

MAINE STATE LEGISLATURE

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1 FIRST REGULAR SESSION
2

3 ONE HUNDRED AND TWELFTH LEGISLATURE
4

5 Legislative Document

No. 587

7 S.P. 224

In Senate, February 19, 1985

8 Reference to the Committee on Business and Commerce suggested and
9 ordered printed.

10 JOY J. O'BRIEN, Secretary of the Senate

Presented by Senator Gauvreau of Androscoggin.

Cosponsored by Representative Handy of Lewiston, Representative
11 Nickerson of Turner and Representative Warren of Scarborough.

12 STATE OF MAINE
13

14 IN THE YEAR OF OUR LORD
15 NINETEEN HUNDRED AND EIGHTY-FIVE
16

17 AN ACT Relating to Prearranged Funerals or
18 Burial Plans.
19

20 Be it enacted by the People of the State of Maine as
21 follows:

22 32 MKSA §1401, as amended by PL 1983, c. 816, Pt.
23 C, §1, is further amended to read:

24 §1401. Prearranged funerals or burial plans

25 All moneys paid during a person's lifetime to any
26 individual, firm, association, partnership or corpo-
27 ration, by that person or by someone in his behalf
28 under an agreement that services be performed or per-
29 sonal property be delivered in connection with the
30 disposition of that person's body after his death
31 shall be deposited by the payee within ~~30~~ 10 days af-
32 ter receipt thereof in a separate account in a bank,
33 trust company, credit union or savings institution in
34 this State in the name of the payee as mortuary
35 trustee for the person for whose benefit the payment

1 was made and shall be held in that account together
2 with interest if any thereon. Proof of the establish-
3 ment of the account and the funds deposited in the
4 account by furnishing photocopies of the appropriate
5 passbook pages or by other suitable means shall be
6 attended by the person purchasing the funeral ar-
7 rangements. The notice shall be given within 30 days
8 of the establishment of that account. The purchaser
9 of any prearranged funeral or burial plan shall be
10 reasonably notified of his right to designate any
11 funds derived from interest earned on that account in
12 excess of that required to perform the services or-
13 dered at the time of death be applied either to the
14 estate, the decedent's next of kin or to upgrade the
15 quality of funeral or burial services to be provided.
16 Nothing in this section may be construed to prevent
17 transfer of these funds to another such bank, trust
18 company, credit union or savings institution by merg-
19 er or consolidation or by operation of law.

20 Such The funds may be withdrawn, if otherwise
21 lawful, by the payee on written instructions of the
22 person who originally paid the money or his legal
23 representative or on the death of the person for
24 whose benefit such funds were paid, in which latter
25 event they shall be used in accordance with the
26 agreement.

27 Such The bank, trust company, credit union or
28 savings institution shall be discharged from liabili-
29 ty for payment of the funds in any such account upon
30 presentation of a written consent to withdrawal
31 signed by the party who paid the funds or his legal
32 representative and by the payee, or upon presentation
33 of proof of death of such person for whose benefit
34 such funds were paid. This section shall not apply to
35 the sale of cemetery lots, crypts, niches, cemetery
36 burial privileges, cemetery space or perpetual care.

37 Any person who violates this section is guilty of
38 a Class E crime.

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STATEMENT OF FACT

2 Prearranged funeral or burial plans through the
3 establishment of a mortuary trust, are a convenient
4 and practical means of planning a person's disposition
5 after death. Under present law, funeral home
6 operators are not required to notify either the person
7 who establishes a mortuary trust or the first
8 beneficiary of the deposit of the trust funds in a
9 bank, trust company, credit union or savings institution.
10 It is possible for a funeral home operator,
11 either through neglect, inadvertance or malformance,
12 to disregard the mandate of a mortuary trust and escape
13 detection. This bill requires notification of
14 the deposit of mortuary trust funds within 30 days.
15 It also requires the funds to be deposited within 10
16 days after receipt.

17 The bill also requires funeral home operators to
18 notify the purchasers of the plans of their right to
19 dedicate excess interest received from mortuary
20 trusts to either the estate, next of kin or the acquisition
21 of a more expensive service. Under present
22 law, an operator is not required to disclose or account
23 for trust interest income which exceeds the increase
24 in cost of the funeral or burial service ordered.
25 This bill corrects this oversight.

26 This section is amended to subject venders at
27 cremation services to the same restrictions imposed
28 upon funeral home operators. This bill extends to
29 vendors of cremation services the prohibition against
30 solicitation of services currently in force against
31 funeral home operators.

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