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LAW/RWH

SENATE, No. 2397

STATE OF NEW JERSEY 213th LEGISLATURE

INTRODUCED DECEMBER 8, 2008

Sponsored by:

Senator NICHOLAS P. SCUTARI

District 22 (Middlesex, Somerset and Union)

Assemblyman JOHN S. WISNIEWSKI

District 19 (Middlesex)

Assemblyman VINCENT PRIETO

District 32 (Bergen and Hudson)

Co-Sponsored by:

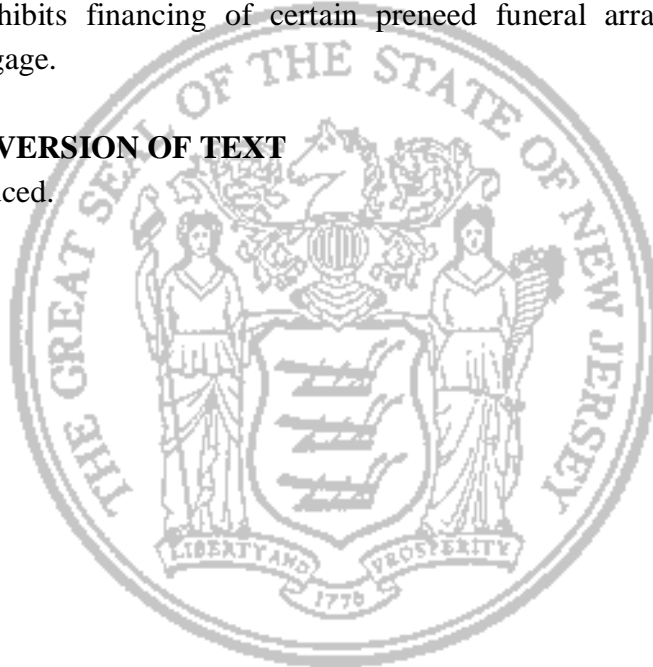
**Senator Cardinale, Assemblywomen Quigley, Rodriguez, Assemblymen
Ramos and Conners**

SYNOPSIS

Requires licensure as insurance producer to sell certain funeral insurance policies; prohibits financing of certain preneed funeral arrangements with reverse mortgage.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 1/12/2010)

S2397 SCUTARI

2

1 AN ACT concerning the sale of certain prepaid funeral agreements
2 and amending P.L.1997, c.322 and P.L.1993, c.147.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. Section 32 of P.L.1997, c.322 (C.17:44B-32) is amended to
8 read as follows:

9 32. Individuals acting as insurance producers with respect to
10 societies shall be licensed in accordance with the provisions of the
11 "New Jersey Insurance Producer Licensing Act of 2001," P.L.2001,
12 c.210 (C.17:22A-26 et al.). Notwithstanding the provisions of this
13 section or of any other law to the contrary, a license as an insurance
14 producer shall not be required of any agent, representative or
15 member of a fraternal benefit society who devotes, or intends to
16 devote, less than 50 percent of his time to the solicitation and
17 procurement of insurance contracts for that fraternal benefit society
18 and who receives, or intends to receive, any commission or other
19 compensation directly dependent on the amount of insurance. Any
20 person who in the preceding calendar year has solicited or procured
21 any of the following contracts of insurance on behalf of a fraternal
22 benefit society shall be presumed to have devoted, or intended to
23 devote, 50 percent of his time to the solicitation or procurement of
24 insurance contracts:

25 a. Life insurance contracts that, in the aggregate, exceed
26 \$200,000 of coverage for all lives insured for the preceding
27 calendar year;

28 b. A permanent life insurance contract offering more than
29 \$10,000 of coverage on an individual life;

30 c. A term life insurance contract offering more than \$50,000 of
31 coverage on an individual life;

32 d. An insurance contract, other than a life insurance contract,
33 that the fraternal benefit society may write that insures the
34 individual lives of more than 25 persons; **[or]**

35 e. Any variable life insurance or variable annuity contract; or

36 f. Any "funeral insurance policy" as defined in section 24 of
37 P.L.1993, c.147 (C.17B:17-5.1).

38 (cf: P.L.2006, c.57, s.1)

39

40 2. Section 9 of P.L.1993, c.147 (C.45:7-90) is amended to read
41 as follows:

42 9. No person shall:

43 a. Advertise "discounts," "rebates" or other price reduction
44 incentives:

EXPLANATION – Matter enclosed in bold-faced brackets **[thus] in the above bill is not enacted and is intended to be omitted in the law.**

Matter underlined thus is new matter.

- 1 (1) which are not actual reductions of the retail prices of a
2 provider's current general price list; or
3 (2) which are based solely on a funeral insurance policy's
4 premium rate tables.
- 5 b. In offering to provide preneed funeral arrangements or
6 prepaid funeral agreements, use the word "trust" or "trust funded" in
7 any name, advertisement or solicitation in a misleading manner.
- 8 c. Fund or finance preneed funeral arrangements or a prepaid
9 funeral agreement through retail installment contracts, reverse
10 mortgages or credit life insurance, or in any manner other than a
11 funeral trust or funeral insurance policy.
- 12 d. Waive any provision of this act in any agreement in which a
13 person pays money under, or in connection with, a prepaid funeral
14 agreement. Any agreement to waive any portion of this act shall
15 render the agreement voidable by the purchaser.
16 (cf: P.L.1993, c.147, s.9)

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18 3. This act shall take effect immediately.

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STATEMENT

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23 This bill provides that individuals who solicit or procure funeral
24 insurance policies on behalf of fraternal benefit societies must be
25 licensed as insurance producers. The bill also prohibits the funding
26 or financing of preneed funeral arrangements or prepaid funeral
27 agreements through the use of reverse mortgages.

28 Prior to 2006, all individuals acting as insurance producers on
29 behalf of fraternal benefit societies were required to be licensed as
30 such. In 2006, the law was amended to exempt any agent,
31 representative, or member of a fraternal benefit society who devotes,
32 or intends to devote, less than 50 percent of his time to the solicitation
33 and procurement of insurance contracts and who receives, or intends to
34 receive, any commission or other compensation directly dependent on
35 the amount of insurance. However, under this exemption, the
36 solicitation and procurement of certain contracts are regarded as
37 constituting the devotion of such an amount of time as to make the
38 person ineligible for the licensing exemption. This bill thus includes
39 funeral insurance policies among the types of insurance which are
40 regarded as requiring insurance producer licensure for agents of a
41 fraternal benefit society.

42 A "funeral insurance policy" is defined by statute as any insurance
43 policy or annuity contract that, at the time of issue, was intended to
44 provide, or which was explicitly marketed for the purpose of
45 providing, funds to the provider, whether directly or indirectly, at the
46 time of the insured's death in connection with a prepaid funeral
47 agreement. A "fraternal benefit society" is any incorporated society,
48 order or lodge, conducted solely for the benefit of its members and

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1 their beneficiaries and not-for-profit, operated on a lodge system with
2 ritualistic form of work, having a representative form of government,
3 and which provides benefits to its members.

4 The bill also prohibits the funding or financing of preneed
5 funeral arrangements or prepaid funeral agreements through the use
6 of reverse mortgages. Certain inappropriate uses of reverse
7 mortgages have begun to cause consumer lending concerns, among
8 them, the use of a reverse mortgage as a way of financing preneed
9 funeral arrangements. This bill would prevent any such marketing
10 of the reverse mortgage in New Jersey.

SENATE COMMERCE COMMITTEE

STATEMENT TO

SENATE, No. 2397

STATE OF NEW JERSEY

DATED: DECEMBER 14, 2009

The Senate Commerce Committee reports favorably Senate Bill No. 2397.

This bill provides that individuals who solicit or procure funeral insurance policies on behalf of fraternal benefit societies shall be licensed as insurance producers. While the current law permits individuals to solicit or procure such policies on behalf of fraternal benefit societies without a license, if that individual devotes, or intends to devote, less than 50% of his time to such activities and receives, or intends to receive, any commission or other compensation directly dependent on the amount of insurance, this bill eliminates this licensing exemption.

The meaning of “funeral insurance policy” is derived under the bill by cross-referencing to section 24 of P.L.1993, c.147 (C.17B:17-5.1), which states such policy is “any insurance policy or annuity contract that, at the time of issue, was intended to provide, or which was explicitly marketed for the purpose of providing, funds to the provider, whether directly or indirectly, at the time of the insured's death in connection with a prepaid funeral agreement.”

Additionally, the bill clarifies the law’s existing prohibition against funding or financing a preneed funeral arrangement or prepaid funeral agreement through any manner other than a funeral trust or funeral insurance policy by expressly prohibiting such funding or financing through a reverse mortgage.

ASSEMBLY, No. 3517

STATE OF NEW JERSEY 213th LEGISLATURE

INTRODUCED DECEMBER 8, 2008

Sponsored by:

Assemblyman JOHN S. WISNIEWSKI

District 19 (Middlesex)

Assemblyman VINCENT PRIETO

District 32 (Bergen and Hudson)

Co-Sponsored by:

Assemblywomen Quigley, Rodriguez, Assemblymen Ramos and Connors

SYNOPSIS

Requires licensure as insurance producer to sell certain funeral insurance policies; prohibits financing of certain preneed funeral arrangements with reverse mortgage.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/5/2009)

1 AN ACT concerning the sale of certain prepaid funeral agreements
2 and amending P.L.1997, c.322 and P.L.1993, c.147.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. Section 32 of P.L.1997, c.322 (C.17:44B-32) is amended to
8 read as follows:

9 32. Individuals acting as insurance producers with respect to
10 societies shall be licensed in accordance with the provisions of the
11 "New Jersey Insurance Producer Licensing Act of 2001," P.L.2001,
12 c.210 (C.17:22A-26 et al.). Notwithstanding the provisions of this
13 section or of any other law to the contrary, a license as an insurance
14 producer shall not be required of any agent, representative or
15 member of a fraternal benefit society who devotes, or intends to
16 devote, less than 50 percent of his time to the solicitation and
17 procurement of insurance contracts for that fraternal benefit society
18 and who receives, or intends to receive, any commission or other
19 compensation directly dependent on the amount of insurance. Any
20 person who in the preceding calendar year has solicited or procured
21 any of the following contracts of insurance on behalf of a fraternal
22 benefit society shall be presumed to have devoted, or intended to
23 devote, 50 percent of his time to the solicitation or procurement of
24 insurance contracts:

25 a. Life insurance contracts that, in the aggregate, exceed
26 \$200,000 of coverage for all lives insured for the preceding
27 calendar year;

28 b. A permanent life insurance contract offering more than
29 \$10,000 of coverage on an individual life;

30 c. A term life insurance contract offering more than \$50,000 of
31 coverage on an individual life;

32 d. An insurance contract, other than a life insurance contract,
33 that the fraternal benefit society may write that insures the
34 individual lives of more than 25 persons; **[or]**

35 e. Any variable life insurance or variable annuity contract; or

36 f. Any "funeral insurance policy" as defined in section 24 of
37 P.L.1993, c.147 (C.17B:17-5.1).

38 (cf: P.L.2006, c.57, s.1)

39

40 2. Section 9 of P.L.1993, c.147 (C.45:7-90) is amended to read
41 as follows:

42 9. No person shall:

43 a. Advertise "discounts," "rebates" or other price reduction
44 incentives:

EXPLANATION – Matter enclosed in bold-faced brackets **[thus] in the above bill is not enacted and is intended to be omitted in the law.**

Matter underlined thus is new matter.

- 1 (1) which are not actual reductions of the retail prices of a
2 provider's current general price list; or
3 (2) which are based solely on a funeral insurance policy's
4 premium rate tables.
- 5 b. In offering to provide preneed funeral arrangements or
6 prepaid funeral agreements, use the word "trust" or "trust funded" in
7 any name, advertisement or solicitation in a misleading manner.
- 8 c. Fund or finance preneed funeral arrangements or a prepaid
9 funeral agreement through retail installment contracts, reverse
10 mortgages or credit life insurance, or in any manner other than a
11 funeral trust or funeral insurance policy.
- 12 d. Waive any provision of this act in any agreement in which a
13 person pays money under, or in connection with, a prepaid funeral
14 agreement. Any agreement to waive any portion of this act shall
15 render the agreement voidable by the purchaser.
16 (cf: P.L.1993, c.147, s.9)

17

18 3. This act shall take effect immediately.

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20

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STATEMENT

22

23 This bill provides that individuals who solicit or procure funeral
24 insurance policies on behalf of fraternal benefit societies must be
25 licensed as insurance producers. The bill also prohibits the funding
26 or financing of preneed funeral arrangements or prepaid funeral
27 agreements through the use of reverse mortgages.

28 Prior to 2006, all individuals acting as insurance producers on
29 behalf of fraternal benefit societies were required to be licensed as
30 such. In 2006, the law was amended to exempt any agent,
31 representative, or member of a fraternal benefit society who devotes,
32 or intends to devote, less than 50 percent of his time to the solicitation
33 and procurement of insurance contracts and who receives, or intends to
34 receive, any commission or other compensation directly dependent on
35 the amount of insurance. However, under this exemption, the
36 solicitation and procurement of certain contracts are regarded as
37 constituting the devotion of such an amount of time as to make the
38 person ineligible for the licensing exemption. This bill thus includes
39 funeral insurance policies among the types of insurance which are
40 regarded as requiring insurance producer licensure for agents of a
41 fraternal benefit society.

42 A "funeral insurance policy" is defined by statute as any insurance
43 policy or annuity contract that, at the time of issue, was intended to
44 provide, or which was explicitly marketed for the purpose of
45 providing, funds to the provider, whether directly or indirectly, at the
46 time of the insured's death in connection with a prepaid funeral
47 agreement. A "fraternal benefit society" is any incorporated society,
48 order or lodge, conducted solely for the benefit of its members and

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1 their beneficiaries and not-for-profit, operated on a lodge system with
2 ritualistic form of work, having a representative form of government,
3 and which provides benefits to its members.

4 The bill also prohibits the funding or financing of preneed
5 funeral arrangements or prepaid funeral agreements through the use
6 of reverse mortgages. Certain inappropriate uses of reverse
7 mortgages have begun to cause consumer lending concerns, among
8 them, the use of a reverse mortgage as a way of financing preneed
9 funeral arrangements. This bill would prevent any such marketing
10 of the reverse mortgage in New Jersey.

ASSEMBLY FINANCIAL INSTITUTIONS AND INSURANCE
COMMITTEE

STATEMENT TO

ASSEMBLY, No. 3517

STATE OF NEW JERSEY

DATED: JUNE 4, 2009

The Assembly Financial Institutions and Insurance Committee reports favorably Assembly Bill No. 3517.

This bill provides that individuals who solicit or procure funeral insurance policies on behalf of fraternal benefit societies must be licensed as insurance producers. The bill also prohibits the funding or financing of preneed funeral arrangements or prepaid funeral agreements through the use of reverse mortgages.

Prior to 2006, all individuals acting as insurance producers on behalf of fraternal benefit societies were required to be licensed as such. In 2006, the law was amended to exempt any agent, representative, or member of a fraternal benefit society who devotes, or intends to devote, less than 50 percent of his time to the solicitation and procurement of insurance contracts and who receives, or intends to receive, any commission or other compensation directly dependent on the amount of insurance. However, under this exemption, the solicitation and procurement of certain contracts are regarded as constituting the devotion of such an amount of time as to make the person ineligible for the licensing exemption. This bill thus includes funeral insurance policies among the types of insurance which are regarded as requiring insurance producer licensure for agents of a fraternal benefit society.

A “funeral insurance policy” is defined by statute as any insurance policy or annuity contract that, at the time of issue, was intended to provide, or which was explicitly marketed for the purpose of providing, funds to the provider, whether directly or indirectly, at the time of the insured's death in connection with a prepaid funeral agreement. A “fraternal benefit society” is any incorporated society, order or lodge, conducted solely for the benefit of its members and their beneficiaries and not-for-profit, operated on a lodge system with ritualistic form of work, having a representative form of government, and which provides benefits to its members.

The bill also prohibits providers or other entities from providing funding or financing to consumers for preneed funeral arrangements or prepaid funeral agreements through the use of reverse mortgages. Certain inappropriate uses of reverse mortgages have begun to cause

consumer lending concerns, among them, the use of a reverse mortgage as a way of financing preneed funeral arrangements. This bill would prevent any such marketing of the reverse mortgage in New Jersey.