

AMENDED IN SENATE AUGUST 6, 2012

AMENDED IN SENATE JUNE 20, 2012

AMENDED IN ASSEMBLY MAY 27, 2011

AMENDED IN ASSEMBLY MAY 11, 2011

AMENDED IN ASSEMBLY MAY 2, 2011

AMENDED IN ASSEMBLY APRIL 25, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 374

Introduced by Assembly Member Hill

February 14, 2011

An act to amend Section 7630 of the Business and Professions Code, relating to funeral directors and embalmers.

LEGISLATIVE COUNSEL'S DIGEST

AB 374, as amended, Hill. Funeral directors and embalmers.

Existing law, the Funeral Directors and Embalmers Law, creates the Cemetery and Funeral Bureau within the Department of Consumer Affairs. Existing law requires a funeral director to obtain a separate license for each funeral establishment the director operates. Existing law allows the assignment of a funeral establishment's license upon payment of a fee and submission of an audit report performed by an independent certified public accountant or public accountant licensed in this state that verifies the accuracy of the establishment's trust fund balances and reports the establishment's compliance with certain provisions of the Funeral Directors and Embalmers Law. Existing law

requires any shortages in the trust funds to be funded in order for a funeral establishment's license to be assigned.

This bill would require a completed application to be filed in addition to *payment of the fee and submission of the audit report* in order to assign a funeral establishment's license. If an applicant for assignment of a funeral establishment's license is not able to submit the audit report due to specified circumstances, the bill would authorize the applicant to submit a *signed request, signed under penalty of perjury*, for approval from the bureau to secure a bond guaranteeing the payment of any shortages in the establishment's trust funds, as specified. *The bill would subject an applicant who knowingly provides false information pursuant to the bill's provisions to a civil fine not to exceed \$5,000.* The bill would require an assignee to maintain the bond after assignment of the funeral establishment's license by the bureau.

~~By expanding the scope of the crime of perjury, this bill would impose a state-mandated local program.~~

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: ~~yes~~-no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 7630 of the Business and Professions
- 2 Code is amended to read:
- 3 7630. (a) A funeral establishment's license may be assigned
- 4 upon payment of the fee fixed by this chapter, the filing of a
- 5 completed application, and upon submission of an audit report
- 6 prepared and signed by an independent certified public accountant
- 7 or public accountant currently licensed in this state. The audit
- 8 report shall include an unqualified opinion on the accuracy of the
- 9 trust fund balances and a report of compliance with the provisions
- 10 of this article and Article 9 (commencing with Section 7735). Any
- 11 shortages in the trust funds shall be funded.
- 12 (b) (1) If the applicant cannot submit the audit report required
- 13 in subdivision (a) due to estate matters or litigation for which the
- 14 director or his or her designee is a party, the applicant may request

approval from the bureau to secure a bond by an admitted surety insurer guaranteeing the payment to each account of any shortages in the trust funds. Along with the fee and the application to assign the license and transfer ownership, any applicant requesting an exception to subdivision (a) shall submit to the bureau a report, signed ~~under penalty of perjury~~ by an authorized representative, setting forth: ~~(1)~~ the reasons requested for the exception to the audit requirement; and, ~~(2)~~ a list of all trust accounts for the funeral establishment showing the corpus of the trust, accumulated income, and current account balances for each account. If the bureau approves the request to secure a bond, the bureau shall notify the applicant of the approval and of the requirements of this section.

~~Within~~

(2) Any applicant who knowingly provides false information pursuant to the requirements of this subdivision shall be subject to a civil penalty in an amount not to exceed five thousand dollars (\$5,000), in addition to any other remedies that may be available to the bureau. An action for a civil penalty under this paragraph may be brought by any public prosecutor in the name of the people of the State of California.

(3) Within 30 days from the date of the approval by the bureau, the applicant shall file satisfactory proof of the posting of a bond meeting the requirements of this section with the bureau. Once satisfactory proof of the bond is filed with the bureau and any other requirements for assignment have been met, the funeral establishment's license may be assigned.

(c) Any applicant that obtains approval from the bureau to post a bond shall obtain a bond that is in an amount equal to 50 percent greater than the corpus of the trust and otherwise meet the requirements of this chapter. Within one year from the date of acceptance of the surety bond by the bureau and prior to the expiration of the current bond, the funeral establishment shall file a new request with the bureau to post another bond and receive approval by the bureau consistent with the requirements set forth in subdivision (b). This requirement shall be met for each year in which the assignee fails to submit an audit report and fund any shortages as required in subdivision (a).

(d) The assignee shall comply with all provisions previously placed on the assignor. The assignee shall maintain the bond

1 referred to in this section after assignment of the funeral
2 establishment's license by the bureau.

3 ~~SEC. 2. No reimbursement is required by this act pursuant to~~
4 ~~Section 6 of Article XIII B of the California Constitution because~~
5 ~~the only costs that may be incurred by a local agency or school~~
6 ~~district will be incurred because this act creates a new crime or~~
7 ~~infraction, eliminates a crime or infraction, or changes the penalty~~
8 ~~for a crime or infraction, within the meaning of Section 17556 of~~
9 ~~the Government Code, or changes the definition of a crime within~~
10 ~~the meaning of Section 6 of Article XIII B of the California~~
11 ~~Constitution.~~