

Act No. 325
Public Acts of 2002
Approved by the Governor
May 23, 2002
Filed with the Secretary of State
May 23, 2002
EFFECTIVE DATE: May 23, 2002

**STATE OF MICHIGAN
91ST LEGISLATURE
REGULAR SESSION OF 2002**

Introduced by Reps. Ehardt, Raczkowski, Van Woerkom, Vander Veen, Voorhees, Hager, Sanborn and Julian

ENROLLED HOUSE BILL No. 4603

AN ACT to amend 1986 PA 255, entitled "An act to regulate the sale and providing of certain funeral goods or funeral services; to regulate the use of funds received by sellers and providers of funeral goods or services; to prescribe powers and duties of the departments of licensing and regulation, mental health, and social services and certain other state and local officers; to provide for the promulgation of rules and establishment of fees; and to provide certain penalties and remedies," by amending section 19 (MCL 328.229).

The People of the State of Michigan enact:

Sec. 19. (1) A prepaid funeral contract may be made with an applicant for or recipient of assistance under the social welfare act, 1939 PA 280, MCL 400.1 to 400.119b, or a patient or a legal guardian of a patient in a community health care facility under the jurisdiction of the department of community health. If the family independence agency or department of community health determines that the contract is a fully paid guaranteed price contract, which when added to the amount of a death benefit from an insurance policy or annuity contract, the proceeds of which have been assigned pursuant to section 2080(6) of the insurance code of 1956, 1956 PA 218, MCL 500.2080, as payment for funeral goods or funeral services for the contract beneficiary that are not more than that amount allowed under section 2080(6)(g) of the insurance code of 1956, 1956 PA 218, MCL 500.2080, plus \$2,000.00, exclusive of income, and that the state will not be liable for the funeral goods or funeral services, excluding an outside receptacle when required by the chosen cemetery, of the applicant for or recipient of assistance or patient allowable under contracts under this act, the prepaid funeral contract shall be made irrevocable at the request of the applicant for or recipient of assistance, or the patient or a legal guardian of a patient. Nothing in this section shall be construed as increasing the amount of excludable burial assets for family independence agency or medicaid program eligibility above that allowed under existing family independence agency standards, including any increases therein. The family independence agency or department of community health shall advise the applicant for or recipient of assistance, or the patient or a legal guardian of a patient that additional funeral goods or funeral services subject to contract under this act will not be paid by the family independence agency or department of community health but shall not specify or require approval of particular funeral goods or funeral services selected by the applicant for or recipient of assistance, or patient or a legal guardian of a patient.

(2) A prepaid funeral contract approved by the family independence agency or department of community health shall not be revoked or canceled by the contract seller, contract provider, contract buyer, or their successors, or the estate of the contract beneficiary either before or after the death of the contract beneficiary. This subsection does not prevent those legally entitled to make arrangements for a contract beneficiary from reallocating the amount paid under the prepaid contract to different funeral services and funeral goods. A contract seller or provider shall assign an irrevocable prepaid funeral contract to another provider upon the written request of the contract beneficiary, his or her successor, or those legally entitled to make arrangements for the contract beneficiary so long as the written request is received before a provider's obligations have been performed. An irrevocable contract shall not be considered in determining the

eligibility of an applicant or recipient for assistance given under the social welfare act, 1939 PA 280, MCL 400.1 to 400.119b. An irrevocable prepaid funeral contract made under this section is not subject to the cancellation provision of section 13 or to the provisions of section 15(5).

(3) Notwithstanding any other provisions of this act, funds paid in connection with an irrevocable prepaid funeral contract may, at the option of the provider, be held and deposited in the manner prescribed for a nonguaranteed price contract.

(4) The family independence agency and department of community health may promulgate rules under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, to provide for the uniform administration of this section.

This act is ordered to take immediate effect.



Clerk of the House of Representatives.



Secretary of the Senate.

Approved _____

Governor.