

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCS for HB 1303 Life Insurance Coverage for Funeral Expenses

SPONSOR(S): Insurance & Banking Subcommittee

TIED BILLS: **IDEN./SIM. BILLS:** CS/SB 1386

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Insurance & Banking Subcommittee		Yaffe	Luczynski

SUMMARY ANALYSIS

The PCS clarifies that the qualifications for licensure as a life agent require an individual not to be found by the Department of Financial Services (DFS) as untrustworthy or incompetent and that the individual also meet a series of enumerated qualifications.

The PCS raises the maximum amount of life insurance coverage that can be sold by a funeral director, a direct disposer, an employee of a funeral establishment, or a funeral establishment contracting with a life insurance agent, for a life insurance policy limited to funding a preneed contract. The coverage limit is raised from \$12,500 to \$21,000, plus an annual percentage increase based on the Annual Consumer Price Index compiled by the United States Department of Labor, beginning with the Annual Consumer Price Index announced by the United States Department of Labor for 2016.

The PCS renames a “certificate of authority” to a “preneed contract.”

The PCS has an effective date of July 1, 2016.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

A preneed insurance policy, also referred to as a “preneed contract,”¹ covers the expense of a prearrangement for a funeral service and funeral merchandise. A “funeral service” generally consists of the ceremonies held to commemorate the life of the deceased.² “Funeral merchandise” is personal property offered or sold for use in the final disposition, such as caskets, urns, monuments, and register books.³ To sell a preneed contract, an individual must have a valid preneed license.⁴

A preneed contract can be funded through a trust agreement or a life insurance policy. To sell a preneed contract funded through a trust agreement, an individual must be licensed as a preneed sales agent.⁵ To sell a preneed contract funded by a life insurance policy, an individual must be licensed as a life agent.⁶ Coverage is not limited to a specific dollar amount for a preneed contract funded by a trust agreement, but a preneed contract funded by a life insurance policy may not exceed \$12,500 in coverage, plus an annual percentage increase based on the Annual Consumer Price Index for 2003.

Chapter 626, F.S., Part III, regulates life agents and licensure, including the licensure of agents authorized to sell life insurance policies as funding-vehicles for preneed contracts. To qualify for licensure as a life agent, an individual must not be found by the DFS to be untrustworthy or incompetent, or meet a series of enumerated qualifications.⁷ A life agent is defined as an individual that represents an insurer as to life insurance contracts.⁸ Funeral establishments⁹ are authorized to contract with a life agent to sell life insurance policies limited to funding a preneed contract. Additionally, a funeral director, a director disposer, or an employee of a funeral establishment may be licensed to sell life insurance policies limited to funding a preneed contract if they hold a “certificate of authority” pursuant to s. 497.451, F.S.¹⁰ These life insurance policies are limited to coverage not exceeding \$12,500, plus an annual percentage increase based on the Annual Consumer Price Index compiled by the United States Department of Labor, beginning with the Annual Consumer Price Index announced by the United States Department of Labor for 2003.

Effect of Proposed Changes

The PCS clarifies that the qualifications for licensure as a life agent require an individual not to be found by the DFS as untrustworthy or incompetent and that the individual also meet a series of enumerated qualifications.

The PCS raises the maximum amount of coverage that can be sold by a funeral director, a direct disposer, an employee of a funeral establishment, or a funeral establishment contracting with a life insurance agent, for a life insurance policy limited to funding a preneed contract. The coverage limit is raised from \$12,500 to \$21,000, plus an annual percentage increase based on the Annual Consumer

¹ A “preneed contract” means any arrangement or method, of which the provider of funeral merchandise or services has actual knowledge, whereby any person agrees to furnish funeral merchandise or service in the future.” s. 497.005(56), F.S.

² s. 497.005(33), F.S.

³ s. 497.005(6), F.S.

⁴ s. 497.452, F.S.

⁵ The only exception to this requirement is individuals licensed as funeral directors may engage in preneed sales for the preneed licensee with whom they are affiliated without preneed sales agent licensure, pursuant to s. 497.466(1), F.S.

⁶ s. 626.785, F.S.

⁷ *Id.*

⁸ s. 626.015(10), F.S.

⁹ A “funeral establishment” is a facility licensed under ch. 497, F.S., where a funeral director or embalmer practices funeral directing or embalming. s. 497.005(35), F.S.

¹⁰ A “certificate of authority” is a “preneed license.”

Price Index compiled by the United States Department of Labor, beginning with the Annual Consumer Price Index announced by the United States Department of Labor for 2016.¹¹ The changes are intended to provide the consumer with more flexibility when utilizing a life insurance-funded preneed contract and to accommodate for unforeseen needs and expenses that may arise as it relates to funeral expenses and merchandise.

The PCS renames a “certificate of authority” to a “preneed contract” in order to match its statutory counterpart, s. 497.452, F.S., which had previously made such change.

B. SECTION DIRECTORY:

Section 1: amends s. 626.785, F.S., relating to qualifications for licensure.

Section 2: provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues: None.

2. Expenditures: None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues: None.

2. Expenditures: None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The public will be able to purchase a larger limited life insurance policy to fund a preneed contract that covers the costs of funeral services.

D. FISCAL COMMENTS:

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not appear to affect county or municipal governments.

2. Other:

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

¹¹ Email from Lisa Coney, Compliance/Quality Assurance, Service Corporation International, RE: Florida Insurance & Banking Subcommittee -- House Bill 1303 Inquiry (Jan. 26, 2016).

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES