

(4) For purposes of this section, the term debt shall include fines and other debts.

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CHAPTER 66

[Substitute House Bill No. 871]

FUNERAL DIRECTORS—PREARRANGEMENT FUNERAL SERVICE CONTRACTS—REGISTRATION—FINANCIAL ADVICE PROHIBITED

AN ACT Relating to funeral directors; amending section 1, chapter 108, Laws of 1937 as last amended by section 1, chapter 43, Laws of 1981 and RCW 18.39.010; amending section 4, chapter 43, Laws of 1981 and RCW 18.39.045; amending section 6, chapter 108, Laws of 1937 as last amended by section 5, chapter 43, Laws of 1981 and RCW 18.39.050; amending section 15, chapter 108, Laws of 1937 as last amended by section 8, chapter 43, Laws of 1981 and RCW 18.39.130; adding new sections to chapter 18.39 RCW; creating new sections; repealing sections 1 through 7, chapter 163, Laws of 1977 ex. sess. and RCW 48.40.002 through 48.40.025; repealing section 8, chapter 163, Laws of 1977 ex. sess., section 207, chapter 158, Laws of 1979 and RCW 48.40.035; repealing sections 9 through 12, chapter 163, Laws of 1977 ex. sess. and RCW 48.40.045 through 48.40.075; repealing section 1, chapter 279, Laws of 1953 and RCW 48.40.080; repealing section 2, chapter 279, Laws of 1953 and RCW 48.40.090; repealing section 14, chapter 163, Laws of 1977 ex. sess. and RCW 48.40.900; prescribing penalties; providing an effective date; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

Section 1. Section 1, chapter 108, Laws of 1937 as last amended by section 1, chapter 43, Laws of 1981 and RCW 18.39.010 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Funeral director" means a person engaged in the profession or business of conducting funerals and supervising or directing the burial and disposal of dead human bodies.

(2) "Embalmer" means a person engaged in the profession or business of disinfecting, preserving or preparing for disposal or transportation of dead human bodies.

(3) "Two-year college course" means the completion of sixty semester hours or ninety quarter hours of college credit, including the satisfactory completion of certain college courses, as set forth in this chapter.

(4) "Funeral establishment" means a place of business licensed in accordance with RCW 18.39.145, conducted at a specific street address or location, and devoted to the care and preparation for burial or disposal of dead human bodies and includes all areas of such business premises and all tools, instruments, and supplies used in preparation and embalming of dead human bodies for burial or disposal.

- (5) "Director" means the director of licensing.
- (6) "Board" means the state board of funeral directors and embalmers created pursuant to RCW 18.39.173.

(7) "Prearrangement funeral service contract" means any contract, other than a contract entered into by an insurance company, under which, for a specified consideration paid in advance in a lump sum or by installments, a funeral establishment promises, upon the death of a beneficiary named or implied in the contract, to furnish funeral merchandise or services.

(8) "Funeral merchandise or services" means those services normally performed and merchandise normally provided by funeral establishments, including the sale of burial supplies and equipment, but excluding the sale by a cemetery of lands or interests therein, services incidental thereto, markers, memorials, monuments, equipment, crypts, niches, or vaults.

(9) "Qualified public depository" means a depository defined by RCW 39.58.010, a credit union as governed by chapter 31.12 RCW, a mutual savings bank as governed by Title 32 RCW, a savings and loan association as governed by Title 33 RCW, or a federal credit union or a federal savings and loan association organized, operated, and governed by any act of congress, in which prearrangement funeral service contract funds are deposited by any funeral establishment.

Words used in this chapter importing the singular may be applied to the plural of the person or thing, words importing the plural may be applied to the singular, and words importing the masculine gender may be applied to the female.

NEW SECTION. Sec. 2. A funeral establishment licensed pursuant to this chapter may enter into prearrangement funeral service contracts, subject to the provisions of this chapter.

NEW SECTION. Sec. 3. (1) Any funeral establishment selling by prearrangement funeral service contract any funeral merchandise or services shall establish and maintain one or more prearrangement funeral service trust funds for the benefit of the beneficiary of the prearrangement funeral service contract.

(2) Fifteen percent of the cash purchase price of each prearrangement funeral service contract, excluding sales tax, may be retained by the funeral establishment. Deposits to the prearrangement funeral service trust fund shall be made not later than the twentieth day of the month following the receipt of each payment made on the last eighty-five percent of each prearrangement funeral service contract, excluding sales tax.

(3) All prearrangement funeral service trust funds shall be deposited in a qualified public depository. The account shall be designated as the prearrangement funeral service trust fund of the particular funeral establishment for the benefit of the beneficiaries named in the prearrangement funeral service contract.

(4) All interest, dividends, increases, or accretions of whatever nature earned by a trust fund shall be kept unimpaired and shall become a part of the trust fund, and adequate records shall be maintained to allocate the share thereof to each contract.

(5) A depository designated as the depository of a prearrangement funeral service trust fund shall permit withdrawal of all funds deposited under a prearrangement funeral service contract, plus accruals thereon, under the following circumstances and conditions:

(a) If the funeral establishment files a verified statement with the depository that the prearrangement funeral merchandise and services covered by the contract have been furnished and delivered in accordance therewith; or

(b) If the funeral establishment files a verified statement with the depository that the prearrangement funeral merchandise and services covered by the contract have been canceled in accordance with its terms.

(6) Any purchaser or beneficiary who has procured a prearrangement funeral service contract has the right to demand a refund of the entire amount paid on the contract, together with all interest, dividends, increases, or accretions to the funds.

(7) Prearrangement funeral service contracts shall automatically terminate if the funeral establishment goes out of business, becomes insolvent or bankrupt, makes an assignment for the benefit of creditors, or for any other reason is unable to fulfill the obligations under the contract. In such event, and upon demand by the purchaser or beneficiary of the prearrangement funeral service contract, the depository of the prearrangement funeral service contract funds shall refund to the purchaser or beneficiary all funds deposited under the contract, unless otherwise ordered by a court of competent jurisdiction.

(8) Prearrangement funeral service trust funds shall not be used, directly or indirectly, for the benefit of the funeral establishment or any director, officer, agent, or employee of the funeral establishment including, but not limited to, any encumbrance, pledge, or other use of prearrangement funeral service trust funds as collateral or other security.

(9) Every prearrangement funeral service contract shall contain language which informs the purchaser of the prearrangement funeral service trust fund and the amount to be deposited in the trust fund, which shall not be less than eighty-five percent of the cash purchase price of the contract.

NEW SECTION. Sec. 4. A funeral establishment shall not enter into prearrangement funeral service contracts in this state unless the funeral establishment has obtained a certificate of registration issued by the director and such certificate is then in force.

NEW SECTION. Sec. 5. To qualify for and hold a certificate of registration, a funeral establishment must:

(1) Be licensed pursuant to this chapter; and

(2) Fully comply with and qualify according to the provisions of this chapter.

NEW SECTION. Sec. 6. The director may refuse to renew or may revoke or suspend a funeral establishment's certificate of registration, if the funeral establishment:

(1) Fails to comply with any provisions of this chapter or any proper order or regulation of the director;

(2) Is found by the director to be in such condition that further execution of prearrangement contracts could be hazardous to purchasers or beneficiaries and the people of this state;

(3) Refuses to be examined, or refuses to submit to examination or to produce its accounts, records and files for examination by the director when required; or

(4) Is found by the director after investigation or receipt of reliable information to be managed by persons who are incompetent or untrustworthy or so lacking in managerial experience as to make the proposed or continued operation hazardous to purchasers, beneficiaries, or to the public.

NEW SECTION. Sec. 7. To apply for an original certificate of registration, a funeral establishment must:

(1) File with the director its request showing:

(a) Its name, location, and organization date;

(b) The kinds of funeral business it proposes to transact;

(c) A statement of its financial condition, management, and affairs on a form satisfactory to or furnished by the director; and

(d) Such other documents, stipulations, or information as the director may reasonably require to evidence compliance with the provisions of this chapter.

(2) Deposit with the director the fees required by this chapter to be paid for filing the accompanying documents, and for the certificate of registration, if granted.

NEW SECTION. Sec. 8. All certificates of registration issued pursuant to this chapter shall continue in force until suspended, revoked, or renewed. A certificate shall be subject to renewal annually on the first day of July upon application by the funeral establishment and payment of the required fees.

The director shall collect in advance the following fees:

(1) Certificate of registration:

(a) Issuance – thirty-five dollars;

(b) Renewal – fifteen dollars;

(2) Annual statement of financial condition – ten dollars.

All fees so collected shall be remitted by the director to the state treasurer not later than the first business day following receipt of such funds and the funds shall be credited to the general fund.

NEW SECTION. Sec. 9. The director shall give a funeral establishment notice of the director's intention to suspend, revoke, or refuse to renew the establishment's certificate of registration not less than ten days before the order of suspension, revocation or refusal is to become effective.

A funeral establishment whose certificate of registration has been suspended, revoked, or refused shall not subsequently be authorized to enter into prearrangement contracts unless the grounds for such suspension, revocation, or refusal in the opinion of the director no longer exist and the funeral establishment is otherwise fully qualified.

NEW SECTION. Sec. 10. (1) Each authorized funeral establishment shall annually, before the first day of March, file with the director a true and accurate statement of its financial condition, transactions, and affairs for the preceding calendar year. The statement shall be on such forms and shall contain such information as required by this chapter and by the director.

(2) The director shall suspend or revoke the certificate of registration of any funeral establishment which fails to file its annual statement when due or after any extension of time which the director has, for good cause, granted.

NEW SECTION. Sec. 11. No prearrangement funeral contract forms shall be used without the prior approval of the director.

The director shall disapprove any such contract form, or withdraw prior approval, when such form:

- (1) Violates or does not comply with this chapter;
- (2) Contains or incorporates by reference any inconsistent, ambiguous or misleading clauses, or exceptions and conditions which unreasonably or deceptively affect the merchandise or service purported to be provided in the general coverage of the contract;
- (3) Has any title, heading, or other part of its provisions which is misleading; or
- (4) Is being solicited by deceptive advertising.

NEW SECTION. Sec. 12. (1) The director has the authority expressly conferred upon him by or reasonably implied from the provisions of this chapter.

- (2) The director may:
 - (a) Beginning on July 1, 1982, make reasonable rules for effectuating any provision of this chapter in accordance with chapter 34.04 RCW;
 - (b) Conduct investigations to determine whether any person has violated any provision of this chapter; and
 - (c) Conduct examinations, investigations, and hearings, in addition to those specifically provided for, useful and proper for the efficient administration of any provision of this chapter.

NEW SECTION. Sec. 13. Any person who violates or fails to comply with, or aids or abets any person in the violation of, or failure to comply with any of the provisions of this chapter is guilty of a gross misdemeanor pursuant to chapter 9A.20 RCW. Any such violation constitutes an unfair practice under chapter 19.86 RCW and this chapter and conviction thereunder is grounds for license revocation under this chapter. Retail installment transactions under this chapter shall be governed by chapter 63.14 RCW.

NEW SECTION. Sec. 14. This chapter does not apply to any funeral right or benefit issued or granted as an incident to or reason of membership in any fraternal or benevolent association or cooperative or society, or labor union not organized for profit.

NEW SECTION. Sec. 15. A funeral director or any person under the supervision of a funeral director shall not, in conjunction with any professional services performed for compensation under this chapter, provide financial or investment advice to any person other than a family member, represent any person in a real estate transaction, or act as an agent under a power of attorney for any person. However, this section shall not be deemed to prohibit a funeral establishment from entering into prearrangement funeral service contracts in accordance with this chapter or to prohibit a funeral director from providing advice about government or insurance benefits.

A violation of this section is a gross misdemeanor and is grounds for disciplinary action, including suspension or revocation of the license, as provided in RCW 18.39.179.

The board shall adopt such rules as the board deems reasonably necessary to prevent unethical financial dealings between funeral directors and their clients.

NEW SECTION. Sec. 16. Sections 2 through 15 of this act shall be added to chapter 18.39 RCW.

NEW SECTION. Sec. 17. (1) All records, files, reports, papers, or other written material in the possession of the insurance commissioner pertaining to the regulation of prepaid funeral expenses shall be delivered to the director of licensing on the effective date of this act.

(2) All business or matters concerning prepaid funeral expenses pending before the insurance commissioner shall be transferred to the director of licensing and assumed by the director on the effective date of this act.

NEW SECTION. Sec. 18. The transfer of duties under sections 2 through 14 of this act shall not affect the validity of any rule, action, decision promulgated or held prior to the effective date of this act.

NEW SECTION. Sec. 19. The following acts or parts of acts are each repealed:

(1) Sections 1 through 7, chapter 163, Laws of 1977 ex. sess. and RCW 48.40.002 through 48.40.025;

(2) Section 8, chapter 163, Laws of 1977 ex. sess., section 207, chapter 158, Laws of 1979 and RCW 48.40.035;

(3) Sections 9 through 12, chapter 163, Laws of 1977 ex. sess. and RCW 48.40.045 through 48.40.075;

(4) Section 1, chapter 279, Laws of 1953 and RCW 48.40.080;

(5) Section 2, chapter 279, Laws of 1953 and RCW 48.40.090; and

(6) Section 14, chapter 163, Laws of 1977 ex. sess. and RCW 48.40.900.

Sec. 20. Section 4, chapter 43, Laws of 1981 and RCW 18.39.045 are each amended to read as follows:

(1) The two-year college course required under this chapter shall consist of sixty semester or ninety quarter hours of instruction at a school, college, or university accredited by the Northwest Association of Schools and Colleges or other accrediting association approved by the board, with a minimum 2.0 grade point (~~(average)~~), or a grade of C or better, in each subject required by subsection (2) of this section.

(2) Credits shall include one course in each of the following subjects: Psychology, mathematics, chemistry, and bio: ~~logy~~ or zoology. Instruction shall also include two courses in English composition and rhetoric, two courses in social science, and three courses selected from the following subjects: Behavioral sciences, public speaking, counseling, business administration and management, and first aid.

(3) This section does not apply to any person registered and in good standing as an apprentice funeral director or embalmer on or before January 1, 1982.

Sec. 21. Section 6, chapter 108, Laws of 1937 as last amended by section 5, chapter 43, Laws of 1981 and RCW 18.39.050 are each amended to read as follows:

Every application for an initial license or a license renewal under this chapter shall be made in writing on a form prescribed by the director with such information as the director requires. The director shall set license fees in accordance with RCW (~~43.24.080~~) 43.24.085 as now existing or hereafter amended.

Sec. 22. Section 15, chapter 108, Laws of 1937 as last amended by section 8, chapter 43, Laws of 1981 and RCW 18.39.130 are each amended to read as follows:

The director may recognize licenses issued to funeral directors or embalmers from other states if the applicant's qualifications are comparable to the requirements of this chapter. Upon presentation of the license and payment by the holder of a fee determined under RCW 43.24.085 as now or

hereafter amended, the director may issue a funeral director's or embalmer's license under this chapter. (~~Recognition shall not be extended to funeral directors or embalmers holding licenses from other states unless reciprocal rights are granted to holders of funeral directors' or embalmers' licenses granted in the state of Washington. Reciprocal~~) The license(s) may be renewed annually upon payment of the renewal license fee as herein provided by license holders residing in the state of Washington. (~~No person is entitled to a reciprocal license as a funeral director or embalmer unless he furnishes proof that he has, in the state in which he is regularly licensed, complied with requirements substantially equal to those imposed by this chapter.~~)

NEW SECTION. Sec. 23. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 24. This act shall take effect on September 1, 1982, with the exception of sections 20, 21, and 22 of this act, which are necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

Passed the House February 15, 1982.

Passed the Senate March 8, 1982.

Approved by the Governor March 26, 1982.

Filed in Office of Secretary of State March 26, 1982.

CHAPTER 67

[House Bill No. 934]

CREDIT UNIONS—POWERS—SHARE GUARANTY CONTINGENCY RESERVES

AN ACT Relating to credit unions; amending section 2, chapter 80, Laws of 1975 1st ex. sess. and RCW 31.12A.005; amending section 3, chapter 80, Laws of 1975 1st ex. sess. as amended by section 11, chapter 41, Laws of 1980 and RCW 31.12A.010; amending section 5, chapter 80, Laws of 1975 1st ex. sess. and RCW 31.12A.030; amending section 6, chapter 80, Laws of 1975 1st ex. sess. and RCW 31.12A.040; amending section 7, chapter 80, Laws of 1975 1st ex. sess. as amended by section 12, chapter 41, Laws of 1980 and RCW 31.12A.050; amending section 8, chapter 80, Laws of 1975 1st ex. sess. and RCW 31.12A.060; and amending section 11, chapter 80, Laws of 1975 1st ex. sess. and RCW 31.12A.090.

Be it enacted by the Legislature of the State of Washington:

Section 1. Section 2, chapter 80, Laws of 1975 1st ex. sess. and RCW 31.12A.005 are each amended to read as follows:

The purpose of this chapter is to provide funds arising from assessments upon member credit unions chartered by the state of Washington (1) to