

JAN 17 2025

A BILL FOR AN ACT

RELATING TO MANDATORY PRIOR WRITTEN NOTICE AND CONSENT IN
CONTRACTS TO PROVIDE CREMATION SERVICES.

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

1 SECTION 1. Section 441-22.5, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "**§441-22.5 Mortuary, cemetery, or pre-need funeral**
4 **authority; disclosure requirements[-]; notice and consent.** (a)
5 No cemetery property, interment services, funeral services, and
6 related commodities shall be sold unless the mortuary, cemetery,
7 or pre-need funeral authority first satisfies the requirements
8 stated in section 441-22.6.

9 (b) Every cemetery or pre-need funeral authority shall be
10 required to provide to the purchaser of cemetery property, pre-
11 need interment, or pre-need funeral services and related
12 commodities a written contract which shall contain the following
13 disclosures:

14 (1) The names and addresses of the cemetery or pre-need
15 funeral authority, purchaser, and contract



1 beneficiary, if the beneficiary is someone other than
2 the purchaser;

3 (2) A clear and concise itemized statement of the
4 property, including, for cemetery property, the
5 location of the plot, crypt, or niche by its unique
6 identifier, and any services and related commodities
7 to be supplied or not supplied and by whom,
8 particularly if the authority is not to be the
9 provider under the terms of the contract;

10 (3) The purchase price of each item of property, services,
11 and related commodities to be supplied, the total
12 purchase price, and how the total purchase price is
13 payable, including any credit terms, if applicable;
14 provided that, pursuant to section 441-22.7,
15 disclosure shall also be made that further additional
16 charges or fees for perpetual care subsequent to the
17 execution of the contract are prohibited for any
18 purpose and on any occasion, except for reasonable
19 fees related to the administrative costs of
20 transferring ownership rights, including the cost of
21 research, document and file preparation, photocopying,



- 1 notary fees, records transfer and storage, and any
- 2 other costs directly related to the transfer of
- 3 ownership rights;
- 4 (4) Related costs covered under the contract;
- 5 (5) The basis on which funds are to be deposited in trust,
- 6 including:
 - 7 (A) The name and address of the trustee; provided
 - 8 that the disclosure shall not preclude the
 - 9 cemetery or pre-need funeral authority from
 - 10 changing the trustee named;
 - 11 (B) The percentage of the contract price for
 - 12 trustable items to be placed in trust; provided
 - 13 that the percentage shall be no less than seventy
 - 14 per cent;
 - 15 (C) The percentage of the contract price for
 - 16 trustable items that the cemetery or pre-need
 - 17 funeral authority will retain and not deposit
 - 18 into the trust; provided that the percentage
 - 19 shall not be more than thirty per cent; and
 - 20 (D) Where a portion of the contract price relates to
 - 21 property, services, or related commodities that

1 are not trustable items, a clear description of
2 what those non-trustable items are;

3 (6) The refund, cancellation, and default provisions of
4 the contract, including an explanation of the
5 requirements of section 441-22.8, and a statement in
6 twelve-point bold type in substantially the following
7 form:

8 "YOU HAVE REFUND, CANCELLATION AND DEFAULT RIGHTS
9 UNDER STATE LAW AND UNDER THE CONTRACT. PLEASE READ
10 THE CONTRACT CAREFULLY FOR AN EXPLANATION OF THESE
11 RIGHTS";

12 (7) The date and place of execution of the contract;

13 (8) The cemetery or pre-need funeral authority's or its
14 duly authorized agent's signature on the contract and
15 the identification of this person by name and title;

16 (9) A statement that the written contract, when signed,
17 shall constitute the entire agreement between the
18 parties relative to its subject matter and that all
19 obligations of both parties shall be fixed and
20 enforceable by the other parties of the contract; and



1 (10) A statement that the contract may not waive any rights
2 of the consumer or duties of the cemetery or pre-need
3 funeral authority under the law.

4 (c) No mortuary, cemetery, or pre-need funeral authority
5 shall charge a price for the cemetery property, interment, or
6 funeral services, whether it be at-need or pre-need, which is
7 greater than the price on the itemized price list or contract
8 ~~which~~ that the purchaser had signed, unless the purchaser or
9 the purchaser's authorized representative requests an additional
10 item, the authority discloses the price for the additional item,
11 and the purchaser or its authorized representative approves the
12 price for the additional item. The mortuary, cemetery, or pre-
13 need funeral authority may charge the higher price for the
14 additional item but shall collect in payment only that sum
15 ~~which~~ that is the difference between the higher price and the
16 price listed on the itemized price list or contract ~~which~~ that
17 the purchaser had previously signed.

18 (d) Beginning October 1, 2025, any mortuary, cemetery, or
19 pre-need funeral authority that enters into a contract to
20 provide a purchaser funeral services that includes cremation,
21 shall include in the contract:



- 1 (1) A provision that requires written notice to the
2 purchaser if precious metals are recovered at the
3 conclusion of the cremation process; and
- 4 (2) A statement that written consent shall be obtained by
5 the purchaser before the sale or recycling of any
6 recovered precious metals.

7 (e) As used in this section:
8 "Cremation" has the same meaning as defined in section
9 531B-2.

10 "Precious metals" includes any precious metals from
11 jewelry, medical devices, or dental implants.

12 "Purchaser" includes the contract beneficiary or the
13 authorized agent who is legally entitled to control the
14 disposition of the human remains."

15 SECTION 2. No later than January 1, 2026, any mortuary,
16 cemetery, or pre-need funeral authority that has entered into a
17 contract prior to October 1, 2025, to provide a purchaser
18 funeral services that includes cremation shall provide to the
19 purchaser an addendum that includes the terms required under
20 sections 441-22.5(d) (1) and (2), Hawaii Revised Statutes.



1 SECTION 3. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 4. This Act shall take effect upon its approval.
4

INTRODUCED BY: *David F. Williams*



S.B. NO. 525

Report Title:

Cemetery and Funeral Trusts; Mortuary Services Contracts; Human Remains; Cremation; Precious Metals; Notice; Consent

Description:

Beginning 10/1/2025, requires mortuaries, cemeteries, and pre-need funeral authorities that contract to provide cremation services to provide written notice if precious metals are recovered after cremation and to obtain written consent before the sale or recycling of any recovered precious metals.

Requires mortuaries, cemeteries, and pre-need funeral authorities that have contracted to provide cremation services to give certain notice of updated terms by 1/1/2026.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

