereof. Any amount in the contract
4 not so specified shall be treated as a transfer of assets
5 for less than fair market value. The trust must include a
6 statement that, upon the death of the person, the State
7 will receive all amounts remaining in the trust, including
8 any remaining payable proceeds under the insurance policy
9 up to an amount equal to the total medical assistance paid
10 on behalf of the person. The trust is responsible for
11 ensuring that the provider of funeral services under the
12 contract receives the proceeds of the policy when it
13 provides the funeral goods and services specified under
14 the contract. The irrevocable assignment of ownership of
15 the insurance policy must be acknowledged by the insurance
16 company.

17 (4) Existing life insurance policies are exempt if
18 there has been an irrevocable declaration of proceeds at
19 the death of the insured in compliance with this
20 subsection. A person shall sign a contract with a funeral
21 home that describes the cost of the funeral goods and
22 services to be provided upon the person's death, up to
23 \$6,774, in addition to the purchase of burial spaces. This
24 amount shall be adjusted annually for any increase in the
25 Consumer Price Index. The contract must provide a complete
26 description of the funeral goods and services and burial

1 spaces to be provided and the price thereof. The person
2 shall sign an irrevocable designation of beneficiary form
3 declaring that any amounts payable from the policies not
4 used for funeral goods and services or burial spaces as
5 set forth in the contract shall be received by the State,
6 up to an amount equal to the total medical assistance paid
7 on behalf of the person; any funds remaining after payment
8 to the State shall be paid to a secondary beneficiary (if
9 any) listed on the policy, or to the estate of the
10 purchaser if no secondary beneficiary is named on the
11 policy in the event the proceeds exceed the prearranged
12 costs of the funeral home or cemetery merchandise and
13 services and the total medical assistance paid on behalf
14 of the insured. More than one policy may be subject to this
15 subsection if the total face value of the policies is
16 necessary to pay the amount described in the contract with
17 the funeral home; policies that are not necessary to pay
18 the amount described in the contract are not exempt. The
19 Department of Healthcare and Family Services shall adopt
20 rules and forms to implement this Section.

21 (d) Notwithstanding any other provision of this Code to
22 the contrary, an irrevocable trust containing the resources of
23 a person who is determined to have a disability shall be
24 considered exempt from consideration. A pooled trust must be
25 established and managed by a non-profit association that pools
26 funds but maintains a separate account for each beneficiary.

1 The trust may be established by the person, a parent,
2 grandparent, legal guardian, or court. It must be established
3 for the sole benefit of the person and language contained in
4 the trust shall stipulate that any amount remaining in the
5 trust (up to the amount expended by the Department on medical
6 assistance) that is not retained by the trust for reasonable
7 administrative costs related to wrapping up the affairs of the
8 subaccount shall be paid to the Department upon the death of
9 the person. After a person reaches age 65, any funding by or on
10 behalf of the person to the trust shall be treated as a
11 transfer of assets for less than fair market value unless the
12 person is a ward of a county public guardian or the State
13 Guardian pursuant to Section 13-5 of the Probate Act of 1975 or
14 Section 30 of the Guardianship and Advocacy Act and lives in
15 the community, or the person is a ward of a county public
16 guardian or the State Guardian pursuant to Section 13-5 of the
17 Probate Act of 1975 or Section 30 of the Guardianship and
18 Advocacy Act and a court has found that any expenditures from
19 the trust will maintain or enhance the person's quality of
20 life. If the trust contains proceeds from a personal injury
21 settlement, any Department charge must be satisfied in order
22 for the transfer to the trust to be treated as a transfer for
23 fair market value.

24 (e) The homestead shall be exempt from consideration
25 except to the extent that it meets the income and shelter needs
26 of the person. "Homestead" means the dwelling house and

1 contiguous real estate owned and occupied by the person,
2 regardless of its value. Subject to federal approval, a person
3 shall not be eligible for long-term care services, however, if
4 the person's equity interest in his or her homestead exceeds
5 the minimum home equity as allowed and increased annually
6 under federal law. Subject to federal approval, on and after
7 the effective date of this amendatory Act of the 97th General
8 Assembly, homestead property transferred to a trust shall no
9 longer be considered homestead property.

10 (f) Occasional or irregular gifts in cash, goods or
11 services from persons who are not legally responsible
12 relatives which are of nominal value or which do not have
13 significant effect in meeting essential requirements shall be
14 disregarded.

15 (g) The eligibility of any applicant for or recipient of
16 public aid under this Article is not affected by the payment of
17 any grant under the "Senior Citizens and Disabled Persons
18 Property Tax Relief Act" or any distributions or items of
19 income described under subparagraph (X) of paragraph (2) of
20 subsection (a) of Section 203 of the Illinois Income Tax Act.

21 (h) The Illinois Department may, after appropriate
22 investigation, establish and implement a consolidated standard
23 to determine need and eligibility for and amount of benefits
24 under this Article or a uniform cash supplement to the federal
25 Supplemental Security Income program for all or any part of
26 the then current recipients under this Article; provided,

1 however, that the establishment or implementation of such a
2 standard or supplement shall not result in reductions in
3 benefits under this Article for the then current recipients of
4 such benefits.

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