STATE OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS

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I have unclaimed cremated remains at my funeral establishment, what should I do?

How long can a funeral establishment hold cremated remains? How long may I hold cremated remains prior to disposition or release to the next of kin?

There are no provisions in the Business and Professions Code, the Health and Safety Code (HSC) or the California Code of Regulations governing funeral practices that specify how long a funeral establishment can retain cremated remains.

How long a funeral establishment "holds" cremated remains prior to disposition varies depending upon the final disposition (interment, scattering, etc.), the specific services the funeral establishment agreed to provide in the contract, and a reasonable amount of time in which to complete the service.

A funeral establishment cannot hold cremated remains for any specified period of time, nor can it refuse to release the cremated remains when the disposition is to return them to the person with the right to control disposition under HSC Section 7100.

HSC Section 7104(a) states, in part, that when no provision is made by the decedent and the duty of interment does not devolve upon any other person residing in the state, or if such person cannot after reasonable diligence be found within the state, the person who has custody of the remains may require the coroner of the county where the decedent resided at the time of death to take possession of the remains and the coroner shall inter the remains in a specified manner.

Section 7104(a) applies to cremated remains as well as uncremated remains that have been abandoned and remain in the possession of the funeral establishment, cemetery or crematory.

The Bureau recommends that funeral establishments contact the coroner in the applicable county when necessary as each coroner may have specific provisions and/or guidelines to receive abandoned cremated remains.

With reference to crematories, BPC Section 9764(c) requires that crematory licensees have a contractual relationship with a licensed cemetery for final disposition of cremated remains which are not lawfully disposed of or which are not accepted by the person with the right to custody and control of the disposition within 90 days of the date of death. Accordingly, crematories may not maintain cremated remains for more than 90 days from the date of death.

Unclaimed Cremated Remains

For cemeteries, HSC Section 8341 states that all cremated remains not disposed of in accordance with said chapter, within one year, shall be interred. Cemeteries cannot maintain cremated remains for longer than one year, unless a written contract has been entered into with the cemetery for their care or unless permanent interment has been made (HSC Section 7112).