

JAN 26 2009

A BILL FOR AN ACT

RELATING TO THE FUNERAL INDUSTRY.

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

1 SECTION 1. Chapter 441, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§441- Pre-need cemetery and funeral governance fund;
5 use of fund; fees. (a) The director shall establish and
6 maintain a trust fund that shall be known as the pre-need
7 cemetery and funeral governance fund, the proceeds of which may
8 be used by the department to investigate any violation or
9 complaint that alleges fraud, misrepresentation, or deceit
10 against any pre-need funeral authority.

11 (b) The director shall collect a one time fee of not more
12 than \$2 per contract from each pre-need funeral authority for
13 deposit into the pre-need cemetery and funeral governance fund,
14 as provided in rules adopted by the director pursuant to chapter
15 91. The fee shall apply to every contract accepted by the
16 pre-need funeral authority on or after July 1, 2009 and to every
17 contract that was accepted by the pre-need funeral authority on



1 or after January 1, 1992 that is still in effect as of July 1,
2 2009. The fee may be reduced proportionately for each contract
3 that terminates or is cancelled within the first six months of
4 the life of the contract. Each pre-need funeral authority shall
5 provide payment to the director on January 31 and June 15 of
6 every year for all contracts accepted by the authority during
7 the prior six month period.

8 (c) The director, as the trustee of the pre-need cemetery
9 and funeral governance fund, shall be authorized to expend
10 moneys in the fund to:

11 (1) Retain private legal counsel to represent the interest
12 of the department in any action that involves, or that
13 may result in the enforcement of any payment from a
14 pre-need funeral authority;

15 (2) Retain a certified public account for accounting and
16 auditing of pre-need trusts, perpetual care funds,
17 providers of funeral service, and cemetery
18 authorities;

19 (3) Employ necessary personnel, not subject to chapter 76,
20 to assist the director and the department in
21 exercising their respective powers and duties in
22 accordance with this chapter; and



1 (4) Retain a consultant to recover and collect any
 2 payments to the pre-need cemetery and funeral
 3 governance fund, including interest, from cemetery
 4 authorities and pre-need funeral authorities.

5 (d) The sums received by the director for deposit into the
 6 pre-need cemetery and funeral governance fund shall be held by
 7 the department in trust for carrying out the purpose of the
 8 fund. The director, as trustee of the fund, shall be authorized
 9 to expend the funds as set forth in this section, and shall hold
 10 the funds for investment and reinvestment in the same manner as
 11 funds of the state employees' retirement system under chapter
 12 88. The interest from these investments shall be deposited to
 13 the credit of the fund. The director, as trustee, may combine,
 14 for the purpose of investing, these sums with other funds held
 15 in the same manner; provided that the director shall have the
 16 duty to keep separate and distinct accounting records for the
 17 pre-need cemetery and funeral governance fund."

18 SECTION 2. New statutory material is underscored.

19 SECTION 3. This Act shall take effect upon its approval.

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INTRODUCED BY:

Randy H. Pat

[Signature]

Franne Chun Aldland

John Miller



Report Title:

Funeral Industry; Cemetery Authority; Pre-Need Funeral Authority

Description:

Establishes the pre-need cemetery and funeral governance fund;
specifies fund uses and administration.

