

MAINE STATE LEGISLATURE

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1 (New Draft of S.P. 224, L.D. 587)
2 FIRST REGULAR SESSION
3

4 ONE HUNDRED AND TWELFTH LEGISLATURE
5

6 Legislative Document

No. 1498

8 S.P. 571

In Senate, May 8, 1985

9 Reported by Senator Bustin of Kennebec from the Committee on
10 Business and Commerce and printed under Joint Rule 2. Original bill
11 sponsored by Senator Gauvreau of Androscoggin. Cosponsored by
Representative Handy of Lewiston, Representative Nickerson of Turner and
Representative Warren of Scarborough.

JOY J. O'BRIEN, Secretary of the Senate

12
13 STATE OF MAINE
14

15 IN THE YEAR OF OUR LORD
16 NINETEEN HUNDRED AND EIGHTY-FIVE
17

18 AN ACT Relating to Prearranged Funerals or
19 Burial Plans.
20

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

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

25 §1401. Prearranged funerals or burial plans

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

1 trustee for the person for whose benefit the payment
2 was made and shall be held in that account together
3 with interest if any thereon. Within 30 days after
4 the deposit of funds by the payee, the bank, trust
5 company, credit union or savings institution shall
6 provide a written confirmation of the deposit, in-
7 cluding the amount deposited, to the payor or his leg-
8 al representative. Nothing in this section may be
9 construed to prevent transfer of these funds to an-
10 other such bank, trust company, credit union or sav-
11 ings institution by merger or consolidation or by op-
12 eration of law provided that within 30 days after
13 transfer of the funds, the bank, trust company, cred-
14 it union or savings institution shall provide a writ-
15 ten confirmation of the deposit, including the amount
16 deposited, to the payor or his legal representative.

17 The agreement shall be in writing and a copy
18 shall be furnished to the payor or his legal repre-
19 sentative by the payee when the agreement is exe-
20 cuted. The agreement shall clearly state terms pro-
21 viding for disposition of any interest earned on the
22 funds deposited. The payee shall maintain a com-
23 plete record of the deposit of all funds, including
24 principal and interest. The record shall be availa-
25 ble for inspection by the payor or his legal repre-
26 sentative and shall contain the name and address of
27 the bank, trust company, credit union or savings in-
28 stitution and the dates and amounts of deposits.

29 Such The funds may be withdrawn, if otherwise
30 lawful, by the payee on written instructions of the
31 ~~person who originally paid the money~~ payor or his le-
32 gal representative or on the death of the person for
33 whose benefit ~~such~~ the funds were paid, in which lat-
34 ter event they shall be used in accordance with the
35 agreement.

36 Such The bank, trust company, credit union or
37 savings institution shall be discharged from liabili-
38 ty for payment of the funds in any such account upon
39 presentation of a written consent to withdrawal
40 signed by the ~~party who paid the funds~~ payor or his
41 legal representative and by the payee, or upon pre-
42 sentation of proof of death of ~~such~~ the person for
43 whose benefit ~~such~~ the funds were paid. This section
44 shall not apply to the sale of cemetery lots, crypts,

1 niches, cemetery burial privileges, cemetery space or
2 perpetual care.

3 Any person who violates this section is guilty of
4 a Class E crime. This section shall not preclude
5 prosecution or conviction under other applicable
6 laws.

7 STATEMENT OF FACT

8 Prearranged funeral or burial plans through the
9 establishment of a mortuary trust are a convenient
10 and practical means of planning a person's disposi-
11 tion after death. Under present law, funeral home
12 operators are not required to notify either the per-
13 son who establishes a mortuary trust or the first
14 beneficiary of the deposit of the trust funds in a
15 bank, trust company, credit union or savings institu-
16 tion. It is possible for a funeral home operator,
17 either through neglect, inadvertance or malfeasance,
18 to disregard the mandate of a mortuary trust and es-
19 cape detection. This bill requires the funds to be
20 deposited within 10 days after receipt by the payee.
21 Also, within 30 days after deposit, the financial in-
22 stitution must provide a written confirmation of the
23 deposit to the payor.

24 The original agreement must be in writing and a
25 copy furnished to the payor by the payee when the
26 agreement is executed. The agreement shall clearly
27 state terms providing for disposition of any interest
28 earned on the funds.

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