

No. 107

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1st Session, 14th Legislature, Alberta  
8 Elizabeth II

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## **BILL 107**

A Bill to Regulate and Control Funds Provided for the  
Prearrangement of Funeral Preparations

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HON. MR. PATRICK

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## **Explanatory Note**

General. This Bill enacts a new Act to be known as The Pre-arranged Funeral Services Act, which will regulate and control by licensing the entering into of prepaid funeral plans now coming into use in the Province. The Act will require licences for those persons entering into these types of agreements; and will require that the payments thereunder be held in trust funds for eventual use for funeral services or for return to the payer or his personal representative.

### **2. Definitions.**

### **3. Prohibition against dealing in prearranged funeral plans.**

# BILL

No. 107 of 1960

An Act to Regulate and Control Funds Provided for the  
Prearrangement of Funeral Preparations

(Assented to \_\_\_\_\_, 1960)

**H**ER MAJESTY, by and with the advice and consent of  
the Legislative Assembly of the Province of Alberta,  
enacts as follows:

1. This Act may be cited as "*The Prearranged Funeral Services Act*".

2. In this Act,

- (a) "funeral services" means the services and commodities usual in the preparation for burial and the burial of the dead, or any such service and commodity, other than the supplying of lots, burial vaults, grave markers, vases and services rendered or to be rendered at the cemetery;
- (b) "licensee" means a person licensed under this Act to provide funeral services under a prearranged funeral plan;
- (c) "Minister" means that member of the Executive Council charged with the administration of this Act;
- (d) "prearranged funeral plan" means an agreement whereby in consideration of payment therefor in advance, by a lump sum or instalments, a person contracts to provide funeral services for a person alive at the time the agreement is entered into;
- (e) "Public Trustee" means the Public Trustee appointed under *The Public Trustee Act*;
- (f) "trust company" means a trust company that is an approved corporation for trustee investments under *The Trustee Act*.

3. Unless he is licensed to do so under this Act, no person shall

- (a) undertake to provide or make provision for another's funeral services under a prearranged funeral plan, or
- (b) solicit another person to enter into a prearranged funeral plan with him or with any person who would provide the funeral services under any such plan.

**4. Prearranged funeral plan licences.**

**5. Payments constitute trust moneys.**

**6. Investment and special fund.**

**7. Withdrawal permitted.**

4. (1) A person desiring to give funeral services for remuneration, reward or compensation under prearranged funeral plans may apply to the Minister for a licence under this Act to enter into prearranged funeral plans in accordance with the regulations.

(2) Where the Minister is satisfied that an applicant for a licence is a reputable person and that the necessary agreements have been made with a trust company or the Public Trustee, as required by this Act, for the investment and disposal of any moneys to be received under the prearranged funeral plans proposed to be entered into by the applicant, the Minister may issue the applicant a licence.

(3) A licence may be made subject to such terms and conditions as may be prescribed by the regulations.

5. A licensee who enters into a prearranged funeral plan holds all moneys paid under that plan in trust for the purposes for which it has been paid until

- (a) the funeral services mentioned in the prearranged funeral plan have been provided in accordance with the plan, or
- (b) the moneys paid pursuant to the prearranged funeral plan, or any unused balance thereof have been refunded to the person who made the payment or payments or paid to his personal representative, as the case may be.

6. (1) Moneys held in trust by a licensee under a prearranged funeral plan shall be paid to the Public Trustee or a trust company to be deposited in a special fund provided by the Public Trustee or trust company by agreement with the licensee.

(2) A person making payments under a prearranged funeral plan with a licensee shall not be required to pay any commission, fees or costs for any services in connection with the handling of moneys payable under any such plan.

(3) Moneys in any special fund for the purposes of this Act may be invested in any investments authorized for trustee investments under *The Trustee Act*.

7. (1) Moneys paid to the Public Trustee or a trust company pursuant to section 6 may, at any time upon reasonable notice, be paid out in whole or in part

- (a) to the person who made the payment or his personal representative, upon the joint authorization of the licensee and the person who made the payment or his personal representative, or if the licensee is not available or refuses to authorize repayment upon the direction of the Minister, or
- (b) to the licensee, upon production of proof of the death of the person on whose behalf the payment was made and proof that the funeral services have been provided.

**8. Reports required.**

**9. Assignment of plans.**

(2) Every prearranged funeral plan shall contain a provision that the moneys paid thereunder may be withdrawn in the manner specified in subsection (1) and without payment of a commission, service fee or penalty or other charge.

(3) A person who pays money under a prearranged funeral plan is entitled to such interest on the moneys paid under the plan as may be agreed upon by himself and the licensee.

**8.** (1) Every licensee shall report, at such periods as may be prescribed by the regulations, to the Minister concerning any prearranged funeral plans undertaken by the licensee, and shall give the Minister such information in respect thereof as is required by the regulations.

(2) Every trust company and the Public Trustee shall prepare as of the first day of December in each year, a statement showing:

- (a) the number of special funds maintained for licensees by the trust company or Public Trustee pursuant to this Act;
- (b) the amount standing at that date to the credit of each special fund and the name of the licensee for whom the fund is maintained;
- (c) in respect of each fund the persons who are paying moneys under a prearranged funeral plan with the licensee for whom the fund is maintained, and the amount paid and to be paid thereunder on behalf of each such person;
- (d) the sums charged by the trust company or Public Trustee by way of service charge for maintaining the fund and how derived;
- (e) such other matters as may be required by the regulations.

(3) The statement required under subsection (2) shall be sent by ordinary mail to the Minister before the thirty-first day of December in each year.

**9.** (1) A licensee may, with the consent of the person who is making or has completed the payments thereunder, assign a prearranged funeral plan to another licensee with notice in writing thereof to the trust company or Public Trustee.

(2) Where an assignment of a prearranged funeral plan is made to another licensee, the trust company maintaining the special fund on behalf of the licensee or the Public Trustee, as the case may be, shall make all necessary changes in the records and funds in order to make the assignment complete, and if the special fund of the assignee is maintained elsewhere than with that trust company or the Public Trustee, moneys held under the assigned prearranged funeral plan may be transferred to the special fund

**10.** Non-application to mutual benefit societies and fraternal societies.

**11.** Offence and penalty.

**12.** Revocation of licence and assignment order.

**13.** Application of Act to plans already in existence.



maintained on behalf of the assignee, upon the payment of such charges and fees as may be prescribed by the regulations.

**10.** This Act does not apply to a mutual benefit society or a fraternal society licensed under *The Alberta Insurance Act*.

**11.** (1) A person is guilty of an offence and liable on summary conviction to a fine of not more than one thousand dollars, and in default of payment to imprisonment for not more than three months,

- (a) who, not being a licensee under this Act, agrees for remuneration or reward to provide funeral services or to arrange the provision of funeral services under a prearranged funeral plan, or
- (b) who, being a licensee under this Act, contravenes any provision of this Act.

(2) A person who contravenes a provision of this Act for which no express penalty is provided is guilty of an offence and liable on summary conviction to a fine of not more than two hundred dollars and in default of payment to imprisonment for not more than one month.

**12.** (1) Where a licensee is guilty of an offence under this Act, the Minister shall revoke the licence issued by him to the licensee, and may by order assign all prearranged funeral plans entered into by that person while a licensee to another licensee or licensees with notice to the person affected thereby.

(2) Where an order is made under this section the order is effective to assign the prearranged funeral plans and the assignment is binding on all persons affected by the order.

**13.** (1) This Act applies to all prearranged funeral plans whether entered into before or after the commencement of this Act.

(2) Where a prearranged funeral plan was entered into before the commencement of this Act, if the person agreeing for remuneration, reward or compensation to provide or to make provision for the funeral services required by the plan is unable to qualify for a licence under this Act, he shall within six months of the commencement of this Act, assign the prearranged funeral plan to a licensee under this Act upon such terms and conditions and in such manner as may be prescribed by the regulations.

(3) Where a prearranged funeral plan required to be assigned under subsection (2) is not assigned within the time limited therefor, the person agreeing to provide or make provision for the funeral services under the plan is guilty of an offence and liable on summary conviction to a

**14.** Funds not liable to seizure.

**15.** Regulations.

**16.** Commencement.

fine of not more than five hundred dollars and in default of payment to imprisonment for not more than two months.

- (4) Where, before the commencement of this Act,
  - (a) a prearranged funeral plan was entered into, and
  - (b) a commission or other fee was paid out of the moneys paid under the plan,

the amount so paid for commission or other fee shall be deemed not to be part of the moneys held in trust pursuant to this Act.

**14.** Any money standing to the credit of a prearranged funeral plan is not, while in the hands of the trust company or Public Trustee or while in course of transmission from or to the person who is to provide the funeral services under the prearranged funeral plan, liable to demand, seizure or detention under legal process as against the person depositing the same under the plan or his personal representative or as against the person to whom the money is to be paid under the prearranged funeral plan for the provision of funeral services.

**15.** The Lieutenant Governor in Council may make regulations

- (a) prescribing forms for use under this Act,
- (b) governing the issuing of licences and prescribing the terms and conditions thereof,
- (c) prescribing reports to be made under this Act and the times of reporting, and the information to be contained in any such reports,
- (d) prescribing and fixing fees for services under this Act,
- (e) governing and regulating such other matters, not being inconsistent with this Act, as may be deemed necessary or advisable to carry out the intent of this Act.

**16.** This Act comes into force on the day upon which it is assented to.

No. 107

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FIRST SESSION

FOURTEENTH LEGISLATURE

8 ELIZABETH II

1960

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Received and read the

First time.....

Second time.....

Third time.....

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