PA 26-57—sHB 5381
Appropriations Committee

AN ACT CONCERNING UNLAWFUL FUNERAL SERVICE PRACTICES

SUMMARY: This act establishes a funeral service guaranty account to be used by the Department of Consumer Protection (DCP) to give restitution to victims of fraud or other illegal activity related to funeral service contracts entered into on or before July 1, 2026.

By law, funeral service contracts are contracts where money is paid or securities or a death benefit provided by certain life insurance policies in exchange for future funeral, burial, or related services. The law requires these contracts to have certain provisions. The act:

1. changes the required statement in the contract about the purchaser receiving notice from the escrow agent about the initial deposit by requiring it to (a) be in bold type and (b) state the amount of the deposit and
2. requires these contracts to include a statement that purchasers sign attesting to receiving and having time to review DCP's funeral services contract fact sheet before entering the contract.

Finally, the act creates a prepaid funeral service contract working group to report recommendations to the General Law Committee.

EFFECTIVE DATE: Upon passage, except the funeral service contract provision requirements are effective July 1, 2026.

§ 1 — GUARANTY ACCOUNT

Beginning July 1, 2027, the act allows DCP to use the funeral service guaranty account to (1) give restitution to a beneficiary or purchaser of a funeral service contract entered into on or before July 1, 2026, who was a victim of fraud or unlawful practices related to money paid on the contract and (2) cover its administrative costs, including personnel, in an amount up to 2% of the fund's balance in a fiscal year. Restitution payments from the account:

1. can be up to $10,000 per funeral service contract,
2. cannot exceed the balance available in the account for restitution,
3. can be for less than (a) a person's loss or damages or (b) the amount of the restitution order if necessary to preserve the account's integrity.

If the account does not have sufficient funds, DCP must pay unpaid claims or parts of them, in the order they were determined, when funds become available.

The account is a separate, nonlapsing account that contains money from the state for the account; any money required by law to be deposited into it; and any gifts, grants, donations, or bequests to the account. Any investment earnings on the account's funds become part of the account and the treasurer administers the account.

Application

The act requires an applicant to the fund to give DCP a copy of the original funeral service contract and proof:

1. of any services provided under the contract,
2. that the applicant is a contract beneficiary or purchaser or beneficiary's estate or legally authorized agent, and
3. of payment for funeral or burial services not provided in the contract.

DCP can consider, but cannot require, any court order entered against the funeral service contract provider.

Recovering Funds

The act requires DCP to attempt to recover amounts paid from the account. Before receiving payment, a person must assign the right, interest, and title to the claim to DCP for the amount paid from the fund. DCP takes on the rights of that person for the amount paid from the fund plus reasonable interest. Any amount and interest recovered is paid to the account.

The act requires DCP to determine if the provider has assets than can be sold or applied to pay the account and can request that the attorney general take action to reimburse the account.

Regulations

The act requires DCP to adopt regulations to implement the restitution process. DCP must:

1. adopt and implement policies and procedures on these topics by June 1, 2027, which are valid upon posting on the eRegulations system until regulations are adopted and
2. propose regulations by the earlier of April 1, 2028, or 90 days after the working group established by the act issues its final report.

§ 3 — WORKING GROUP

The act creates a prepaid funeral service contract working group to study issues related to these contracts, consumer protections for contract purchasers and their agents, and a guaranty fund (such as the one created by the act).

The working group consists of:

1. one member appointed by each of the General Law Committee's chairpersons and ranking members (the chairpersons must choose two of these members as working group chairpersons and legislators appointed to the working group under this provision are only voting members if also chosen to serve as a working group chair);
2. the Banking, DCP, Insurance, and Public Health commissioners and the probate court administrator, or their designees; and
3. one representative, jointly appointed by the General Law Committee

chairpersons, representing an association of each of the following: funeral directors, banks, and insurance companies.

The act requires appointing authorities to (1) make their appointments by June 18, 2026, and (2) fill any vacancies.

The working group chairpersons must schedule the group's first meeting by July 18, 2026, and the group must meet monthly and at other times the chairpersons choose. The General Law Committee staff must staff the working group.

The group must give the General Law Committee an initial report of its findings and recommendations by December 1, 2027, but the act requires a final report at an earlier date (by January 1, 2027). The group terminates the later of January 1, 2028, or when it submits its final report.