

AMENDED IN SENATE AUGUST 15, 2012
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, 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 *or misleading* information pursuant to the bill’s provisions to ~~a civil fine~~ *an administrative citation, which may include an order of abatement and a fine* not to exceed \$5,000 *per violation*. The bill would require an assignee to maintain the bond after assignment of the funeral establishment’s license by the bureau.

Vote: majority. Appropriation: no. Fiscal committee: yes.
 State-mandated local program: 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
- 15 approval from the bureau to secure a bond by an admitted surety
- 16 insurer guaranteeing the payment to each account of any shortages
- 17 in the trust funds. Along with the fee and the application to assign
- 18 the license and transfer ownership, any applicant requesting an
- 19 exception to subdivision (a) shall submit to the bureau a report,

1 signed by an authorized representative, setting forth the reasons
2 requested for the exception to the audit requirement and a list of
3 all trust accounts for the funeral establishment showing the corpus
4 of the trust, accumulated income, and current account balances for
5 each account. If the bureau approves the request to secure a bond,
6 the bureau shall notify the applicant of the approval and of the
7 requirements of this section.

8 (2) Any applicant who knowingly provides false *or misleading*
9 information pursuant to the requirements of this subdivision shall
10 be subject to ~~a civil penalty~~ *an administrative citation, which may*
11 *include an order of abatement and a fine* in an amount not to
12 exceed five thousand dollars (\$5,000) *per violation*, in addition to
13 any other remedies that may be available to the bureau. ~~An action~~
14 ~~for a civil penalty under this paragraph may be brought by any~~
15 ~~public prosecutor in the name of the people of the State of~~
16 ~~California for violations of this chapter.~~

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

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

34 (d) The assignee shall comply with all provisions previously
35 placed on the assignor. The assignee shall maintain the bond
36 referred to in this section after assignment of the funeral
37 establishment's license by the bureau.

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