



Sen. John Connor

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10200HB4979sam001

LRB102 22458 KTG 38124 a

1 AMENDMENT TO HOUSE BILL 4979

2 AMENDMENT NO. _____. Amend House Bill 4979 by replacing
3 everything after the enacting clause with the following:

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. An insured or any other person who may be the
9 owner of rights under a policy of life insurance may make an
10 irrevocable assignment of all or a part of his or her rights
11 under the policy to a funeral home in accordance with Section
12 2b of the Illinois Funeral or Burial Funds Act. Subject to the
13 terms of the policy or a contract relating to the policy,
14 including, but not limited to, a prepaid funeral or burial
15 contract, an irrevocable assignment by an insured or other
16 owner of rights under a policy made before or after the

1 effective date of this amendatory Act of the 102nd General
2 Assembly is valid for the purpose of vesting in the assignee,
3 in accordance with the policy or contract as to the time at
4 which it is effective, all rights assigned. That irrevocable
5 assignment is, however, without prejudice to the company on
6 account of any payment it makes. The insurance company shall
7 within 15 business days notify the funeral home and owner of
8 the policy of its receipt of the form. A policy owner who
9 executes a designation of beneficiary form pursuant to Section
10 2b of the Illinois Funeral or Burial Funds Act also
11 irrevocably waives and cannot exercise the following rights:

12 (1) The right to collect from the insurance company
13 the net proceeds of the policy when it becomes a claim by
14 death.

15 (2) The right to surrender the policy and receive the
16 cash surrender value of the policy.

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

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

20 (5) The right to collect or receive income,
21 distributions, or shares of surplus, dividend deposits,
22 refunds of premium, or additions to the policy.

23 This amendatory Act of the 102nd General Assembly
24 acknowledges, declares, and codifies the existing right of
25 assignment of interests under life insurance policies.

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

4 (225 ILCS 45/2a)

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

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

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

18 (c) Nothing shall prohibit the purchaser from irrevocably
19 assigning ownership of the policy or annuity used to fund a
20 guaranteed price pre-need contract to a person or trust or
21 from irrevocably assigning the benefits of the policy or
22 annuity to a funeral home for the purpose of obtaining
23 favorable consideration for Medicaid, Supplemental Security
24 Income, or another public assistance program, as permitted
25 under federal law. The seller or contract provider may be

1 named a nominal owner of the life insurance policy only for
2 such time as it takes to immediately transfer the policy into a
3 trust. Except for this purpose, neither the seller nor the
4 contract provider shall be named the owner or the beneficiary
5 of the policy or annuity.

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

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

20 (e) Sales proceeds shall not be used to purchase life
21 insurance policies or tax-deferred annuities unless the
22 company issuing the life insurance policies or tax-deferred
23 annuities is licensed with the Illinois Department of
24 Insurance, and the insurance producer or annuity seller is
25 licensed to do business in the State of Illinois.

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

1 (225 ILCS 45/2b new)

2 Sec. 2b. Irrevocable designation of beneficiary of
3 existing life insurance.

4 (a) In accordance with Section 245.3 of the Illinois
5 Insurance Code, an insured or any other person who may be the
6 owner of rights under an existing policy of life insurance may
7 make an irrevocable assignment of all or a part of his or her
8 rights under the policy to a provider in consideration for
9 signing a guaranteed pre-need contract for the purpose of
10 obtaining favorable consideration for Medicaid, Supplemental
11 Security Income, or another public assistance program. The
12 form that shall effectuate the irrevocable assignment and
13 thereby provide for the irrevocable designation of beneficiary
14 of one or more life insurance policies, which shall comply
15 with all applicable federal laws and regulations, shall be
16 prepared by the Department of Healthcare and Family Services
17 under paragraph (4) of subsection (c) of Section 3-1.2 of the
18 Illinois Public Aid Code or such form, approved in advance by
19 the Department of Healthcare and Family Services, that has
20 been prepared by an insurance company licensed to operate in
21 the State of Illinois. The insured or any other person who may
22 be the owner of rights under an existing policy of life
23 insurance shall sign a guaranteed pre-need contract with the
24 provider that describes the cost of the funeral goods and
25 services to be provided upon the person's death, up to \$7,248,

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

21 (b) The insured or any other person who may be the owner of
22 rights under an existing policy of life insurance shall
23 acknowledge that by making this assignment irrevocable, the
24 policy cannot be canceled, 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) No commission may be sought or received in connection
2 with any cash advance allowance included in the guaranteed
3 pre-need contract.

4 (d) For guaranteed pre-need contracts with cash advances,
5 the contract shall include a disclosure, in 12 point bold type
6 and located immediately above such cash advance allowance,
7 that states: "No interment, inurnment, or entombment right has
8 been selected or reserved with this allowance; cash advances
9 are merely an allowance toward the then-current costs for the
10 involved items, to be purchased after death. Burial space
11 allowances may only be excluded from resources under Medicaid
12 if a separate contract is executed for such burial space with a
13 cemetery."

14 (e) Upon the death of the insured, the proceeds of the life
15 insurance policies subject to this Section shall be paid to
16 the provider, who shall apply such proceeds in the following
17 order or priority:

18 (1) first, to the provider in an amount equal to the
19 lesser of:

20 (A) the amount of the guaranteed pre-need contract
21 for payment of all services, goods, and cash advances
22 in the amounts indicated on the pre-need contract; or

23 (B) the actual value of the services, goods, and
24 cash advances, not to exceed the amounts indicated in
25 the pre-need contract;

26 (2) second, to the State of Illinois, up to an amount

1 equal to the total medical assistance paid on behalf of
2 the insured; and

3 (3) third, payment of proceeds to a secondary
4 beneficiary (if any) listed on the policy, or to the
5 estate of the decedent if no secondary beneficiary is
6 named on the policy in the event the proceeds exceed the
7 amount of the pre-need contract for payment of all
8 services, goods and cash advances in the amounts indicated
9 on the pre-need contract and the total medical assistance
10 paid on behalf of the insured.

11 (f) The provider shall receive and disburse these proceeds
12 notwithstanding any other prohibition in law against serving
13 as a trustee. The provider shall promptly deposit these funds
14 into a non-interest bearing checking or share account that has
15 been established to receive proceeds of this type. These
16 proceeds shall not be commingled with any other account of the
17 provider. The account may contain the funds of more than one
18 client. The provider may disburse these funds to itself for
19 goods and services. The provider shall maintain a ledger
20 indicating the amount of proceeds received and the
21 disbursement of those proceeds. A copy of this ledger shall be
22 provided to the Comptroller and the Department of Healthcare
23 and Family Services, and to the estate or heirs of the insured,
24 as applicable, if requested by them. For the purpose of this
25 Section, the providers who receive and disburse these proceeds
26 from life insurance policies shall be funeral homes.

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

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

15 (305 ILCS 5/3-1.2) (from Ch. 23, par. 3-1.2)

16 Sec. 3-1.2. Need.

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

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

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

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

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

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

26 (1) Funds in a revocable prepaid funeral or burial

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

6 (2) Funds in an irrevocable prepaid funeral or burial
7 contract are exempt up to \$7,248 ~~\$5,874~~, except that any
8 portion of a contract that clearly represents the purchase
9 of burial space, as that term is defined for purposes of
10 the Supplemental Security Income program, is exempt
11 regardless of value. This amount shall be adjusted
12 annually for any increase in the Consumer Price Index. The
13 amount exempted shall be limited to the price of the
14 funeral goods and services to be provided upon death. The
15 contract must provide a complete description of the
16 funeral goods and services to be provided and the price
17 thereof. Any amount in the contract not so specified shall
18 be treated as a transfer of assets for less than fair
19 market value.

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

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

16 (4) Existing life insurance policies are exempt if
17 there has been an irrevocable assignment in compliance
18 with Section 2b of the Illinois Funeral or Burial Funds
19 Act. A person shall sign a contract with a funeral home,
20 which is licensed under the Illinois Funeral or Burial
21 Funds Act, that describes the cost of the funeral goods
22 and services to be provided upon the person's death, up to
23 \$7,248, except that any portion of a contract that clearly
24 represents the purchase of burial space, as that term is
25 defined for purposes of the Supplemental Security Income
26 program, is exempt regardless of value. This amount shall

1 be adjusted annually for any increase in the Consumer
2 Price Index. The contract must provide a complete
3 description of the goods and services and any cash
4 advances to be provided and the price thereof. The person
5 shall sign an irrevocable designation of beneficiary form
6 declaring that any amounts payable from the policies not
7 used for goods and services and any cash advances as set
8 forth in the contract shall be received by the State, up to
9 an amount equal to the total medical assistance paid on
10 behalf of the person; any funds remaining after payment to
11 the State shall be paid to a secondary beneficiary (if
12 any) listed on the policy, or to the estate of the
13 purchaser if no secondary beneficiary is named on the
14 policy in the event the proceeds exceed the prearranged
15 costs of merchandise and services and any cash advances
16 and the total medical assistance paid on behalf of the
17 insured. More than one policy may be subject to this
18 subsection if the total face value of the policies is
19 necessary to pay the amount described in the contract with
20 the funeral home; policies that are not necessary to pay
21 the amount described in the contract are not exempt. The
22 licensed funeral home to which the life insurance policy
23 benefits have been irrevocably assigned shall retain
24 copies for inspection by the Comptroller and shall report
25 annually to the Comptroller the following: the name of the
26 insured, the name of the insurance company and policy

1 number, an itemized account of the amount of the contract
2 for goods and services and any cash advances provided, and
3 the current value of the policy of benefits designated
4 with a record of all amounts paid back to the State or
5 other beneficiary. The Department of Healthcare and Family
6 Services shall adopt rules and forms to implement this
7 Section.

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

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

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

23 (f) Occasional or irregular gifts in cash, goods or
24 services from persons who are not legally responsible
25 relatives which are of nominal value or which do not have
26 significant effect in meeting essential requirements shall be

1 disregarded.

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

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

18 (i) The provisions under paragraph (4) of subsection (c)
19 are subject to federal approval. The Department of Healthcare
20 and Family Services shall apply for any necessary federal
21 waivers or approvals to implement by January 1, 2023 the
22 changes made to this Section by this amendatory Act of the
23 102nd General Assembly.

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

25 Section 99. Effective date. This Act takes effect upon

1 becoming law.".