

Approved 2-24-92
Date SL

MINUTES OF THE HOUSE COMMITTEE ON PUBLIC HEALTH AND WELFARE

The meeting was called to order by Carol H. Sader at
Chairperson

1:30 /a.m./p.m. on February 10,, 1992 in room 423-S of the Capitol.

All members were present except:

Committee staff present:

Emalene Correll, Research
Sue Hill, Committee Secretary

Conferees appearing before the committee:

Mack Smith, Executive Director, Board of Mortuary Arts
Larry McElwain, Chair of Legislative Committee, Kansas Funeral Directors
David Newcomer, Legislative Chair, Ks. Cemetery Assn. & Funeral Director
John Peterson, Kansas Cemetery Association
Ron Thornburg, Assistant Secretary of State, State of Kansas

Chairperson Sader called the meeting to order, drawing attention to the agenda. She requested a staff briefing on 4 Bills, HB 2757, HB 2760, HB 2761 HB 2762.

Ms. Correll gave a detailed explanation of each bill. She pointed out technical changes, language clean-up, and policy changes the Committee might wish to consider. Questions asked only on HB 2762.

HEARINGS BEGAN ON HB 2757.

Mack Smith, Executive Secretary, Kansas Board of Mortuary Arts offered hand-out (Attachment No. 1). He explained rationale that would allow the Board to issue temporary embalming permits to individuals licensed in other states for: 1) teaching purposes; 2) in emergency or disaster situations.

Larry McElwain, Legislative Chair of Ks. Funeral Directors Association. He stated support of HB 2757. (See Attachment No. 2).

HEARINGS CLOSED ON HB 2757.

HEARINGS BEGAN ON HB 2760.

Mack Smith, Ks. Board of Mortuary Arts (Attachment No.3), indicated that if passed, HB 2760 would add branch establishments to statutes, specifically require a funeral director holding a license to apply for a branch establishment license; refers funeral branch establishment licenses to the statute containing board actions; includes failure to pay fees as a reason for licensure action. He answered questions.

Larry McElwain, speaking on behalf of the Kansas Funeral Directors in support of HB 2760. (See Attachment No. 4).

HEARINGS CLOSED ON HB 2760.

Unless specifically noted, the individual remarks recorded herein have not been transcribed verbatim. Individual remarks as reported herein have not been submitted to the individuals appearing before the committee for editing or corrections.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON PUBLIC HEALTH AND WELFARE,
room 423-S Statehouse, at 1:30 a.m./p.m. on February 10, 1992

HEARINGS BEGAN ON HB 2761.

Mack Smith gave a detailed explanation of why the Board of Mortuary Arts requested this legislation. (Attachment No. 5). He stated after conferring with Secretary of State, the Board requested this HB 2761 which removes the responsibility for conducting random audits of pre-financed funeral arrangements from the office of the Secretary of State and places it with the Board of Mortuary Arts. Funeral directors are to submit a list of all pre-financed funeral agreements when renewing their licenses. He listed the requirements of the audit, noting the ground work for the audit is already on file with the Board, since the funeral director must submit a list of pre-financed agreements when they file for their annual license. The inspector/investigator of the Board currently inspects all Kansas funeral homes twice annually. While he is there, he could also complete the audit of these prepaid agreements. HB 2761 is an attempt to tighten requirements in the area of prepaids. There have been problems with some funeral directors within the state and if this audit could be done on a more routine basis it should serve as a deterrent to unlawful conduct. He answered questions.

Larry McElwain offered hand-out (Attachment No. 6), and stated the process of an audit by the Board of Mortuary Arts seems a logical progression since the Board presently receives a complete list of pre-need accounts along with the financial institution's name in which the funds are placed. This list is filed every two years when the funeral establishment renews its license. He supports HB 2761. He answered questions.

David Newcomer IV, Legislative Chair for Kansas Cemetery Assn. offered hand-out (Attachment No. 7), and stated the Board of Mortuary Arts tells you HB 2761 is a consumer protection Bill. In his view, it gives the opportunity to give industry members the authority to open and view competitor's confidential records and financial information. This invites abuse. The Secretary of State's office is an independent/objective authority and should and should continue to audit the pre-need industry. This objective audit provides the pre-need industry with a critical balance against possible abuse and further erosion of competition in the funeral industry. He urged defeat of HB 2761.

John Peterson, Kansas Cemetery Association offered, hand-out (Attachment No. 8). He stated reasons for his opposition to HB 2761 i.e., it is in the best interest of the consumer to have audit authority for pre-need funeral services done by an independent agency, and it is important to have this audit authority housed in an independent state agency that employs auditors. SB 39 from last year met with controversy and the proponents agreed to drop a proposed change on audit authority in order to get the bill moving. He urged defeat of HB 2761.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON PUBLIC HEALTH AND WELFARE,
room 423-S Statehouse, at 1:30 /a.m./p.m. on February 10, 1992

Ron Thornburg, Assistant Secretary of State noted that his written comments would be provided later. (Attachment No. 10 was provided later.) He stated he appears on HB 2761 neither as an opponent or a proponent, but to affirm the need to audit pre-arranged funeral agreements, and to answer questions. Although the Secretary of State's office has discretionary authority to audit pre-arranged funeral agreements, they have audited none in the last year. The Board of Mortuary Arts audits upon complaint, with authority by Rules and Regulations. The Secretary of State sees no need for duplicate authority for these audits. If the bill passes, the Board will have clear and sole authority to conduct audits. If it fails, the same current duplicate authority will prevail. He asked that language in HB 2761 be clarified so there would be no further need for duplication. He answered questions, i.e., if his office is directed to perform these audits, they would probably need an additional staff member since current staff could not handle the extra work load.

HEARINGS CLOSED ON HB 2761.

The Chair requested those conferees who had not yet been heard today to please return tomorrow.

Mr. Newcomer could not return so Chairperson Sader asked him to proceed with his comments on HB 2762.

HEARINGS BEGAN ON HB 2762.

Mr. Newcomer (Attachment No. 9) stated his opposition to HB 2762. This legislation is commercially not feasible. In his view, the Board is trying to restrict the sale of pre-need funds. He detailed the sales of various "packages" available to consumers, i.e., pre-planned funerals; cemetery property with merchandise; some are all of those items plus insurance and finance charges. His firm receives thousands of payments monthly. It takes a great deal of time sorting, to direct payments properly to the financial institutions in the proper accounts. The bank would have no way of knowing how to separate these accounts. Some are partial payments, some made in person by cash. If misconduct is discovered in respect to re-need agreements, and the funeral director is bonded, there should be no problem. A secured bond should take care of this problem. He views HB 2762 as the State Board trying to use a single case of misconduct as a means to force the pre-need industry out of Kansas. He urged the rejection of HB 2762. He drew attention to the second page of his attachment No. 9, indicating their recommendation to set out language that would require the funeral establishments to be covered by a bonding company. He urged Committee to consider this language. He answered questions, and noted a 30 day period is necessary to deposit funds, as 5 days isn't enough time.

Chair requested that those persons who had not been heard on HB 2762 today please return tomorrow and hearings would be concluded at that time.

Chair adjourned meeting at 3:02 p.m.

ME OF THE BOARD

MR. BARRY W. BEDENE,
ARMA
MR. FRANK L. BRUNER
WICHITA
MR. DAREL D. OLLIFF,
PHILLIPSBURG
MR. ROBERT L. ROBERTS,
OTTAWA
MRS. CECILE A. WEINHEIMER,
POMONA

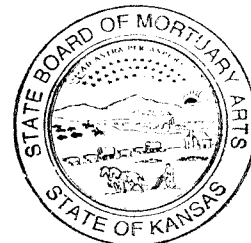
OFFICE STAFF

MACK SMITH,
EXECUTIVE SECRETARY
FRANCIS F. MILLS,
INSPECTOR-INVESTIGATOR
TERRY A. BLAND,
OFFICE SECRETARY

The Kansas
State Board of Mortuary Arts

CREATED AUG. 1, 1907

1200 S. KANSAS AVE., SUITE 2
TOPEKA, KANSAS 66612-1331
(913) 296-3980



H.B. 2757

H.B. 2757 was introduced by the House Public Health and Welfare Committee at the request of the Kansas State Board of Mortuary Arts. It would allow the board to issue temporary embalming permits to individuals licensed in other states in two cases:

- 1) teaching purposes involving an approved continuing education program, or
- 2) in emergency or disaster situations.

An example of a teaching situation would be if an out-of-state expert wanted to conduct an embalming seminar in Kansas where an embalming procedure demonstrating a particular technique was to occur.

A couple of examples of emergency or disaster situations would be an air crash--such as the situation in Sioux City, Iowa a few years back--or a tornado--where the number of fatalities involved were more than local funeral homes could handle. These situations in Kansas communities would be examples of when a temporary embalming permit could be useful.

PHW
2-10-92
atm #1

HOUSE BILL 2757

REMARKS OF LARRY MC ELWAIN
KANSAS FUNERAL DIRECTORS ASSOCIATION
FEBRUARY 10, 1992

Thank you Madam Chairwoman. Members of the Committee:

My name is Larry McElwain, of Warren-McElwain Mortuary in Lawrence. I represent the Kansas Funeral Directors Association as a Past President and presently am serving as Chairman of the KFDDA Legislative Committee.

In the interest of saving time, let me just say our Association has no problems with this proposed bill and we do support it. Thank you.

I shall be happy to answer any questions.

*P. Hall
2-10-92
adm # 2*

MEMBERS OF THE BOARD

MR. BARRY W. BEDENE,
ARMA
MR. FRANK L. BRUNER
WICHITA
MR. DAREL D. OLLIFF,
PHILLIPSBURG
MR. ROBERT L. ROBERTS,
OTTAWA
MRS. CECILE A. WEINHEIMER,
POMONA

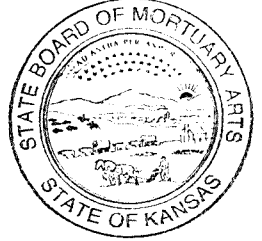
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(913) 296-3980



H.B. 2760

H.B. 2760 was introduced by the House Public Health and Welfare Committee at the request of the Kansas State Board of Mortuary Arts. This bill does four basic things:

- 1) adds branch establishments to statutes previously omitted;
- 2) specifically requires an individual (funeral director) holding a funeral establishment license to apply for a branch establishment license;
- 3) refers funeral branch establishment licenses to the statute containing board actions, and
- 4) includes failure to pay any required fee as a reason for licensure action.

PKW
2-10-92
Attm 3

HOUSE BILL 2760

REMARKS OF LARRY MC ELWAIN
KANSAS FUNERAL DIRECTORS ASSOCIATION
FEBRUARY 10, 1992

Thank you Madam Chairwoman. Members of the Committee:

My name is Larry McElwain, of Warren-McElwain Mortuary in Lawrence. I represent the Kansas Funeral Directors Association as a Past President and presently am serving as Chairman of the KFDDA Legislative Committee.

Again, let me just say our Association has no problems with this proposed bill and we do support it. Thank you.

I shall be happy to answer any questions.

*License of the Funeral Directors could
be at risk — if there is a problem.
It is up to the Bd of Mort Arts the authority to do
this*

*PHEW
2-10-92
attn #4*

RRY W. BEDENE,

MR. FRANK L. BRUNER

WICHITA

MR. DAREL D. OLLIFF,

PHILLIPSBURG

MR. ROBERT L. ROBERTS,

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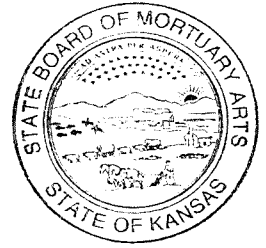
*The Kansas**State Board of Mortuary Arts*

CREATED AUG. 1, 1907

1200 S. KANSAS AVE., SUITE 2

TOPEKA, KANSAS 66612-1331

(913) 296-3980

H.B. 2761

H.B. 2761 was introduced by the House Public Health and Welfare Committee at the request of the Kansas State Board of Mortuary Arts. The board requested this legislation after conferring with Mr. Bill Graves, the Kansas Secretary of State. Mr. Ron Thornburg of the Secretary of State's Office will be presenting testimony during today's hearing.

The bill would turn the responsibility of conducting random audits of pre-financed funeral agreements from the office of the Secretary of State to the Mortuary Arts Board.

Currently the board has the authority to obtain information in this area when a written complaint has been filed. Funeral homes renew their licenses every two years. As you can see from the document I've included with your copy of this testimony, the board requires funeral homes to submit a list of all such pre-financed agreements when renewing their licenses. The actual names of the consumers are not necessary or required when renewing. What is required includes: (1) the number assigned by the funeral home to the particular agreement; (2) the financial institution of deposit; (3) the account number at the financial institution; (4) the amount of initial deposit, and (5) the date of the initial deposit. This information can then be verified with the consumer's name at the funeral home and the financial institution—once a written complaint has been filed. The reason I've provided you with this information is to show that the ground work for an audit is already on file with the board. The inspector-investigator of the board inspects all Kansas funeral homes twice annually. It just seems to make sense to have him periodically audit this information to verify existence and to make sure that everything is being reported. The next step would be to obtain verification from the financial institutions. This can after times be done through the mail and over the phone except in instances when possible violations or expediency is involved.

This bill walks hand in hand with H.B. 2762 in an attempt to tighten the belt in the area of prefinanced funeral agreements. Once again if somebody wants to steal, then they're going to find a way. Because of increased activity and problems in the area of prefinanced funeral agreements it is the opinion of the Kansas State Board of Mortuary Arts that it is the appropriate time to change the current process to utilize the expertise and information already on hand with the board to protect the welfare of the consumer.

I realize that it is not very often that an agency is willing to volunteer to take on additional responsibilities—especially something of the magnitude. It is not that we are looking for something to do. Nothing more could be further from the truth! In the interest of consumer protection the board feels that it needs to be done. They feel they can do so in a reasonable manner, and they feel that it needs to be done starting immediately.

This can become an extremely complex issue, and I would be happy to answer any questions of the committee as this hearing process continues.

Enclosure: copy of the prefinanced report currently used by the board.

PHW
2-10-92
Attm # 5

GENERAL HOME NAME: _____ ESTABLISHMENT NO.: _____

CITY: _____ KANSAS STATE BOARD OF MORTUARY ARTS

FUNERAL HOME AGREEMENT #	INSTITUTION OF DEPOSIT	CITY	BANK ACCOUNT #	PURCHASE AMOUNT	DATE (M/D/YR)

I certify that the above information is correct, accurate and represents all of the pre-financed agreements made with this funeral establishment or branch establishment. *PKW 2-10-93*
 DATE: _____ FUNERAL DIRECTOR SIGNATURE: _____ *Attn #5 Pp. 2-2*

LICENSE NUMBER: _____

The funeral director in charge of the funeral establishment is responsible for signing this document.

HOUSE BILL 2761

REMARKS OF LARRY MC ELWAIN
KANSAS FUNERAL DIRECTORS ASSOCIATION
FEBRUARY 10, 1992

Thank you Madam Chairwoman. Members of the Committee:

My name is Larry McElwain, of Warren-McElwain Mortuary in Lawrence. I represent the Kansas Funeral Directors Association as a Past President and presently am serving as Chairman of the KFDDA Legislative Committee.

Our Association, including the vast majority of its members, has no problem with the concept of House Bill 2761. I would like to point out, this bill is not the same as that portion excluded from Senate Bill 39 in the 1991 Session. In SB 39 bill, this section would have been repealed entirely. House Bill 2761 merely changes the responsibility of auditing from the Secretary of State to the Board of Mortuary Arts.

This seems a logical progression to us. The Board of Mortuary Arts presently gets a complete list of pre-need accounts along with the financial institution's name in which the funds are placed. This list is filed every two years when the funeral establishment license is renewed.

PHW
2-10-92
Attn: #6

B-2762

- 2 -

Therefore, auditing by the Board of Mortuary Arts would be much more efficient as there already would be a list to check against-- not only at the funeral establishment, but also at the financial institution.

We feel the Mortuary Arts Board has proven credibility in this area. At least two instances, involving funeral homes poor handling of preneed monies, have occurred and become public in the past 7 months. One just north of Topeka was a matter of not handling funds in a proper manner. All the money was there, however.

The other--here in Topeka, has revealed many thousands of dollars which failed to reach the proper financial institution. While our Association truly regrets this happening--which has yet to be finalized--we recognize the fact that no matter what percent preneed law a State has, the money has got to get to the financial institution.

Fortunately, the Board of Mortuary Arts was able to begin the investigation of these discrepancies under their present authority. But, if they would have had random checks by their inspection, it may have been discovered earlier. And that is what this bill provides.

Approved
2-10-92
Attorney # 6
392-3

We have been assured by Mack Smith, Executive Secretary of the Mortuary Arts Board, that this change in the law would allow random audits to occur on a regular basis when the firm is being inspected.

Under the current statute, only 3 audits have occurred in the past year, to the best of our knowledge.

Mack Smith has stated that a portion of the regular inspection will be committed to random audit after enactment of this law.

It appears to us that even though additional authority as evidenced by HB 2761 and HB 2762 as discussed earlier, seems to be after the fact, as you know, many laws are enacted just for that reason. Also, many are enacted as a result of court cases. We would point out the amount of dollars being placed in pre-financed funeral plans is growing rapidly every year, and a conservative estimate would be the monies in Kansas are approaching 100 million dollars right now.

The Board of Mortuary Arts already has a system and personnel in place. We would ask you expand their authority to provide these routine audits for the additional good of both the citizens of Kansas AND our profession.

I shall be happy to answer any questions.

PK/W
2-10-92
attm # 6
OK 3-3

Testimony of David W. Newcomer IV

To the Committee of Public Health and Welfare

Regarding H.B. 2761

February 10, 1992

I am opposed to HB 2761.

I am a funeral director, I own a third party preneed sales company and I am a director of, and Legislative Chairman for, the Kansas Cemetery Association.

The State Board of Mortuary Arts tells you that it needs the audit powers the legislature provided the Kansas Secretary of State in 1988. It says that something must be done to protect the consumer.

Last year a similar bill was introduced in the Senate. The reason given last year was that the State Board and the Secretary of State had similar powers to audit and the bill was merely to eliminate confusion. The Senate refused to believe that explanation. Now you are given another line: consumer protection.

There is a simple and valid reason why the legislature has never given the State Board power to audit funeral homes' or preneed sellers' records: the State Board is a state body compromised primarily of industry members. To give industry members the authority to open and view a competitor's confidential records and financial information invites abuse.

The legislature provided the Secretary of State the authority to audit the preneed industry so as to provide someone who was independent and objective.

In 1987, the preneed industry fought, and won, the legislative battle for independent audits. The Kansas Funeral Directors Association supported that bill because the preneed industry and the cemetery industry agreed to a change that would take caskets out of the Kansas Cemetery Merchandise Law. The ability to sell caskets through that law had saved consumers alot of money. The funeral directors did not like losing those casket sales.

However, the preneed industry viewed independent audits as critical and a compromise was reached.

Today, you are being asked to undo that compromise without restoration of the competitive benefits of the prior Kansas Cemetery Merchandise Law.

The Secretary of State affords the preneed industry a critical balance against possible abuse and further erosion of competition in the funeral industry.

Please vote no. Do not put the fox in charge of guarding the chicken coop.

PKW
2-10-92
Attn # 7

SUMMARY OF TESTIMONY

IN OPPOSITION

TO HB 2761

- ** The State Board of Embalmers and Funeral Directors is a state body comprised of members of the funeral industry.
- ** The Kansas legislature has always determined that the preneed funeral industry should be examined and audited by a state agency that is objective and independent of the funeral industry.
- ** A system that allows industry members to regulate the business practices of its competitors breeds the potential for abuse.
- ** The preneed funeral industry is subject to audit by the Secretary of State which has experience from the auditing of cemetery trusts.
- ** Because of a compromise with the preneed industry funeral three years ago, the Kansas Funeral Directors Association supported the bill which gave preneed audit powers to the Secretary of State.
- ** Prior to 1986 consumers benefited from competition that existed between funeral homes and cemeteries: both could sell caskets.
- ** In 1986, the Kansas Funeral Director's Association backed a Senate Bill (SB 499) which removed casket sales from the Kansas Cemetery Merchandise Law.
- ** Governor Carlin vetoed SB. 499 because it restricted competition and removed the audit provisions of the cemetery merchandise law from caskets.
- ** The next year a bill which removed caskets from the Cemetery Merchandise Law and which created independent audits because it afforded more protection to consumers in the form of independent audits conducted by the Secretary of State.
- ** At that time, the Kansas Funeral Director's Association supported independent audits by the Secretary of State.
- ** The 1986 legislature found independent audits necessary for public protection.
- ** The Kansas Cemetery Association and the preneed industry supported the bill because it provided an independent auditor.

PAW
2-10-92
Attm # 7
29284

- ** Independent audits afford funeral homes protection from abuse that can result from State Board directed audits.
- ** Five years later the Funeral Directors backed a Senate Bill (SB 39) that attempted to eliminate the independent audit without reinstating the competitive benefit provided by the laws of 1986.
- ** The Senate rejected that bill and now the State Board of Mortuary Arts has come to the House with the same proposal.
- ** The Secretary of State is an unbiased agency which has only one agenda: determining whether the proper funds are in trust.
- ** The State Board of Mortuary Arts does not have statutory authority to conduct random audits.
- ** HB 2761 would expand the State Board of Mortuary Art's jurisdiction to include third party preneed sellers without providing those entities or persons representation on the Board.
- ** To audit accounting and financial records relevant to preneed trusts, the State Board of Mortuary Arts proposes to use its inspector who has no accounting education or experience.

PHW
2-10-92
Attn # 7
Pg 3.74

SUMMARY OF COMPARISON

ADVANTAGES SECRETARY OF STATE AUDITING

DISADVANTAGES STATE BOARD OF MORTUARY ARTS AUDITING

1. Objective
(has no business interest in either active or passive preneed sales or in combo or non-combo establishments)
2. Efficiency
(has existing staff with audit experience concerning cemetery merchandise trusts and other trusts)
3. Confidentiality
(does not involve the potential for competitors reviewing confidential business information)
4. Checks and Balances
(two separate agencies have different review powers, thus ensuring different perspectives)
5. Joint Industry Support
(had the joint support of the KCA and the KFPA when the audit powers were provided by the legislature in 1988)

1. Business Interest
(4 of the 5 board members are funeral directors and belong to the KFPA)
2. Potential for Bias
(it will be difficult for members to remain objective if they are auditing a competitor)
3. Increased State Spending
(the State Board has one inspector who has no accounting education or experience; a CPA will need to be hired; the Secretary of State will still have to do audits for Cemetery trusts and Cemetery Merchandise trusts.)
4. Confidentiality Compromise
(requires a funeral home to show its business records to competitors)
5. Prior Attempts Rejected
(a 1991 effort to get the Senate to give the State Board audit powers was rejected)
6. Rekindles Controversy
(the bill will rekindle within the funeral industry the preneed controversy)
7. No Consumer Benefit
(Shift of audit powers provides no foreseeable benefit to consumers)

*PNW
2-10-92
allmt 7
29.4-4*

TESTIMONY OF JOHN C. PETERSON
KANSAS CEMETERY ASSOCIATION
HOUSE COMMITTEE ON PUBLIC HEALTH AND WELFARE
HOUSE BILL 2761
February 10, 1992

Madam Chair, Members of the Committee, my name is John Peterson and I am appearing today on behalf of the Kansas Cemetery Association. We are in opposition to House Bill 2761 for several major reasons:

1) It is in the best interests of the Kansas consumer to have audit authority for pre-need funeral services and merchandise housed in an independent agency which has an existing staff of auditors.

2) KSA 16-310 which gives the Secretary of State that independent audit authority was in fact proposed by the Kansas Funeral Directors Association. The Special Committee on Federal and State Affairs adopted the recommendation made by that group before them on July 17, 1986. In fact they recommended it word for word as had been proposed. Both Houses of the legislature subsequently agreed and their proposal was enacted into law in the 1987 legislative session.

3) Last year the funeral directors association proposed SB 39 which would have removed the discretionary audit authority from the Secretary of State. It met with so much opposition in the Senate that the proponents agreed to drop that change in order to get the bill moving. This Committee had hearings on SB 39 and no attempt was made to reinsert the repeal of this audit authority. So they are back this year with a different bill, a different number to attempt to repeal their own proposal of 1987.

We would urge you not to recommend HB 2761 favorably.

*PHJW
2-10-92
John Peterson*

TESTIMONY OF DAVID W. NEWCOMER IV
TO THE COMMITTEE OF PUBLIC HEALTH AND WELFARE

REGARDING HB 2762

FEBRUARY 10, 1992

I am opposed to HB 2762. This bill is commercially unreasonable.

I am president of Funeral Security Plans, Inc. ("FSP"). FSP markets different kinds of preneed contracts for funeral homes and cemeteries. As sales agent for funeral homes, FSP offers to consumers various payment options and credit life insurance. Without these options many Kansas consumers would be unable to repay their funerals and minimize their funeral expenses.

The State Board of Mortuary Arts states this change to Kansas preneed law is necessary to protect the consumer from conduct that had occurred recently at a local funeral home. However, the State Board rejected a draft of this bill which would allow bonded sellers to be exempt from the proposed direct deposit requirement.

The State Board is using the misconduct of a single funeral director to stampede you into forcing the preneed industry out of Kansas.

Last year a bill to eliminate the availability of credit life to preneed purchasers was proposed by the Kansas Funeral Directors Association in the Senate. The Association stated that there was no need for credit life insurance in the preneed industry.

Evidence submitted to the Senate committee proved that statement to be false. The true intent of that bill was to further restrict the competition preneed sales bring to the funeral industry.

Now the House is requested to approve a bill that has the same effect as the proposal rejected by the Senate last year. The proponent of this bill refuses to consider a more reasonable amendment. A copy of that amendment is attached hereto.

You should reject HB 2762 because a more commercially reasonable alternative is available.

*PAW
2-10-92
Attm # 9*

HOUSE BILL NO. _____

BY XX

An Act concerning prearranged funeral agreements; amending K.S.A. 1991 Supp. 16-302 and repealing the existing section.

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

Section 1. K.S.A. 1991 Supp. 16-302 is hereby amended to read as follows: 16-302. (a) Except as authorized by K.S.A. 16-308, and amendments thereto, all funds received on any agreement, contract or plan governed by K.S.A. 16-301, and amendments there to, shall be deposited within 30 days of receipt in such bank, trust company, credit union or savings and loan association and shall be held by a bank, credit union or savings and loan association in a separate account in the name or names of the purchaser of the merchandise or service and the name of the seller, until released as herein provided.

(b) In addition to the requirements set out in paragraph (a) herein, each person, association, partnership, firm or corporation which is not insured by a minimum fifty thousand dollar fidelity bond covering employee dishonesty and which accepts payments under any agreement, contract or plan governed by K.S.A. 16-30 and amendments thereto, shall:

1. require such payments to be made in the form of checks, cashiers checks or money orders payable only to the bank, credit union or savings and loan association where deposited; and

2. deposit such payment in such bank, credit union or savings and loan association within five business days after receipt.

(c) Evidence of a fidelity bond maintained for compliance with this section shall be provided to the secretary of state within 10 days of a written request.

Sec. 2. K.S.A. 991 Supp. 16-302 is hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its publication in the statute book.

*PHW
2-10-92
Attm #9
0292-2*



Ron Thornburgh
Assistant Secretary of State

Bill Graves
Secretary of State
2nd Floor, State Capitol
Topeka, KS 66612-1594
(913) 296-2236

STATE OF KANSAS

TESTIMONY OF RON THORNBURGH
PUBLIC HEALTH AND WELFARE
FEBRUARY 10, 1992

HOUSE BILL 2761

Thank you Mr. Chairman and members of the committee for the opportunity to appear before you today on behalf of Secretary of State Graves.

I appear today neither as an opponent or a proponent of House Bill 2761. I do, however, appear to answer any questions and to affirm the need to audit pre-arranged funeral agreements.

Although the office of the Secretary of State has the discretionary authority to audit pre-arranged funeral agreements, we have not audited any in the last year. By the Rules and Regulations, the Board of Mortuary Arts also has the authority to conduct audits along with a number of other regulatory duties. They are currently conducting audits upon receipt of a complaint.

We do not feel there is a need for this duplicate authority and thus no need for us to also conduct these audits.

If this bill is passed, it will be clear that the Board will have sole authority to conduct the audits. However, if this bill is not passed, we are still faced with the current duplicative authority. New clarifying language would then need to be introduced. If the legislature deletes the Board's authority and gives us a duty to audit, we will do so.

We are asking you to clarify the language and intent of this statute.

Thank you.

*PA/CCW
2-10-92
attm #10*