
HOUSE RESOLUTION

REQUESTING THE DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS TO
STUDY THE STATE'S LAWS GOVERNING CEMETERY AND FUNERAL
TRUSTS AND PROVIDE RECOMMENDATIONS TO ENSURE CONSUMER
PROTECTION.

1 WHEREAS, Hawaii has a growing, aging population, and needs
2 strong, comprehensive legislation for cemetery and funeral
3 trusts to protect consumers; and
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5 WHEREAS, adequate oversight of these so-called pre-need
6 funeral contracts are often hampered by non-existent rules and
7 state regulators' lack of authority and resources; and
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9 WHEREAS, in 1998, the average cost of a traditional funeral
10 was more than \$4,600, and an in-ground burial was an additional
11 \$2,400, according to national statistics, making funeral and
12 burial purchases the third highest lifetime expenditure, ranking
13 behind a home and automobile; and
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15 WHEREAS, most funeral and burial purchases are made when
16 buyers are vulnerable emotionally and lack the time and
17 information to negotiate prices effectively; and
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19 WHEREAS, this is a major reason why consumers enter into
20 pre-need funeral contracts to purchase funeral and burial goods
21 and services prior to death; and
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23 WHEREAS, according to a report by the American Association
24 of Retired Persons, as of 1999, funds in outstanding pre-need
25 funeral contracts exceeded \$25 billion; and
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27 WHEREAS, funds in outstanding pre-need funeral contracts
28 are projected to grow substantially as the population continues
29 to age and to plan for death expenses; and



1 WHEREAS, nationwide, problems such as the following have
2 been experienced with respect to pre-need funeral contracts:

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- 4 (1) Mishandling of trust funds that may go undetected for
5 years since there is generally a significant length of
6 time between the signing of the contract and the need
7 for the goods and services described in the contract;
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- 9 (2) Overpaying for goods or services since it is often
10 difficult to determine whether specific provisions of
11 the contract were fulfilled since the person who
12 signed the contract is likely deceased; and
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- 14 (3) Increasing potential for fraud since pre-need
15 contracts are becoming increasingly complex, with more
16 decisions, creating opportunity for criminal
17 misconduct;

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19 and

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21 WHEREAS, Hawaii could follow the example of New York, a
22 state that has some of the strongest pre-need funeral contract
23 laws in the nation in connection with trust accounts,
24 portability, and the disclosure of financial information; now,
25 therefore,

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27 BE IT RESOLVED by the House of Representatives of the
28 Twenty-sixth Legislature of the State of Hawaii, Regular Session
29 of 2011, that the Department of Commerce and Consumer Affairs is
30 requested to study the State's laws governing cemetery and
31 funeral trusts, and provide recommendations to ensure consumer
32 protection by:

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- 34 (1) Allowing full portability of pre-need funeral plans;
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- 36 (2) Requiring placement into trust of 100 percent of
37 moneys paid with interest and earnings to be applied
38 at the time the plan is redeemed;
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- 1 (3) Providing deadlines for the transfer of funds to the
- 2 trust after receipt from the purchaser and notice
- 3 confirming such transfer;
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- 5 (4) Allowing a cemetery or pre-need authority to deduct
- 6 certain allowable expenses from a trust;
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- 8 (5) Requiring annual statements of the disposition of
- 9 trust funds, including the amount of funds deposited,
- 10 where the funds are deposited, and the amount of
- 11 interest earned;
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- 13 (6) Requiring that if the pre-need funeral contract is
- 14 canceled or terminated, the purchaser should be
- 15 entitled to a refund of the amounts paid by the
- 16 purchaser plus interest earned, less amounts that may
- 17 be retained by the cemetery or pre-need funeral
- 18 authority for its costs; and
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- 20 (7) Requiring that refunds to the purchaser be made within
- 21 30 days of receipt of the purchaser's written notice
- 22 of cancellation or termination of the contract;
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24 and

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26 BE IT FURTHER RESOLVED that the Department of Commerce and
27 Consumer Affairs report its findings and recommendations to the
28 Legislature no later than 20 days prior to the convening of the
29 Regular Session of 2012; and

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31 BE IT FURTHER RESOLVED that certified copies of this
32 Resolution be transmitted to the Director of Commerce and
33 Consumer Affairs, Governor, and Chief Executive Officer of the
34 National Funeral Directors Association.

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OFFERED BY: *Rich J. Carroll*

MAR 15 2011

