



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 Section 2a and by by adding Section 2b as
7 follows:

8 (225 ILCS 45/2a)

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

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

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

22 (c) Nothing shall prohibit the purchaser from irrevocably
23 assigning ownership of the policy or annuity used to fund a
24 guaranteed price pre-need contract to a person or trust or

1 from irrevocably assigning the benefits of the policy or
2 annuity to a funeral home for the purpose of obtaining
3 favorable consideration for Medicaid, Supplemental Security
4 Income, or another public assistance program, as permitted
5 under federal law. The seller or contract provider may be
6 named a nominal owner of the life insurance policy only for
7 such time as it takes to immediately transfer the policy into a
8 trust. Except for this purpose, neither the seller nor the
9 contract provider shall be named the owner or the beneficiary
10 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 (225 ILCS 45/2b new)

7 Sec. 2b. Irrevocable designation of beneficiary of
8 existing whole life insurance.

9 (a) In accordance with Section 245.3 of the Illinois
10 Insurance Code, an insured or any other person who may be the
11 owner of rights under an existing policy of whole life
12 insurance may make an irrevocable assignment of all or a part
13 of his or her rights under the policy to a provider in
14 consideration for signing a guaranteed pre-need contract for
15 the purpose of obtaining favorable consideration for Medicaid,
16 Supplemental Security Income, or another public assistance
17 program. The form prepared by the Department of Healthcare and
18 Family Services under paragraph (4) of subsection (c) of
19 Section 3-1.2 of the Illinois Public Aid Code or by the
20 insurance company shall provide for an irrevocable designation
21 of beneficiary of one or more life insurance policies. The
22 insured or any other person who may be the owner of rights
23 under an existing policy of whole life insurance shall sign a
24 guaranteed pre-need contract with the provider that describes
25 the cost of the funeral goods and services to be provided upon

1 the person's death, up to \$6,774, except that any portion of a
2 contract that clearly represents the purchase of burial space,
3 as that term is defined for purposes of the Supplemental
4 Security Income program, is exempt regardless of value. This
5 amount shall be adjusted annually by the Department of Human
6 Services for any increase in the Consumer Price Index. The
7 guaranteed pre-need contract must provide a complete
8 description and cost of the goods and services. More than one
9 policy may be subject to this Section if the total face value
10 of the policies is necessary to pay the amount described in the
11 guaranteed pre-need contract with the provider. All policies
12 shall be listed on the form. The insured or any other person
13 who may be the owner of rights under an existing policy of
14 whole life insurance shall be given a copy of the executed
15 form. The licensee shall retain copies for inspection by the
16 Comptroller and shall report annually to the Comptroller the
17 following: the name of the insured, the insurance policy
18 number, the amount of the guaranteed pre-need contract, the
19 current value of the policy or benefits designated, and the
20 name of the insurance company issuing the policy.

21 (b) The insured or any other person who may be the owner of
22 rights under an existing policy of whole life insurance shall
23 acknowledge that by making this assignment irrevocable, the
24 policy cannot be cancelled, although it does not affect the
25 right of the policy owner to cancel the insurance policy
26 within the examination period provided under the policy.

1 (c) Upon the death of the insured, the proceeds of the life
2 insurance policies subject to this Section shall be paid to
3 the provider, who shall apply such proceeds in the following
4 order or priority:

5 (1) first, to the provider in an amount equal to the
6 lesser of:

7 (A) the amount of the guaranteed pre-need
8 contract; or

9 (B) the actual value of the personal property,
10 merchandise, and services provided;

11 (2) second, to the State of Illinois, up to an amount
12 equal to the total medical assistance paid on behalf of
13 the insured; and

14 (3) third, payment of proceeds to a secondary
15 beneficiary (if any) listed on the policy, or to the
16 estate of the decedent if no secondary beneficiary is
17 named on the policy in the event the proceeds exceed the
18 lesser of the prearranged costs or actual value of the
19 personal property, merchandise, and services provided and
20 the total medical assistance paid on behalf of the
21 insured.

22 (d) The provider shall receive and disburse these proceeds
23 notwithstanding any other prohibition in law against serving
24 as a trustee.

25 (e) Further assignment. The rights and obligations of the
26 provider subject to the irrevocable designation of beneficiary

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

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

12 (305 ILCS 5/3-1.2) (from Ch. 23, par. 3-1.2)

13 Sec. 3-1.2. Need.

14 (a) Income available to the person, when added to
15 contributions in money, substance, or services from other
16 sources, including contributions from legally responsible
17 relatives, must be insufficient to equal the grant amount
18 established by Department regulation for such person. In
19 determining earned income to be taken into account,
20 consideration shall be given to any expenses reasonably
21 attributable to the earning of such income. If federal law or
22 regulations permit or require exemption of earned or other
23 income and resources, the Illinois Department shall provide by
24 rule and regulation that the amount of income to be

1 disregarded be increased (1) to the maximum extent so required
2 and (2) to the maximum extent permitted by federal law or
3 regulation in effect as of the date this amendatory Act
4 becomes law. The Illinois Department may also provide by rule
5 and regulation that the amount of resources to be disregarded
6 be increased to the maximum extent so permitted or required.

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

1 at to determine whether the 6% rule is met, and then the
2 amounts of the person's equity in all of those properties
3 shall be totaled to determine whether the total equity is
4 \$6,000 or less. The total equity value of all properties that
5 is exempt shall be limited to \$6,000.

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

21 Prepaid funeral or burial contracts are exempt to the
22 following extent:

23 (1) Funds in a revocable prepaid funeral or burial
24 contract are exempt up to \$1,500, 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.

3 (2) Funds in an irrevocable prepaid funeral or burial
4 contract are exempt up to \$6,774 ~~\$5,874~~, except that any
5 portion of a contract that clearly represents the purchase
6 of burial space, as that term is defined for purposes of
7 the Supplemental Security Income program, is exempt
8 regardless of value. This amount shall be adjusted
9 annually for any increase in the Consumer Price Index. The
10 amount exempted shall be limited to the price of the
11 funeral goods and services to be provided upon death. The
12 contract must provide a complete description of the
13 funeral goods and services to be provided and the price
14 thereof. Any amount in the contract not so specified shall
15 be treated as a transfer of assets for less than fair
16 market value.

17 (3) A prepaid, guaranteed-price funeral or burial
18 contract, funded by an irrevocable assignment of a
19 person's life insurance policy to a trust or a funeral
20 home, is exempt. The amount exempted shall be limited to
21 the amount of the insurance benefit designated for the
22 cost of the funeral goods and services to be provided upon
23 the person's death. The contract must provide a complete
24 description of the funeral goods and services to be
25 provided and the price thereof. Any amount in the contract
26 not so specified shall be treated as a transfer of assets

1 for less than fair market value. The trust must include a
2 statement that, upon the death of the person, the State
3 will receive all amounts remaining in the trust, including
4 any remaining payable proceeds under the insurance policy
5 up to an amount equal to the total medical assistance paid
6 on behalf of the person. The trust is responsible for
7 ensuring that the provider of funeral services under the
8 contract receives the proceeds of the policy when it
9 provides the funeral goods and services specified under
10 the contract. The irrevocable assignment of ownership of
11 the insurance policy must be acknowledged by the insurance
12 company.

13 (4) Existing life insurance policies are exempt if
14 there has been an irrevocable declaration of proceeds at
15 the death of the insured in compliance with this
16 subsection. A person shall sign a contract with a funeral
17 home that describes the cost of the funeral goods and
18 services to be provided upon the person's death, up to
19 \$6,774, except that any portion of a contract that clearly
20 represents the purchase of burial space, as that term is
21 defined for purposes of the Supplemental Security Income
22 program, is exempt regardless of value. This amount shall
23 be adjusted annually for any increase in the Consumer
24 Price Index. The contract must provide a complete
25 description of the goods and services to be provided and
26 the price thereof. The person shall sign an irrevocable

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

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

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

22 (e) The homestead shall be exempt from consideration
23 except to the extent that it meets the income and shelter needs
24 of the person. "Homestead" means the dwelling house and
25 contiguous real estate owned and occupied by the person,
26 regardless of its value. Subject to federal approval, a person

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

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

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

19 (h) The Illinois Department may, after appropriate
20 investigation, establish and implement a consolidated standard
21 to determine need and eligibility for and amount of benefits
22 under this Article or a uniform cash supplement to the federal
23 Supplemental Security Income program for all or any part of
24 the then current recipients under this Article; provided,
25 however, that the establishment or implementation of such a
26 standard or supplement shall not result in reductions in

1 benefits under this Article for the then current recipients of
2 such benefits.

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