



**SENATE SUBSTITUTE AMENDMENT 1,
TO 1995 SENATE BILL 535**

March 27, 1996 - Offered by Senators RUDE, SHIBILSKI, SCHULTZ, FITZGERALD and GROBSCHMIDT.

1 **AN ACT** *to renumber and amend* 445.12 (3), 445.125 (1) (a) to (d), 445.125 (1)
2 (e), 445.125 (2) and (3), 445.125 (4) and 632.41 (2); **to amend** 49.19 (4) (bm),
3 49.47 (4) (b) 3., 49.47 (4) (i) 2. a., 214.04 (22), 440.92 (4) (a) (intro.), 440.92 (6)
4 (c), 445.12 (7), 445.13 (1), 445.13 (2), 445.15 (1) and 701.12 (1); and **to create**
5 445.12 (3) (b), 445.12 (3g), 445.12 (3r), 445.125 (1) (title), 445.125 (3m), 445.13
6 (1e), 445.15 (1m) and 632.41 (2) (b) of the statutes; **relating to:** the sale of burial
7 agreements funded with life insurance policies, granting rule-making
8 authority and providing a penalty.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

9 **SECTION 1.** 49.19 (4) (bm) of the statutes is amended to read:
10 49.19 (4) (bm) The person applying for aid shall document, to the department's
11 satisfaction, actual income as claimed in the application, and shall reveal all assets.
12 Except as specified in par. (br), aid is available only if the combined equity value of
13 assets does not exceed \$1,000. One automobile with an equity value not exceeding
14 \$1,500, one home, as specified in par. (e), and, for each person, one burial plot and

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1 one burial agreement under s. 445.125 (1) ~~(b)~~ (a) 2. and ~~(e)~~ 3. with a value of not more
2 than \$1,500 may not be included when determining the combined equity value of
3 assets. Any amount received under section 32 of the internal revenue code, as
4 defined in s. 71.01 (6), and any payment made by an employer under section 3507 of
5 the internal revenue code, as defined in s. 71.01 (6), may not be included in
6 determining the combined equity value of assets in the month of receipt and the
7 following month.

8 **SECTION 2.** 49.47 (4) (b) 3. of the statutes is amended to read:

9 49.47 **(4)** (b) 3. For a person who is eligible under par. (a) 3. or 4., funds set aside
10 to meet the burial and related expenses of the person and his or her spouse in an
11 amount not to exceed \$1,500 each, minus the sum of the cash value of any life
12 insurance excluded under subd. 2w. and the amount in any irrevocable burial trust
13 under s. 445.125 (1) (a).

14 **SECTION 3.** 49.47 (4) (i) 2. a. of the statutes is amended to read:

15 49.47 **(4)** (i) 2. a. For the person or his or her spouse, the sum of the following,
16 less the cash value of any life insurance excluded under par. (b) 2w. that was obtained
17 after July 1, 1993, exceeds \$8,000: the value of any burial space or agreement
18 described in par. (b) 2r. that was acquired after July 1, 1993; the amount in any
19 irrevocable burial trust under s. 445.125 (1) (a) that was acquired after July 1, 1993;
20 and any funds set aside after July 1, 1993, to meet the burial and related expenses
21 under par. (b) 3.

22 **SECTION 4.** 214.04 (22) of the statutes, as affected by 1995 Wisconsin Act 103,
23 is amended to read:

24 214.04 **(22)** To maintain real estate broker trust accounts under s. 452.13,
25 attorney trust accounts under s. 757.293, collection agency trust accounts under s.

1 218.04 (9g), burial trust accounts under s. 445.125 (1) and care funds and preneed
2 trust funds under s. 157.19.

3 **SECTION 5.** 440.92 (4) (a) (intro.) of the statutes is amended to read:

4 440.92 **(4)** (a) (intro.) Any person who sells or solicits the sale of cemetery
5 merchandise under a preneed sales contract is not required to be registered under
6 sub. (1) and the requirements of sub. (3) (a) and (b) do not apply to the sale if all
7 payments received under the preneed sales contract are trusted as required under
8 s. 445.125 (1) (a) 1, or if all of the following conditions are met:

9 **SECTION 6.** 440.92 (6) (c) of the statutes is amended to read:

10 440.92 **(6)** (c) A preneed seller who is the trustee of any trust fund under s.
11 445.125 (1) shall include in the report required under par. (a) an accounting of
12 amounts deposited in, amounts withdrawn from, income accruing to and the balance
13 at the close of the reporting period of such trust funds.

14 **SECTION 7.** 445.12 (3) of the statutes is renumbered 445.12 (3) (intro.) and
15 amended to read:

16 445.12 **(3)** (intro.) No licensed funeral director or operator of a funeral
17 establishment may, directly or indirectly, solicit a funeral service or the right to
18 prepare a dead human body for burial or transportation either before or after death
19 has occurred, or pay or cause to be paid any sum of money or other valuable
20 consideration for the securing of the right to do such work; ~~but nothing herein shall~~
21 ~~interfere with the right of any person not a licensed funeral director to solicit.~~ This
22 subsection does not prohibit any of the following:

23 (a) The solicitation of memberships or sell the sale of stock or memberships in
24 any association organized under ch. 185 by any person who is not a licensed funeral
25 director.

1 **SECTION 8.** 445.12 (3) (b) of the statutes is created to read:

2 445.12 **(3)** (b) The solicitation or sale of burial agreements to the extent
3 permitted under sub. (3g) and s. 445.125 (3m).

4 **SECTION 9.** 445.12 (3g) of the statutes is created to read:

5 445.12 **(3g)** (a) Except as provided in pars. (b) and (c), a licensed funeral
6 director, agent of a licensed funeral director, operator of a funeral establishment or
7 agent of an operator of a funeral establishment may not solicit the sale of a burial
8 agreement under s. 445.125 (3m) by doing any of the following:

9 1. Knowingly contacting a prospective purchaser of a burial agreement in a
10 hospital, health care facility or similar facility or institution.

11 2. Knowingly contacting a relative of a person whose death is imminent or
12 appears to be imminent.

13 3. Contacting a prospective purchaser of a burial agreement by door-to-door
14 solicitation or in a manner that violates rules promulgated by the examining board
15 under s. 445.125 (3m) (j) 2.

16 (b) A licensed funeral director, agent of a licensed funeral director, operator of
17 a funeral establishment or agent of an operator of a funeral establishment may solicit
18 the sale of a burial agreement under s. 445.125 (3m) by contacting any person if any
19 of the following applies:

20 1. The prospective purchaser requests the contact.

21 2. The contact is part of a mass-mailing, television, radio, print or other type
22 of advertising campaign that is not directed solely toward persons in a hospital,
23 health care facility or similar facility or institution or toward the relatives of a person
24 whose death is imminent or appears to be imminent.

1 (c) Paragraph (a) 3. does not prohibit a licensed funeral director, agent of a
2 licensed funeral director, operator of a funeral establishment or agent of an operator
3 of a funeral establishment from using mass-marketing practices or in-person
4 contacts or communications permitted under this section or by a rule promulgated
5 by the examining board under s. 445.125 (3m) (j) 2.

6 **SECTION 10.** 445.12 (3r) of the statutes is created to read:

7 445.12 (3r) No licensed funeral director or operator of a funeral establishment
8 may do any of the following:

9 (a) Require a person who enters into a burial agreement under s. 445.125 (3m)
10 to purchase a life insurance policy used to fund the agreement from an insurance
11 intermediary licensed under ch. 628 who is specified by the funeral director or
12 operator of the funeral establishment.

13 (b) Authorize an insurance intermediary licensed under ch. 628 to sell or solicit
14 the sale of a burial agreement under s. 445.125 (3m) (b) 2. a. unless the insurance
15 intermediary meets the training requirements established by the examining board
16 by rule under s. 445.125 (3m) (j) 1. a.

17 **SECTION 11.** 445.12 (7) of the statutes is amended to read:

18 445.12 (7) No licensed funeral director or operator of a funeral establishment
19 may sell or cause to be sold any shares of stocks, certificates of membership or any
20 other form of certificate which provides for any burial benefit or any rebate at the
21 time of death to the holders thereof. This subsection does not prohibit the sale of
22 burial agreements to the extent permitted under, and that are in conformity with,
23 s. 445.125 (3m).

24 **SECTION 12.** 445.125 (1) (title) of the statutes is created to read:

25 445.125 (1) (title) BURIAL AGREEMENTS FUNDED BY TRUSTS.

1 **SECTION 13.** 445.125 (1) (a) to (d) of the statutes are renumbered 445.125 (1)
2 (a) 1. to 4., and 445.125 (1) (a) 1., 3. and 4., as renumbered, are amended to read:

3 445.125 (1) (a) 1. ~~Whenever~~ Except as provided in sub. (3m), whenever a
4 person, referred to in this section ~~subsection~~ subsection as the depositor, makes an agreement
5 with another person selling or offering for sale funeral or burial merchandise or
6 services, referred to in this section ~~subsection~~ subsection as the beneficiary, for the purchase of
7 a casket, outer burial container not preplaced into the burial excavation of a grave,
8 combination casket-outer burial container or other receptacle not described in ~~par.~~
9 ~~(e)~~ sub. (4) (b) for the burial or other disposition of human remains or for the
10 furnishing of funeral or burial services, either of which is intended to be provided for
11 the final disposition of the body of a person, referred to in this section ~~subsection~~ subsection as
12 the potential decedent, wherein the use of such personal property or the furnishing
13 of such services is not immediately required, all payments made under the
14 agreement shall be and remain trust funds, including interest and dividends if any,
15 until occurrence of the death of the potential decedent, unless the funds are sooner
16 released upon demand to the depositor, after written notice to the beneficiary.

17 3. Any interest or dividends accruing to a trust fund under ~~par. (b)~~ subd. 2. may
18 be made irrevocable.

19 4. Any depositor who made an irrevocable agreement under ~~par. (b)~~ subd. 2.
20 may designate a different beneficiary at any time prior to death, after written notice
21 to the current beneficiary.

22 **SECTION 14.** 445.125 (1) (e) of the statutes is renumbered 445.125 (4) (b) and
23 amended to read:

24 445.125 (4) (b) ~~This section does not apply to the~~ The sale and or delivery of
25 cemetery lots, graves, outer burial containers preplaced into the burial excavation

1 of a grave, cremation urns, mausoleum spaces, as defined in s. 157.061 (10), or grave
2 or cemetery lot markers or monuments before their use is required or the sale of
3 undeveloped spaces, as defined in s. 157.061 (17).

4 **SECTION 15.** 445.125 (2) and (3) of the statutes are renumbered 445.125 (1) (b)
5 and (c) and amended to read:

6 445.125 (1) (b) All such trust funds under par. (a) shall be deposited with a bank
7 or trust company within the state whose deposits are insured by the federal deposit
8 insurance corporation, deposited in a savings and loan association or savings bank
9 within the state whose deposits are insured by the federal deposit insurance
10 corporation or invested in a credit union within the state whose savings are insured
11 by the national board, as defined in s. 186.01 (3m), or by the Wisconsin credit union
12 savings insurance corporation and shall be held in a separate account in the name
13 of the depositor, in trust for the beneficiary until the trust fund is released under
14 either of the conditions provided in ~~sub. (1)~~ par. (a) 1. In the event of the death of the
15 depositor before the death of the potential decedent, title to such funds shall vest in
16 the potential decedent, and the funds shall be used for the personal property and
17 services to be furnished under the contract for the funeral of the potential decedent.
18 The depositor shall be furnished with a copy of the receipts, certificates or other
19 appropriate documentary evidence showing that the funds have been deposited or
20 invested in accordance with this ~~section~~ subsection. The depositor or the beneficiary
21 shall furnish the bank, trust company, savings bank, savings and loan association
22 or credit union with a copy of the contract. Upon receipt of a certified copy of the
23 certificate of death of the potential decedent, together with the written statement of
24 the beneficiary that the agreement was complied with, the bank, trust company,

1 savings bank, savings and loan association or credit union shall release such trust
2 funds to the beneficiary.

3 (c) The payment pursuant to this ~~section~~ subsection of such fund and any
4 interest or dividends which may have accumulated shall relieve the bank, trust
5 company, savings bank, savings and loan association or credit union of any further
6 liability for such funds, interest or dividends. A bank need not comply with ch. 223
7 to accept and disburse deposits under this ~~section~~ subsection.

8 **SECTION 16.** 445.125 (3m) of the statutes is created to read:

9 445.125 (3m) BURIAL AGREEMENTS FUNDED WITH PROCEEDS OF LIFE INSURANCE
10 POLICIES. (a) In this subsection:

11 1. "Agent" means an authorized representative of a funeral director or operator
12 of a funeral establishment.

13 2. "Burial agreement" means a written agreement between an operator of a
14 funeral establishment or funeral director and a person in which the operator of the
15 funeral establishment or funeral director agrees to provide to a person, after that
16 person is deceased, funeral merchandise or funeral services.

17 3. "Cash advance item" means personal property or a service that is obtained
18 by a funeral director or operator of a funeral establishment from a 3rd party and that
19 is paid for by the funeral director or operator of the funeral establishment on behalf
20 of, and subject to reimbursement from, a person purchasing funeral merchandise or
21 funeral services from the funeral director or operator of the funeral establishment.
22 "Cash advance item" includes cemetery or crematory services, pallbearers, public
23 transportation, clergy honoraria, flowers, musicians or vocalists, nurses, obituary
24 notices, gratuities and death certificates.

1 4. “Funeral merchandise or funeral services” means personal property or
2 services typically sold or provided in connection with the final disposition of human
3 remains, including caskets or other primary containers not preplaced into the burial
4 excavation of a grave, rental, temporary or disposable caskets or containers, outer
5 burial containers not preplaced into the burial excavation of a grave, transportation
6 containers, funeral clothing and accessories, embalming services and funeral
7 directing services. “Funeral merchandise or funeral services” does not include a cash
8 advance item or opening and closing costs that are associated with the burial of a
9 deceased person.

10 (b) 1. A licensed funeral director, an operator of a funeral establishment, an
11 agent of a licensed funeral director or, subject to par. (c), an agent of an operator of
12 a funeral establishment may sell or solicit the sale of a burial agreement that is
13 funded with the proceeds of a life insurance policy if all of the following apply:

14 a. The burial agreement meets the requirements specified in pars. (d) to (f) and
15 in the rules promulgated by the examining board under par. (j) 1. b.

16 b. The licensed funeral director, operator of the funeral establishment or agent
17 is licensed as an insurance intermediary under ch. 628.

18 2. a. A licensed funeral director or operator of a funeral establishment may
19 authorize an agent who is an insurance intermediary licensed under ch. 628, and
20 who meets the training requirements established by the examining board under par.
21 (j) 1. a., to sell or solicit the sale of a burial agreement that is funded with the proceeds
22 of a life insurance policy and that meets the requirements specified in pars. (d) to (f).

23 b. A licensed funeral director or operator of a funeral establishment shall report
24 to the examining board the identity of any agent authorized by the licensed funeral
25 director or operator of the funeral establishment under subd. 2. a. and provide

1 evidence satisfactory to the examining board that such agent meets the training
2 requirements established by the examining board by rule under par. (j) 1. a. The
3 examining board shall promulgate rules establishing requirements and procedures
4 for making reports and providing the evidence required under this subd. 2. b.

5 c. A licensed funeral director or operator of a funeral establishment is
6 responsible for and bound by any act of an agent, authorized by the licensed funeral
7 director or operator of the funeral establishment under subd. 2. a., that is within the
8 scope of the agent's apparent authority, while a contract under par. (c) 1. between the
9 agent and the licensed funeral director or operator of the funeral establishment
10 remains in force, and after that time until the licensed funeral director or operator
11 of the funeral establishment has made reasonable efforts to recover from the agent
12 any forms for burial agreements provided to the agent by the licensed funeral
13 director or operator of the funeral establishment and other indicia of agency.
14 Reasonable efforts shall include a formal demand in writing for return of the indicia,
15 and notice to the examining board if the agent does not comply with the demand
16 promptly.

17 (c) 1. No agent of an operator of a funeral establishment may solicit the sale of
18 or sell a burial agreement funded with the proceeds of a life insurance policy unless
19 he or she has a contract with the operator of the funeral establishment that
20 authorizes him or her to act as the agent of the operator of the funeral establishment
21 and that satisfies the requirements established by the examining board by rule
22 under par. (j) 1. c.

23 2. If an agent of an operator of a funeral establishment solicits the sale of or sells
24 a burial agreement funded with the proceeds of a life insurance policy, the agent shall
25 do all of the following at the time of solicitation:

1 a. Disclose to the prospective purchaser of the burial agreement the identity
2 of the funeral establishment of which he or she is an agent.

3 b. Furnish to the applicant a copy of the booklet prepared and distributed by
4 the examining board under par. (j) 3. that describes the differences between funding
5 a burial agreement with the proceeds of a life insurance policy under this subsection
6 and entering into a burial agreement funded by a trust under sub. (1).

7 (d) A burial agreement that is funded with the proceeds of a life insurance
8 policy shall specify in the agreement the funeral establishment that will be used to
9 provide the funeral services or funeral merchandise to be provided under the
10 agreement.

11 (e) 1. A burial agreement that is funded with the proceeds from a life insurance
12 policy shall include a provision setting forth the nature and extent of any price
13 guarantee for the funeral merchandise or funeral services that are to be provided
14 under the burial agreement.

15 2. If an agent solicits and sells a burial agreement that is funded with the
16 proceeds of a life insurance policy, the licensed funeral director who owns the funeral
17 establishment or is an agent of the operator of the funeral establishment that will
18 provide funeral merchandise or funeral services under the burial agreement shall
19 ratify the burial agreement in writing and with his or her signature.

20 (f) The price of any funeral merchandise or funeral services provided under a
21 burial agreement funded with the proceeds of a life insurance policy may not exceed
22 the price for the merchandise or services that, at the time that the merchandise is
23 provided or the services are performed, is set forth in the funeral establishment's
24 general price list required under the funeral industry practices regulations of the
25 federal trade commission.

1 (g) Before an agent, a licensed funeral director or an operator of a funeral
2 establishment accepts an applicant's initial premium for a burial agreement that is
3 funded or will be funded by a life insurance policy, the agent, funeral director or
4 operator of a funeral establishment shall comply with the requirements under par.
5 (h) and shall, in a writing that is clear and conspicuous, disclose the following
6 information to the applicant:

7 1. The fact that a life insurance policy is involved in or connected to, or is being
8 used to fund, the burial agreement.

9 2. The type of insurance instrument that is funding the burial agreement.

10 3. The effect on the burial agreement of all of the following:

11 a. Changing the life insurance policy, including changing the assignment of the
12 policy proceeds, changing the beneficiary designation or changing the use of the
13 proceeds.

14 b. Any penalties incurred by the policyholder as a result of failing to make
15 premium payments.

16 c. Any penalties incurred or money received as a result of cancellation or
17 surrender of the life insurance policy.

18 4. The nature of the relationship between the insurance intermediary who
19 solicited or is selling the life insurance policy and the funeral establishment that will
20 be providing funeral or burial merchandise or services under the burial agreement.

21 5. The relationship of the life insurance policy to the funding of the burial
22 agreement and the existence and terms of any guarantees, other than a guarantee
23 specified in subd. 6., relating to the burial agreement.

24 6. A list of the funeral merchandise and funeral services that are applied for
25 or contracted for under the burial agreement and all relevant information

1 concerning the price of the funeral services provided under the burial agreement,
2 including a statement as to whether the purchase price of the funeral merchandise
3 or funeral services provided under the burial agreement is guaranteed at the time
4 of the purchase of the burial agreement or whether the purchase price of the funeral
5 merchandise or funeral services provided under the burial agreement is to be
6 determined at the time of need, and a statement that the price of the funeral
7 merchandise or funeral services is subject to the limit specified in par. (f).

8 7. All relevant information concerning what occurs, and whether any
9 entitlements or obligations arise, if there is a difference between the proceeds of the
10 life insurance policy and the amount of money actually needed to fund the burial
11 agreement.

12 8. Any restrictions, including geographic restrictions, or penalties relating to
13 delivery or performance under the burial agreement, including any restrictions or
14 penalties relating to the inability of the operator of the funeral establishment to
15 perform.

16 9. A statement as to whether a sales commission or other form of compensation
17 is being paid to the agent who sold or solicited the sale of a burial agreement and, if
18 so, the identity of the persons to whom the commission or other compensation is paid.

19 (h) If an applicant under par. (g) is terminating a trust established under sub.
20 (1), the agent, licensed funeral director or operator of the funeral establishment
21 shall, before accepting the applicant's initial premium, furnish written notice to the
22 examining board that satisfies requirements established by the examining board by
23 rule under par. (j) 1. d., and may not accept the applicant's initial premium until 30
24 days after providing written notice under this paragraph.

1 (hm) An agent authorized by a licensed funeral director or operator of a funeral
2 establishment under par. (b) 2. a. may not engage in unfair or deceptive acts or
3 practices specified in the funeral industry practices regulations of the federal trade
4 commission, and shall comply with requirements to prevent unfair or deceptive acts
5 or practices specified in such regulations.

6 (i) 1. A licensed funeral director or operator of a funeral establishment who,
7 either directly or through an agent, solicits the sale of or sells a burial agreement
8 funded with the proceeds of a life insurance policy shall maintain a record of the
9 burial agreement that identifies the life insurance policy used to fund the agreement.

10 2. The funeral director under subd. 1. or the funeral director in charge of the
11 funeral establishment under subd. 1. shall make a record maintained under subd.
12 1. available to the examining board if the board submits a written request to examine
13 the record to the funeral director at least 3 days before the examination is to occur.

14 (j) 1. The examining board shall promulgate rules establishing all of the
15 following:

16 a. Training requirements that an insurance intermediary licensed under ch.
17 628 must satisfy to sell or solicit the sale of a burial agreement under this subsection.

18 b. Minimum standards that an individual burial agreement must satisfy if it
19 is funded with the proceeds of a life insurance policy.

20 c. Minimum standards that a contract between an agent and an operator of a
21 funeral establishment must satisfy to authorize the agent to sell or solicit the sale
22 of a burial agreement funded with the proceeds of a life insurance policy on behalf
23 of the operator of the funeral establishment.

24 d. The form and content of written notice that a licensed funeral director,
25 operator of a funeral establishment or agent of a licensed funeral director or operator

1 of a funeral establishment is required to provide to the examining board under par.
2 (h).

3 2. The examining board may promulgate rules establishing standards for
4 marketing practices for burial agreements, including standards for telephone
5 solicitation of prospective purchasers. The rules promulgated under this subdivision
6 may prohibit a method of telephone solicitation if the examining board determines
7 that the prohibition is necessary to protect the public.

8 3. The examining board shall prepare and distribute a booklet that describes
9 the differences between funding a burial agreement with the proceeds of a life
10 insurance policy under this subsection and entering into a burial agreement funded
11 by a trust under sub. (1). The examining board may charge a reasonable fee for the
12 cost of preparation and distribution of the booklet.

13 **SECTION 17.** 445.125 (4) of the statutes is renumbered 445.125 (4) (intro.) and
14 amended to read:

15 445.125 (4) (title) APPLICABILITY (intro.) This section shall not apply to any of
16 the following:

17 (a) A contract to provide funeral and burial service for any person if such
18 contract is incidental to maintaining such person in a home, hospital or institution.

19 **SECTION 18.** 445.13 (1) of the statutes is amended to read:

20 445.13 (1) Subject to the rules promulgated under s. 440.03 (1), the examining
21 board may make investigations, subpoena witnesses, conduct hearings, limit,
22 suspend or revoke licenses a license of a funeral directors, certificates director, a
23 certificate of registration of apprentices and permits an apprentice or a permit of
24 operators an operator of a funeral establishments establishment and reprimand a
25 funeral directors, apprentices and director, apprentice or operator of a funeral

1 establishments establishment for any violation of 15 USC 45 and 57, of this chapter
2 or of any rule of the department of health and family services or the examining board
3 ~~or~~, for unprofessional conduct, including misrepresentation or fraud in obtaining the
4 license, permit or certificate of registration, or for any violation of this chapter or any
5 rule of the examining board by an agent authorized by the funeral director or
6 operator of the funeral establishment under s. 445.125 (3m) (b) 2. a.

7 **SECTION 19.** 445.13 (1e) of the statutes is created to read:

8 445.13 (1e) In addition to or in lieu of a reprimand or limitation, suspension
9 or revocation of a license or permit under sub. (1), the examining board may assess
10 against any person who violates s. 445.12 (3g) or (3r) or 445.125 (3m) or a rule
11 promulgated under s. 445.125 (3m) (j) a forfeiture of no more than \$1,000 for each
12 violation.

13 **SECTION 20.** 445.13 (2) of the statutes is amended to read:

14 445.13 (2) No reprimand or order limiting, suspending or revoking a license,
15 certificate of registration or permit, or no assessment of forfeiture, shall be made
16 until after a public hearing conducted by the examining board.

17 **SECTION 21.** 445.15 (1) of the statutes is amended to read:

18 445.15 (1) Any Except as provided in sub. (1m), any person violating any
19 provision of this chapter or any rule of the department of health and family services
20 and the examining board relating to its subject matter, shall be fined not less than
21 \$50 nor more than \$200, or imprisoned not less than 30 days nor more than 3 months.

22 **SECTION 22.** 445.15 (1m) of the statutes is created to read:

23 445.15 (1m) A funeral director or operator of a funeral establishment who
24 violates s. 445.12 (3r) shall be fined not more than \$5,000 for each violation. Each
25 day that an insurance intermediary authorized by a funeral director or operator of

1 a funeral establishment fails to meet the training requirements established by the
2 examining board by rule under s. 445.125 (3m) (j) 1. a. constitutes a separate
3 violation of s. 445.12 (3r) (b).

4 **SECTION 23.** 632.41 (2) of the statutes is renumbered 632.41 (2) (a) and
5 amended to read:

6 632.41 (2) (a) ~~No~~ Except as provided in par. (b), no contract in which the insurer
7 agrees to pay for any of the incidents of burial or other disposition of the body of a
8 deceased may provide that the benefits are payable to a funeral director or any other
9 person doing business related to burials.

10 **SECTION 24.** 632.41 (2) (b) of the statutes is created to read:

11 632.41 (2) (b) 1. A life insurance policy may provide for the assignment of the
12 proceeds of the policy to a funeral director or operator of a funeral establishment if
13 the insurance intermediary who sells or solicits the sale of the policy is not an agent
14 of the funeral director or operator of the funeral establishment or if the assignment
15 of proceeds is contingent on the provision of funeral merchandise or funeral services
16 as provided for in a burial agreement that satisfies the requirements of s. 445.125
17 (3m) and rules promulgated by the funeral directors examining board under s.
18 445.125 (3m) (j) 1. b.

19 2. Subject to subd. 3., the commissioner shall by rule establish minimum
20 standards for benefits, claims payments, marketing practices, compensation
21 arrangements and reporting practices for life insurance policies sold under subd. 1.

22 3. A life insurance policy sold under subd. 1. shall permit the policyholder to
23 designate a different beneficiary, after written notice to the current beneficiary, and
24 a different funeral director or operator of a funeral establishment that is to receive

1 the assignment of proceeds, after written notice to the current funeral director or
2 operator of the funeral establishment.

3 **SECTION 25.** 701.12 (1) of the statutes is amended to read:

4 701.12 (1) By written consent of the settlor and all beneficiaries of a trust or
5 any part thereof, such trust or part thereof may be revoked, modified or terminated,
6 except as provided under s. 445.125 (1) ~~(b)~~ (a) 2. to ~~(d)~~ 4.

7 **SECTION 26. Nonstatutory provisions.**

8 (1) The office of the commissioner of insurance shall submit in proposed form
9 the rules required under section 632.41 (2) (b) 2. of the statutes, as created by this
10 act, to the legislative council staff under section 227.15 (1) of the statutes no later
11 than the first day of the 7th month beginning after the effective date of this
12 subsection.

13 (2) The funeral directors examining board shall submit in proposed form the
14 rules required under section 445.125 (3m) (b) 2. b. and (j) 1. of the statutes, as created
15 by this act, to the legislative council staff under section 227.15 (1) of the statutes no
16 later than the first day of the 7th month beginning after the effective date of this
17 subsection.

18 (3) The funeral directors examining board shall prepare for distribution the
19 booklet required under section 445.125 (3m) (j) 3. of the statutes, as created by this
20 act, no later than the first day of the 7th month beginning after the effective date of
21 this subsection.

22 **SECTION 27. Effective dates.** This act takes effect on the first day of the 13th
23 month beginning after publication, except as follows:

