

# HOUSE BILL 1042

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(4lr2774)

## ENROLLED BILL

— *Health and Government Operations/Education, Health, and Environmental Affairs* —

Introduced by **Delegates Anderson, Cullison, and Pena-Melnyk**

Read and Examined by Proofreaders:

\_\_\_\_\_  
Proofreader.

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Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this

\_\_\_\_\_ day of \_\_\_\_\_ at \_\_\_\_\_ o'clock, \_\_\_\_\_ M.

\_\_\_\_\_  
Speaker.

CHAPTER \_\_\_\_\_

AN ACT concerning

### **State Board of Morticians and Funeral Directors – Funeral Establishments Owned by a Single Owner – Pre-Need Trustee Licenses and Public Notification of Death**

FOR the purpose of requiring the State Board of Morticians and Funeral Directors to issue an executor license to an applicant if the applicant is the appointed personal representative of a deceased surviving spouse's estate under certain circumstances; requiring a certain personal representative of a surviving spouse's estate to be licensed by the Board; ~~altering the number of days after the death of a licensed mortician, funeral director, or surviving spouse that certain documentation is required to be submitted to the Board by an applicant for an executor license;~~ requiring an applicant for an executor license to submit to the Board, within a certain time period, the name of a licensed funeral director or mortician who has agreed to apply for a certain pre-need trustee

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**EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.**

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.

*Italics indicate opposite chamber/conference committee amendments.*



license; ~~altering the number of months for which an executor license is valid;~~ requiring the Board to provide for the term of an executor license, rather than specifying the term in a certain provision of law; providing that the term of an executor license may not exceed a certain number of months; authorizing the Board to renew an executor license for a certain time period under certain circumstances; establishing a pre-need trustee license; requiring the Board to issue a pre-need trustee license to an applicant under certain circumstances; providing that a pre-need trustee license authorizes the license holder to manage pre-need accounts held by a funeral establishment until the closing or sale of the funeral establishment; establishing the term of a pre-need trustee license; providing that a pre-need trustee license holder may be the supervising mortician in a funeral establishment; applying a certain section of law to a certain owner of a funeral establishment; requiring a certain mortician to post a certain notice ~~and record a certain message within a certain period of time after the death of a certain owner;~~ requiring a licensed pre-need trustee to send a letter to certain holders of certain pre-need contracts regarding certain options available under certain provisions of law; requiring a certain letter to be returned within a certain period of time after receipt and to include certain information; ~~requiring that for any letter not returned within a certain period of time, certain pre-need funds be considered unclaimed property;~~ requiring a licensed pre-need trustee, within a certain time period, to identify to the Board and the licensed executor certain pre-need bank trust money; requiring the licensed pre-need trustee to make a certain claim against a certain estate; requiring the licensed executor to transfer certain money to the abandoned property office in the Office of the Comptroller; requiring a licensed pre-need trustee to send a certain list to the Board containing certain information regarding pre-need accounts within a certain period of time after the death of a certain owner; requiring a licensed pre-need trustee to send a certain list to the Board containing certain information regarding unclaimed cremains within a certain period of time after the death of a certain owner; requiring the Board to work with the State Anatomy Board to ensure proper distribution of certain cremains; requiring a licensed pre-need trustee to send certain information to the Board in a certain format; and generally relating to the State Board of Morticians and Funeral Directors and the regulation of morticians, funeral directors, and funeral establishments.

BY repealing and reenacting, with amendments,  
 Article – Health Occupations  
 Section 7–308.1(a), (b), and (f)  
 Annotated Code of Maryland  
 (2009 Replacement Volume and 2013 Supplement)

BY adding to  
 Article – Health Occupations  
 Section 7–308.2 and 7–308.3  
 Annotated Code of Maryland  
 (2009 Replacement Volume and 2013 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

**Article – Health Occupations**

7–308.1.

(a) A personal representative of a deceased mortician's [or], funeral director's, **OR SURVIVING SPOUSE'S** estate shall be licensed by the Board before continuing operation of the mortuary science business.

(b) The Board shall issue an executor license to an applicant if the applicant:

(1) Is the appointed personal representative of a deceased mortician's [or], funeral director's, **OR SURVIVING SPOUSE'S** estate in accordance with the requirements established in Title 5 of the Estates and Trusts Article;

(2) Submits to the Board, within ~~30~~ **14** days of the death of the licensed mortician [or], funeral director, [written] **OR SURVIVING SPOUSE:**

(I) **WRITTEN** verification of the death of the licensee[, written];

(II) **WRITTEN** verification of appointment as a personal representative[, and the]; **AND**

(III) **THE** application required by the Board; ~~and~~

~~(IV)~~ **(3) THE WITHIN 14 DAYS AFTER THE DEATH OF THE LICENSED MORTICIAN, FUNERAL DIRECTOR, OR SURVIVING SPOUSE, SUBMITS TO THE BOARD THE NAME OF A LICENSED FUNERAL DIRECTOR OR MORTICIAN WHO HAS AGREED TO APPLY FOR A PRE-NEED TRUSTEE LICENSE ISSUED UNDER § 7–308.2 OF THIS SUBTITLE; AND**

~~(3)~~ **(4)** Pays a fee set by the Board.

(f) **(1) (I) Notwithstanding the provisions of § 7–314 of this subtitle, THE BOARD SHALL PROVIDE FOR THE TERM OF AN EXECUTOR LICENSE.**

**(II) THE TERM OF** an executor license ~~is valid for [six] 9 months from the date of issuance [and may not be renewed or reinstated after expiration]~~ **MAY NOT BE MORE THAN 12 MONTHS.**

**(2) AN EXECUTOR LICENSE MAY BE RENEWED FOR ONE ADDITIONAL 3-MONTH PERIOD ~~PROVIDED IF:~~**

(I) A BUYER OF THE FUNERAL ESTABLISHMENT HAS BEEN IDENTIFIED AND HAS ENTERED INTO A SALES CONTRACT, BUT THE SALE OF THE FUNERAL ESTABLISHMENT HAS NOT BEEN COMPLETED; ~~OR~~

(II) A PRE-NEED ACCOUNT AUDIT HAS NOT BEEN COMPLETED AND EVIDENCE IS PRESENTED TO THE BOARD THAT FAILURE TO COMPLETE THE AUDIT IS DUE TO CIRCUMSTANCES BEYOND THE CONTROL OF THE FUNERAL ESTABLISHMENT; OR

(III) THE BOARD DETERMINES THAT A RENEWAL IS NEEDED DUE TO UNFORESEEN CIRCUMSTANCES.

**7-308.2.**

(A) SUBJECT TO THE PROVISIONS OF THIS SECTION, THE BOARD SHALL ISSUE A PRE-NEED TRUSTEE LICENSE TO AN APPLICANT IF THE APPLICANT:

(1) APPLIES TO THE BOARD ON AN APPLICATION PROVIDED BY THE BOARD;

(2) HAS BEEN ACTIVELY LICENSED IN GOOD STANDING BY THE BOARD FOR A MINIMUM OF 5 YEARS WHILE WORKING IN A FACILITY THAT HAS ACCEPTED PRE-NEED CONTRACTS AND WHO CAN PROVIDE PROOF TO THE BOARD THAT THESE SERVICES HAVE BEEN PROVIDED BY THE APPLICANT;

(3) HAS BEEN APPOINTED AS A PRE-NEED TRUSTEE BY THE HOLDER OF AN EXECUTOR LICENSE ISSUED UNDER § 7-308.1 OF THIS SUBTITLE;

(4) IS OF GOOD MORAL CHARACTER; AND

(5) PAYS THE REQUIRED FEE.

(B) (1) WHILE A PRE-NEED TRUSTEE LICENSE IS EFFECTIVE, THE LICENSE AUTHORIZES THE LICENSE HOLDER TO MANAGE PRE-NEED ACCOUNTS HELD BY A FUNERAL ESTABLISHMENT UNTIL THE CLOSING OR SALE OF THE FUNERAL ESTABLISHMENT.

(2) NOTWITHSTANDING THE PROVISIONS OF § 7-314 OF THIS SUBTITLE, A PRE-NEED TRUSTEE LICENSE IS VALID FROM THE DATE OF ISSUANCE UNTIL THE DATE OF EXPIRATION OF THE LICENSE OF THE EXECUTOR WHO APPOINTED THE LICENSE HOLDER AS A PRE-NEED TRUSTEE UNDER SUBSECTION (A)(3) OF THIS SECTION.

(C) THE HOLDER OF A PRE-NEED TRUSTEE LICENSE ISSUED UNDER THIS SECTION MAY BE THE SUPERVISING MORTICIAN IN A FUNERAL ESTABLISHMENT.

7-308.3.

(A) THIS SECTION APPLIES TO A FUNERAL ESTABLISHMENT OWNED BY A FUNERAL DIRECTOR, MORTICIAN, OR SURVIVING SPOUSE WHO WAS THE SINGLE OWNER AND SOLE LICENSEE OF A FUNERAL ESTABLISHMENT.

~~(B) WITHIN 24 HOURS AFTER THE DEATH OF A SINGLE OWNER OF A FUNERAL ESTABLISHMENT, A SIGN SHALL BE PROMINENTLY POSTED BY THE SUPERVISING MORTICIAN ON ALL PUBLIC ENTRANCES TO THE FUNERAL ESTABLISHMENT NOTIFYING THE PUBLIC OF THE DEATH OF THE SINGLE OWNER.~~

~~(C)~~ (B) WITHIN 7 DAYS AFTER THE DEATH OF THE SINGLE OWNER AND SOLE LICENSEE OF A FUNERAL ESTABLISHMENT, THE SUPERVISING MORTICIAN SHALL:

(1) PLACE AN OBITUARY FOR THE DECEASED SINGLE OWNER AND SOLE LICENSEE IN THE DEATH NOTICES SECTION OF A NEWSPAPER WITH GENERAL CIRCULATION IN THE AREA OF THE FUNERAL ESTABLISHMENT; AND

~~(2) RECORD A MESSAGE ON THE ANSWERING MACHINE NOTIFYING THE PUBLIC OF THE DEATH OF THE SINGLE OWNER; AND~~

~~(3)~~ (2) PLACE A NOTICE TO THE PUBLIC OF THE DEATH OF THE SINGLE OWNER AND SOLE LICENSEE ON ANY WEB SITE MAINTAINED BY THE FUNERAL ESTABLISHMENT.

~~(D)~~ (C) (1) WITHIN ~~30~~ 90 DAYS AFTER THE DEATH OF A SINGLE OWNER OF A FUNERAL ESTABLISHMENT, THE PRE-NEED TRUSTEE LICENSED UNDER § 7-308.2 OF THIS SUBTITLE SHALL SEND A LETTER TO ALL PRE-NEED CONTRACT HOLDERS WHO HAVE FUNDS IN TRUST WITH OR AN INSURANCE PRODUCT ASSIGNED TO THE FUNERAL ESTABLISHMENT STATING THE OPTIONS AVAILABLE UNDER § 7-405 OF THIS TITLE.

(2) THE LETTER REQUIRED BY PARAGRAPH (1) OF THIS SUBSECTION SHALL BE RETURNED WITHIN 5 DAYS AFTER RECEIPT AND SHALL INCLUDE THE FULL SIGNATURE OF THE PRE-NEED CONTRACT HOLDER NEXT TO THE OPTION CHOSEN FROM THOSE AVAILABLE UNDER § 7-405 OF THIS TITLE.

~~(3) FOR ANY LETTER NOT RETURNED WITHIN 30 DAYS AFTER THE DAY THE LETTER IS DATED, THE PRE-NEED FUNDS OF THE BENEFICIARY OF THE PRE-NEED CONTRACT SHALL BE CONSIDERED UNCLAIMED PROPERTY AND THE LICENSED PRE-NEED TRUSTEE SHALL SEND THE FUNDS TO UNCLAIMED PROPERTY IN THE OFFICE OF THE COMPTROLLER.~~

(D) (1) WITHIN 90 DAYS AFTER THE DEATH OF A SINGLE OWNER AND SOLE LICENSEE OF A FUNERAL ESTABLISHMENT, THE PRE-NEED TRUSTEE LICENSED UNDER § 7-308.2 OF THIS SUBTITLE SHALL IDENTIFY TO THE BOARD AND THE EXECUTOR LICENSED UNDER § 7-308.1 OF THIS SUBTITLE ALL PRE-NEED BANK TRUST MONEY THAT ~~HAVE~~ HAS BEEN DEPOSITED UNDER THE FEDERAL IDENTIFICATION NUMBER OF THE FUNERAL ESTABLISHMENT OR THE SOCIAL SECURITY NUMBER OF THE DECEASED SINGLE OWNER AND SOLE LICENSEE, INSTEAD OF THE SOCIAL SECURITY NUMBER OF THE BENEFICIARY OR BUYER OF THE PRE-NEED CONTRACT.

(2) THE PRE-NEED TRUSTEE LICENSED UNDER § 7-308.2 OF THIS SUBTITLE SHALL MAKE A CLAIM AGAINST THE ESTATE OF THE DECEASED SINGLE OWNER AND SOLE LICENSEE OF THE ESTABLISHMENT WHICH THE LICENSEE PREVIOUSLY OWNED FOR THE MONEY IDENTIFIED UNDER PARAGRAPH (1) OF THIS SUBSECTION.

(3) THE EXECUTOR LICENSED UNDER § 7-308.1 OF THIS SUBTITLE SHALL TRANSFER ALL MONEY IDENTIFIED IN PARAGRAPH (1) OF THIS SUBSECTION TO THE ABANDONED PROPERTY OFFICE IN THE OFFICE OF THE COMPTROLLER IN THE PROPER NAME OF THE BENEFICIARY OR BUYER OF THE PRE-NEED CONTRACT.

(E) WITHIN ~~45~~ 90 DAYS AFTER THE DEATH OF THE SINGLE OWNER OF A FUNERAL ESTABLISHMENT, THE PRE-NEED TRUSTEE LICENSED UNDER § 7-308.2 OF THIS SUBTITLE SHALL SEND TO THE BOARD A LIST THAT INCLUDES:

- (1) THE NAMES OF ALL FUNDED PRE-NEED CONTRACT HOLDERS;
- (2) THE AMOUNT OF THE FUNDS ENTRUSTED TO THE FUNERAL ESTABLISHMENT THROUGH A BANK ACCOUNT OR INSURANCE PRODUCT; AND
- (3) THE LOCATION WHERE THE FUNDS CURRENTLY ARE MAINTAINED.

(F) (1) WITHIN ~~60~~ 90 DAYS AFTER THE DEATH OF THE SINGLE OWNER OF A FUNERAL ESTABLISHMENT, THE PRE-NEED TRUSTEE LICENSED UNDER § 7-308.2 OF THIS SUBTITLE SHALL SEND TO THE BOARD A LIST OF ALL UNCLAIMED CREMAINS, INCLUDING:

(I) ~~THE DATE OF BIRTH AND DATE OF DEATH OF A COPY OF THE FILED DEATH CERTIFICATE FOR EACH CREMATED DECEDENT; AND~~

(II) THE CREMATORY CERTIFICATE FOR EACH CREMAINS; AND

~~(III) THE CONTACT INFORMATION FOR THE NEXT OF KIN FOR EACH CREMATED DECEDENT.~~

(2) THE BOARD SHALL WORK COLLABORATIVELY WITH THE STATE ANATOMY BOARD TO ENSURE PROPER DISPOSITION OF THE CREMAINS.

(G) THE PRE-NEED TRUSTEE LICENSED UNDER § 7-308.2 OF THIS SUBTITLE SHALL SUBMIT TO THE BOARD A DIGITAL IMAGE ON REMOVABLE MEDIA OR ON CLOUD-BASED STORAGE THAT INCLUDES:

(1) ALL SIGNED PRE-NEED CONTRACTS; AND

(2) ANY ASSOCIATED PAPERWORK DATING FROM THE SIGNING OF THE PRE-NEED CONTRACT.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2014.

Approved:

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Governor.

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Speaker of the House of Delegates.

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President of the Senate.