

Department of Legislative Services
Maryland General Assembly
2011 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 72

(Senator Benson)

Education, Health, and Environmental Affairs

Health and Government Operations

**State Board of Morticians and Funeral Directors - Surviving Spouse Licenses -
Deadlines and Examination Requirements**

This bill requires a surviving spouse, within 10 days of the death of a mortician or funeral director, to provide the State Board of Morticians and Funeral Directors with written verification of the death and an application for a surviving spouse license. The surviving spouse still has to take the written State law examination within six months of being issued a surviving spouse license; however, the applicant has three chances to pass that examination before a surviving spouse license becomes null and void due to failure of the examination. The board has to administer the examination at least three times.

Fiscal Summary

State Effect: None. The changes are procedural in nature and do not directly affect governmental finances.

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary/Current Law: Under current law, if a licensed mortician or funeral director dies, the licensee's surviving spouse may apply to the board for a surviving spouse license, which allows the spouse to continue to operate the mortuary science business and assist with the planning and conducting of funeral services for that business. To apply for a surviving spouse license, an applicant must submit to the board written verification of the death and an application for a surviving spouse license *within 30 days*

of the death of the licensed mortician or funeral director. Within six months of issuance of a surviving spouse license, the applicant must take the board's written law examination.

A surviving spouse license becomes null and void if the surviving spouse fails the examination twice. The board can only issue a surviving spouse license if the business is operated under the direct supervision of a licensed mortician or funeral director and the embalming is done by a licensed mortician. A surviving spouse must also obtain 12 continuing education units every two years. A surviving spouse license may be renewed indefinitely on a biennial basis.

Background: The State Board of Morticians and Funeral Directors licenses and regulates funeral service providers, including morticians, funeral directors, surviving spouses, and apprentices. The board also licenses, inspects, and regulates funeral establishments. There are currently 11 surviving spouse licensees in Maryland.

In the 2000 full sunset evaluation of the board, the Department of Legislative Services (DLS) recommended that the surviving spouse license be phased out with existing licensees grandfathered in to allow them to retain ownership of their family businesses. This recommendation was based on the then-defunct funeral director license, which is similar in scope to the surviving spouse license in that both licensees can practice mortuary science with the exception of embalming. The recommendation was opposed by industry associations and was not adopted by the General Assembly.

In the 2007 full sunset evaluation of the board, DLS reexamined the surviving spouse license, including interviewing several licensees. Since 2000, the funeral director license has been reopened to new applicants, providing an alternative licensure path for those who do not wish to perform embalming. DLS found that the complaint rate against surviving spouse licensees was low and surviving spouse licensees appeared to provide the same level of service to consumers as other licensees. Furthermore, surviving spouses have not had any other option under Maryland law to permanently retain a family funeral business due to the longstanding moratorium on corporation licenses.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Health and Mental Hygiene, Department of Legislative Services

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