

2003 DRAFTING REQUEST

Assembly Substitute Amendment (ASA-AB326)

Received: 11/25/2003

Received By: **mkunkel**

Wanted: As time permits

Identical to LRB:

For: **Michael Lehman (608) 267-2367**

By/Representing: **Vicky Halverson**

This file may be shown to any legislator: **NO**

Drafter: **mkunkel**

May Contact:

Addl. Drafters:

Subject: **Occupational Reg. - misc
Health - miscellaneous**

Extra Copies: **DAK**

Submit via email: **YES**

Requester's email: **Rep.LehmanM@legis.state.wi.us**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Affidavit of death for release of preneed trust funds

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/1	mkunkel 11/25/2003	kgilfoy 11/25/2003	jfrantze 11/26/2003	_____	lnorthro 11/26/2003	lnorthro 11/26/2003	
/2	mkunkel 01/07/2004	kgilfoy 01/07/2004	jfrantze 01/08/2004	_____	sbasford 01/08/2004	sbasford 01/08/2004	

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/3	mkunkel 01/08/2004	kgilfoy 01/08/2004	rschluet 01/09/2004	_____	sbasford 01/09/2004	sbasford 01/09/2004	

FE Sent For:

<END>

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/2	mkunkel 01/07/2004	kgilfoy 01/07/2004	jfrantze 01/08/2004	_____	sbasford 01/08/2004	sbasford 01/08/2004	

*12-1/8
Kmg*

[Handwritten signature]

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/?							
/1	mkunkel 11/25/2003	kgilfoy 11/25/2003	jfrantze 11/26/2003		lnorthro 11/26/2003	lnorthro 11/26/2003	

FE Sent For:

12-1/7/04 King
1/8
<END>

2003 DRAFTING REQUEST

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/?	mkunkel	11-11/25 King	[Signature]	[Signature]			

FE Sent For:

<END>

From Mick Lehman – AB 326

- A. Change Section 214.37 Sub 4(K)
- B. Change Section 215.26 Sub 8(E)

Allow present law, or an affidavit of death (if acceptable to the institution).

Affidavit must contain death certificate number. Attached is a copy of a trust from Washington – Oregon.

MARK
If you have any
questions, please
give me a call.
Tom Haran
256-5299

AMERICAN FUNERAL & CEMETERY TRUST SERVICES



July 29, 2003

Adams County Register of Deeds
PO Box 219
Friendship, WI 53934

COPY

Attn: Jodi Helgeson

RE: Death Claim Affidavit

Dear Jodi:

Enclosed is a sample of the death claim affidavit and cancellation request that we use for the State of Oregon and the State of Washington. Please keep in mind that some states have specific requirements that others do not.

For instance, in the State of Oregon, when processing a death claim, a family member or personal representative of the deceased is required to sign the death claim affidavit acknowledging that services have been provided. On a cancellation, the beneficiary must sign acknowledging receipt of the funds. In the State of Wyoming, the commissioner is required to sign off on all death claims and cancellation before funds can be released from trust. Other states have specific verbiage in their regulations that should be used on the death claim affidavit. I want to remind you that American Funeral & Cemetery Trust Services does not currently do business in the State of Wisconsin; therefore I am unaware of the specific regulations that apply to your state.

I hope this information helps you. Please let me know if you have any questions.

Thank you,

Krista Homer
Director of Operations - AFCTS

Enclosure



American Funeral & Cemetery Trust Services

10575 S.W. Cascade Ave., Tigard, OR 97223 • 1-800-769-9363

022246

DEATH CLAIM AFFIDAVIT

This form acts as our firm's sworn affidavit to the depository that the beneficiary, _____ Beneficiary's Name

Account number _____ has deceased on _____ and we certify we have delivered all merchandise and per-
Beneficiary's Social Security Number D.O.B.

formed all services requested in the pre-arrangement sales contract. The account is being closed on _____ Date and the check

below is being written for the amount reported to us by the administrator as of today's date.

A copy of this affidavit will be delivered to the depository or depository's agent.

Special Instructions:

Firm Name

Firm's Authorized Signature

Date

Family Member or Personal Representative of Beneficiary

TRUST CANCELLATION

This is to certify that the trustor/beneficiary of a pre-arrangement sales contract has revoked and cancelled the trust agreement. Our firm has been authorized by the trustor/beneficiary to surrender and cancel the trust of _____, whose

account number is _____ as of _____
Beneficiary's Social Security Number Date

The check is made payable to: _____ and is being handed to or mailed to:
Name

Name Street Address City State Zip

Special Instructions:

Firm Name

Firm's Authorized Signature

Date

Beneficiary's Signature

Date

To obtain Truscheck Claim No. and amount call AFCTS Trust Administrative Services (TAS), at 503-892-2919 or 1-800-530-0355

WHAT IS REQUIREMENT NOW THAT FIN INSTITIONS
NEED CERTIFIED COPY?



State of Wisconsin
2003 - 2004 LEGISLATURE

LRBs0276/1

MDK: King

D-NOTE

ASSEMBLY SUBSTITUTE AMENDMENT,
TO 2003 ASSEMBLY BILL 326

tomorrow
11/26
noon

1 AN ACT ^{Gen. Cat.}; relating to: releasing trust funds for burial agreements and granting
2 rule-making authority.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

3 SECTION 1. 69.02 (1) (c) of the statutes is created to read:

4 69.02 (1) (c) Promulgate rules specifying the form and content of an affidavit
5 for the release of burial agreement trust funds to a beneficiary under s. 445.125 (1)
6 (b) 4. b. ✓

7 SECTION 2. 445.125 (1) (b) of the statutes is renumbered 445.125 (1) (b) 1. and
8 amended to read:

9 445.125 (1) (b) 1. All trust funds under par. (a) shall be deposited with a bank
10 or trust company within the state whose deposits are insured by the federal deposit
11 insurance corporation, deposited in a savings and loan association or savings bank
12 within the state whose deposits are insured by the federal deposit insurance

1

corporation or invested in a credit union within the state whose savings are insured by the national board, as defined in s. 186.01 (3m), or by the Wisconsin credit union savings insurance corporation and shall be held in a separate account in the name of the depositor, in trust for the beneficiary until the trust fund is released under either of the conditions provided in par. (a) 1.

2. In the event of the death of the depositor before the death of the potential decedent, title to such funds under par. (a) shall vest in the potential decedent, and the funds shall be used for the personal property and services to be furnished under the contract for the funeral of the potential decedent.

3. The depositor shall be furnished with a copy of the receipts, certificates or other appropriate documentary evidence showing that the funds under par. (a) have been deposited or invested in accordance with this subsection. The depositor or the beneficiary shall furnish the bank, trust company, savings bank, savings and loan association or credit union with a copy of the contract.

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4. Upon receipt of a certified copy of the certificate of death of the potential decedent, together with the written statement of the beneficiary that the agreement was complied with, the bank, trust company, savings bank, savings and loan association, or credit union shall release such the trust funds under par. (a) to the beneficiary: upon receipt of both a written statement of the beneficiary that the agreement was complied with and one of the following:

move

History: 1973 c. 227; 1977 c. 40; 1979 c. 175 s. 29; 1979 c. 221 s. 662; Stats. 1979 s. 445.125; 1981 c. 64; 1983 a. 448, 485, 538; 1985 a. 29; 1989 a. 307; 1991 a. 39, 221; 1995 a. 295; 1999 a. 9; 2001 a. 16.

SECTION 3. 445.125 (1) (b) 4. a. and b. of the statutes are created to read:
445.125 (1) (b) 4. a. A certified copy of the certificate of death of the potential decedent.

1 b. An affidavit of the beneficiary prepared in accordance with the rules of the
2 department of health and family services promulgated under s. 69.02 (1) (c) that
3 states the file number and the file date of the certificate of death of the potential
4 decedent, if the bank, trust company, savings bank, savings and loan association, or
5 credit union consents to receipt of the affidavit.

6

(END)

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBs0276/1dn

MDK:.....

KMG

Rep. Lehman:

Please note the following about this substitute amendment:

1. The substitute amendment does not affect ss. 214.37 (4) (k) and 215.26 (8) (e), stats., because I determined that those provisions do not relate to the problem you want to address. *that* ↑
2. Is it necessary to require DHFS to do anything in addition to promulgating rules regarding the form and content of the affidavits? For example, should DHFS be required to supply requesters with information necessary to complete the affidavits (i.e., file date and number of death certificates)? I'm not sure exactly how DHFS plans to administer its duties, so I didn't provide much detail. Perhaps you can obtain their input on this issue.
3. Beneficiaries won't be able to use affidavits until DHFS promulgates the rules. Do you want to impose a deadline on submission of the proposed rules to legislative council staff? Or do you want to delay the effective date to give DHFS time to promulgate the rules?

Mark D. Kunkel
Senior Legislative Attorney
Phone: (608) 266-0131
E-mail: mark.kunkel@legis.state.wi.us

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBs0276/1dn
MDK:kmg:jf

November 26, 2003

Representative Lehman:

Please note the following about this substitute amendment:

1. The substitute amendment does not affect ss. 214.37 (4) (k) and 215.26 (8) (e), stats., because I determined that those provisions do not relate to the problem that you want to address.
2. Is it necessary to require DHFS to do anything in addition to promulgating rules regarding the form and content of the affidavits? For example, should DHFS be required to supply requesters with information necessary to complete the affidavits (i.e., file date and number of death certificates)? I'm not sure exactly how DHFS plans to administer its duties, so I didn't provide much detail. Perhaps you can obtain their input on this issue.
3. Beneficiaries won't be able to use affidavits until DHFS promulgates the rules. Do you want to impose a deadline on submission of the proposed rules to legislative council staff? Or do you want to delay the effective date to give DHFS time to promulgate the rules?

Mark D. Kunkel
Senior Legislative Attorney
Phone: (608) 266-0131
E-mail: mark.kunkel@legis.state.wi.us

Kunkel, Mark

From: Halverson, Vicky
Sent: Tuesday, December 16, 2003 9:08 AM
To: Kunkel, Mark
Subject: Rep. Lehman's substitute amendment to AB 326

Hi Mark:

Were you able to speak with Tom Hanson yesterday?

We sent a copy of the sub. over to DHFS for their input. They made a few suggestions that we would like to incorporate in our amendment. Tom is aware of these changes. Feel free to call with any questions you may have.



Suggestions made
by Peggy Pete...

Suggestions made by Peggy Peterson, DHFS
12/8/03

1. On page 1, delete lines 5, 6, 7 re: DHFS promulgating rules. "This would add months to the process."
2. On page 3, beginning with line 1, it should read: b. An affidavit of the beneficiary, prepared on a form prescribed by the state registrar, if the bank, trust company, savings bank, savings and loan association, or credit union consent to receipt of the affidavit.
3. A third option could be added: c. or a verification issued by a registrar under 69.22.

Peggy wants to be notified if there is a problem with removing the promulgation of rules section.

NOTE

STET

RM has been RMN

ASSEMBLY SUBSTITUTE AMENDMENT,
TO 2003 ASSEMBLY BILL 326

by
1/8
2 PM

1 AN ACT *Gen. Cert.* *funded with trust funds* *or life insurance* *proceeds* *STET* to renumber and amend 445.125 (1) (b); and to create 69.02 (1) (c) and
2 445.125 (1) (b) 4. a. and b. of the statutes; relating to: *releasing trust funds for*
3 burial agreements and granting rule-making authority. *STET*

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

4 SECTION 1. 69.02 (1) (c) of the statutes is created to read:
5 69.02 (1) (c) ~~Promulgate rules specifying the form and content of an affidavit~~
6 ~~for the release of burial agreement trust funds to a beneficiary under s. 445.125 (1)~~
7 (b) 4. b. *INSERT 1-5*

8 SECTION 2. 445.125 (1) (b) of the statutes is renumbered 445.125 (1) (b) 1. and
9 amended to read:
10 445.125 (1) (b) 1. All trust funds under par. (a) shall be deposited with a bank
11 or trust company within the state whose deposits are insured by the federal deposit
12 insurance corporation, deposited in a savings and loan association or savings bank

1 within the state whose deposits are insured by the federal deposit insurance
2 corporation, or invested in a credit union within the state whose savings are insured
3 by the national board, as defined in s. 186.01 (3m), or by the Wisconsin credit union
4 savings insurance corporation and shall be held in a separate account in the name
5 of the depositor, in trust for the beneficiary until the trust fund is released under
6 either of the conditions provided in par. (a) 1.

7 2. In the event of the death of the depositor before the death of the potential
8 decedent, title to such funds under par. (a) shall vest in the potential decedent, and
9 the funds shall be used for the personal property and services to be furnished under
10 the contract for the funeral of the potential decedent.

11 3. The depositor shall be furnished with a copy of the receipts, certificates or
12 other appropriate documentary evidence showing that the funds under par. (a) have
13 been deposited or invested in accordance with this subsection. The depositor or the
14 beneficiary shall furnish the bank, trust company, savings bank, savings and loan
15 association or credit union with a copy of the contract. ~~Upon receipt of a certified copy~~
16 ~~of the certificate of death of the potential decedent, together with the written~~
17 ~~statement of the beneficiary that the agreement was complied with, the~~

18 4. The bank, trust company, savings bank, savings and loan association, or
19 credit union shall release such the trust funds under par. (a) to the beneficiary. upon
20 receipt of both a written statement of the beneficiary that the agreement was
21 complied with and one of the following:

22 **SECTION 3.** 445.125 (1) (b) 4. a. and b. of the statutes are created to read:

23 445.125 (1) (b) 4. a. A certified copy of the certificate of death of the potential
24 decedent.

potential decedent's death, ~~made by~~
EKE

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b. An affidavit of the beneficiary, prepared in accordance with the rules of the department of health and family services promulgated under s. 69.02 (1) (c), ~~that~~ states the ~~file~~ number and the file date of the certificate of death of the potential decedent, if the bank, trust company, savings bank, savings and loan association, or credit union consents to receipt of the affidavit.

INSERT ✓
3-5

(END)

made by
the beneficiary

in the form
prescribed

2003-2004 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBs0276/2ins
MDK:.....

1

INSERT 1-5: ✓

2

Prescribe the form of an affidavit of death for releasing burial agreement trust funds

3

to a beneficiary under s. 445.125 (1) (b) 4. b. ✓ or establishing proof of death for payment

4

of benefits of a life insurance policy sold under s. 632.415 (2). ✓ The form shall include

5

the file number and file date of the certificate of death of the decedent.

6

INSERT 3-5: ✓

7

SECTION 1. 632.415 (4m) of the statutes is created to read:

8

632.415 (4m) Proof of death for an insurance policy sold under sub. (2) may be

9

established with an affidavit in the form prescribed under s. 69.02 (1) (c) if the

10

insurer consents to receipt of the affidavit.

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBs0276/2dn

MDK:.....

King

Rep. Lehman:

This version eliminates the need for rules to be promulgated by DHFS. Under s. 227.01 (13) (q), stats., an agency does not have to use rule-making procedures for a form if the "content or substantive requirements of [the form] are prescribed by a rule or a statute". Therefore, I don't think rules are necessary for DHFS to prescribe the form required for the affidavit.

Mark D. Kunkel
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Phone: (608) 266-0131
E-mail: mark.kunkel@legis.state.wi.us

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBs0276/2dn
MDK:kmg:jf

January 8, 2004

Rep. Lehman:

This version eliminates the need for rules to be promulgated by DHFS. Under s. 227.01 (13) (q), stats., an agency does not have to use rule-making procedures for a form if the "content or substantive requirements of [the form] are prescribed by a rule or a statute." Therefore, I don't think rules are necessary for DHFS to prescribe the form required for the affidavit.

Mark D. Kunkel
Senior Legislative Attorney
Phone: (608) 266-0131
E-mail: mark.kunkel@legis.state.wi.us



**ASSEMBLY SUBSTITUTE AMENDMENT
TO 2003 ASSEMBLY BILL 326**

Tomorrow
Fri.
11/9
pm

RM
has been
SUN

1 *Gen. Cat.*
AN ACT *to renumber and amend* 445.125 (1) (b); and *to create* 69.02 (1) (c),
2 445.125 (1) (b) 4. a. and b. and 632.415 (4m) of the statutes; **relating to:** burial
3 agreements funded with trust funds or life insurance proceeds.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

4 **SECTION 1.** 69.02 (1) (c) of the statutes is created to read:
5 69.02 (1) (c) Prescribe the form of an affidavit of death for releasing burial
6 agreement trust funds to a beneficiary under s. 445.125 (1) (b) 4. b. or establishing
7 proof of death for payment of benefits of a life insurance policy sold under s. 632.415
8 (2). The form shall include the file number and file date of the certificate of death
9 of the decedent.

10 **SECTION 2.** 445.125 (1) (b) of the statutes is renumbered 445.125 (1) (b) 1. and
11 amended to read:

1 445.125 (1) (b) 1. All trust funds under par. (a) shall be deposited with a bank
2 or trust company within the state whose deposits are insured by the federal deposit
3 insurance corporation, deposited in a savings and loan association or savings bank
4 within the state whose deposits are insured by the federal deposit insurance
5 corporation, or invested in a credit union within the state whose savings are insured
6 by the national board, as defined in s. 186.01 (3m), or by the Wisconsin credit union
7 savings insurance corporation and shall be held in a separate account in the name
8 of the depositor, in trust for the beneficiary until the trust fund is released under
9 either of the conditions provided in par. (a) 1.

10 2. In the event of the death of the depositor before the death of the potential
11 decedent, title to such funds under par. (a) shall vest in the potential decedent, and
12 the funds shall be used for the personal property and services to be furnished under
13 the contract for the funeral of the potential decedent.

14 3. The depositor shall be furnished with a copy of the receipts, certificates or
15 other appropriate documentary evidence showing that the funds under par. (a) have
16 been deposited or invested in accordance with this subsection. The depositor or the
17 beneficiary shall furnish the bank, trust company, savings bank, savings and loan
18 association or credit union with a copy of the contract. ~~Upon receipt of a certified copy
19 of the certificate of death of the potential decedent, together with the written
20 statement of the beneficiary that the agreement was complied with, the~~

21 4. The bank, trust company, savings bank, savings and loan association, or
22 credit union shall release such the trust funds under par. (a) to the beneficiary: upon
23 receipt of both a written statement of the beneficiary that the agreement was
24 complied with and one of the following:

25 **SECTION 3.** 445.125 (1) (b) 4. a. and b. of the statutes are created to read:

1 445.125 (1) (b) 4. a. A certified copy of the certificate of death of the potential
2 decedent.

3 b. An affidavit made by the beneficiary of the potential decedent's death, in the
4 form prescribed under s. 69.02 (1) (c), if the bank, trust company, savings bank,
5 savings and loan association, or credit union consents to receipt of the affidavit.

6 **SECTION 4.** 632.415 (4m) of the statutes is created to read:

7 632.415 (4m) Proof of death for an insurance policy sold under sub. (2) may be
8 established with an affidavit in the form prescribed under s. 69.02 (1) (c) if the
9 insurer consents to receipt of the affidavit.

10

(END)