

CHAPTER 36
HOUSE BILL No. 2781

AN ACT relating to prearranged funeral agreements, contracts or plans; amending K.S.A. 2003 Supp. 16-304 and 16-311 and repealing the existing sections.

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

Section 1. K.S.A. 2003 Supp. 16-304 is hereby amended to read as follows: 16-304. (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, ~~in which case~~ 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.*

Sec. 2. K.S.A. 2003 Supp. 16-311 is hereby amended to read as follows: 16-311. (a) Whenever a person, who is or has been a recipient of medical assistance from the department of social and rehabilitation services, enters into a prearranged funeral agreement, contract or plan pursuant to K.S.A. 16-301, and amendments thereto, or a prearranged funeral agreement, contract or plan funded by insurance proceeds, such person shall inform the secretary of social and rehabilitation services or the secretary's designee of the existence of such an agreement, contract or plan and shall inform the funeral establishment that such person is or has been a recipient of medical assistance.

(b) If any balance remains after payment for the final disposition of a dead human body, or for funeral or burial services, or funeral or burial merchandise, and the purchaser of the agreement, contract, or plan is or has been a recipient of medical assistance or a deceased surviving spouse of a recipient of medical assistance, any remaining balance shall be paid according to K.S.A. 16-304, and amendments thereto, or if said agreement, contract or plan was funded by insurance, any remaining balance shall be paid by the insurance company or the person, association, partnership, firm or corporation providing the services or merchandise to the secretary of social and rehabilitation services or the secretary's designee, to the extent of medical assistance expended on the deceased recipient. *The insurance company or the person, association, partnership, firm or corporation providing the services or merchandise shall not be liable to the department of social and rehabilitation services for the balance in the account if written notice has not been received stating that medical assistance has been expended on the recipient for which the department of social and rehabilitation services may have a claim, and the balance of the account has been paid to the estate of the deceased or in the case of*

insurance, the designated beneficiary.

(c) Payments to the secretary of social and rehabilitation services under subsection (b) and K.S.A. 16-304, and amendments thereto, shall be governed by subsection (g)(2) of K.S.A. 39-709, and amendments thereto.

Sec. 3. K.S.A. 2003 Supp. 16-304 and 16-311 are hereby repealed.

Sec. 4. This act shall take effect and be in force from and after its publication in the statute book.

Approved April 8, 2004.
