

# Assembly Bill 293

## Preneed Funeral Trust Accounts

### Assembly Member Ash Kalra

#### SUMMARY

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Assembly Bill (AB) 293 establishes dormancy triggers under which unclaimed preneed funeral trust accounts become reportable to the State Controller's Office (SCO) as unclaimed property.

AB 293 also requires licensed funeral establishments to disclose in preneed funeral trust contracts a provision stating that unclaimed trust accounts will be paid and delivered to the SCO per unclaimed property law, and also requires funeral establishments to take reasonable efforts to contact the beneficiary or trustor prior to reporting them to the SCO.

#### BACKGROUND

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California's Unclaimed Property Law (UPL) requires banks, insurance companies, corporations, and other entities to report and submit their customers' property to the SCO when there has been no activity for a period of time, generally three years. Common types of unclaimed property are bank accounts, stocks, bonds, uncashed checks, insurance benefits, wages, and safe deposit box contents. The SCO safeguards this lost or forgotten property as long as it takes to reunite it with the rightful owners, and there is no deadline for claiming it once transferred to the SCO.

Preneed funeral trust accounts are funds held in trust by funeral establishments for promised funeral merchandise and services to be provided after the beneficiary's death. Usually, the deceased's estate contacts the funeral establishment in order to fulfill the agreement for funeral services. However, in cases where the estate is not aware of the trust and does not fulfill the services promised and paid for, the trust account can lie dormant indefinitely, despite the death or presumed death of the beneficiary.

At the end of 2018, there were 1,094 licensed funeral establishments regulated by the Cemetery and Funeral Bureau, and these funeral establishments reported holding \$593 million in preneed contract funds for consumers. Further, the Bureau is aware of 126 funeral establishments that have gone out of business,

yet, their trustees reported holding and earning income from more than \$16 million in consumer preneed trust accounts.

Current laws regulating preneed funeral trust accounts by licensed funeral establishments only ensure that the funds for merchandise and services are available at the time of death. As a form of intangible property, these accounts fall under our UPL, but these establishments are not required to have consistent contact with the owner of record, nor adequately address the handling of abandoned trust accounts. Many other states, including Texas, Florida, Illinois, and New York, have laws treating abandoned preneed funeral trust accounts as unclaimed property.

#### SOLUTION

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AB 293 protects consumers and their surviving loved ones by providing a convenient way to locate and claim abandoned preneed trust funds.

Specifically, AB 293 would clarify the party responsible for reporting abandoned trust accounts, outline dormancy triggers to assume the death or presumed death of the beneficiary, and establish requirements for communication with owners of preneed funeral trust accounts.

Additionally, funeral homes will be entitled to a specified revocation fee when the trust account escheats to the state. When the trust account transfers to the state as unclaimed property, funeral establishments will be relieved of liabilities of dormant accounts and of any duty to locate and establish contact with any surviving heir.

#### SPONSOR

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CA State Controller Betty T. Yee

#### CONTACT

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