

February 2, 2006

To: House Health and Human Services Committee

From: Pam Scott, Executive Director

Re: Bill Introduction

Chairman Morrison and members of the Committee, on behalf of the Kansas Funeral Directors and Embalmers Association, I would like to request introduction of a bill which would amend K.S.A. 16-304 to eliminate the waiting requirement before funds can be paid out of a pre-arranged funeral agreement account held by a bank, credit union, or savings and loan association.

Under current law, funds can not be paid until at least five days have expired from the date of death of the person for whose services the funds were paid. The statute would continue to require that acceptable proof of death and a verified statement setting forth that all of the terms and condition of the agreement have been fully performed have been provided to the financial institution.

Thank you for your consideration of this request. I would be happy to respond to any questions you may have.

Statutory changes recommended below:

**16-304. Same; payments upon death, conditions; balances; notice; liability.** (a) If any balance remains in the account upon the death of the person for whose services the funds were paid, the same shall not be paid by such bank, credit union or savings and loan association to the person, association, partnership, firm or corporation ~~until the expiration of at least five days after the date of death of the person for whose services such funds were paid. The funds shall not be paid by the bank, credit union or savings and loan association~~ until a certified copy of the death certificate of such person, a verification of death form or other acceptable proof of death shall have been furnished to the bank, credit union or savings and loan association, together with a verified statement setting forth that all of the terms and conditions of such agreement have been fully performed by the person, association, partnership, firm or corporation.

(b) If any balance remains in the fund after disposition of the fund in accordance with the terms of the agreement, contract or plan such balance shall inure to the benefit of the estate of the purchaser of the agreement, contract or plan unless the purchaser

was a person who received medical assistance from the department of social and rehabilitation services or a deceased surviving spouse of a recipient of medical assistance and the bank, credit union or savings and loan association has received written notice from the department of social and rehabilitation services, the funeral home or the recipient, stating that medical assistance has been expended on the recipient for which the department of social and rehabilitation services may have a claim. If such notice has been received, the balance shall be paid to the secretary of social and rehabilitation services or the secretary's designee to the extent of medical assistance expended on the deceased recipient.

(c) The bank, credit union or savings and loan association shall not be liable to the department of social and rehabilitation services for the balance in the fund if written notice has not been received and the balance of the fund has been paid to the estate of the purchaser of the agreement as provided above.

**History:** L. 1953, ch. 54, § 4; L. 1973, ch. 86, § 5; L. 1976, ch. 97, § 4; L. 1983, ch. 76, § 4; L. 1989, ch. 48, § 73; L. 1996, ch. 123, § 1; L. 2002, ch. 106, § 2; L. 2004, ch. 36, § 1; July 1.