

SENATE BILL 379

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1998 Regular Session
8lr0665
CF 8lr0645

By: **Senator Madden**

Introduced and read first time: February 6, 1998

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Preneed Burial Contracts - Caskets and Casket Vaults - Refunds**

3 FOR the purpose of allowing a buyer of certain products under a preneed burial
4 contract to cancel the contract and receive a certain refund under certain
5 circumstances; providing that existing obligations and contract rights may not
6 be impaired by this Act; and generally relating to preneed burial contracts.

7 BY repealing and reenacting, without amendments,
8 Article - Business Regulation
9 Section 5-708
10 Annotated Code of Maryland
11 (1992 Volume and 1997 Supplement)

12 BY repealing and reenacting, with amendments,
13 Article - Business Regulation
14 Section 5-709
15 Annotated Code of Maryland
16 (1992 Volume and 1997 Supplement)

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

19 **Article - Business Regulation**

20 5-708.

21 (a) The trustee may not disburse specific funds until preneed goods are
22 delivered or preneed services are performed as provided in the preneed burial
23 contract or in this subtitle.

24 (b) On performance of a preneed burial contract:

25 (1) the seller shall certify to the trustee:

1 (i) delivery of the preneed goods or performance of the preneed
2 services; and

3 (ii) the amount of specific funds in the trust account; and

4 (2) the trustee shall then pay to the seller the specific funds and accrued
5 interest.

6 (c) (1) In a seller's records, the seller may itemize preneed goods or preneed
7 services to which the trust requirements of this subtitle apply and the consideration
8 paid or to be paid for each item.

9 (2) If a seller itemizes in accordance with paragraph (1) of this
10 subsection, on performance of that part of a preneed burial contract identified for
11 itemized preneed goods or preneed services:

12 (i) the seller shall certify to the trustee:

13 1. delivery of the preneed goods or performance of the
14 preneed services; and

15 2. the amount of the specific funds identified in the seller's
16 records for those preneed goods or preneed services; and

17 (ii) the trustee shall then pay to the seller those specific funds and
18 accrued interest.

19 (d) (1) If a preneed burial contract provides, for 2 or more individuals,
20 preneed goods or preneed services to which the trust requirements of this subtitle
21 apply, a seller may designate in the seller's records the consideration paid for each
22 individual.

23 (2) On performance of that part of the preneed burial contract identified
24 to a particular individual:

25 (i) the seller shall certify to the trustee:

26 1. delivery of the preneed goods or performance of the
27 preneed services; and

28 2. the amount of the specific funds applicable to that part of
29 the preneed burial contract; and

30 (ii) the trustee shall then pay to the seller those specific funds and
31 accrued interest.

32 5-709.

33 (a) (1) [A] EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, A
34 buyer may cancel a preneed burial contract as to preneed goods not delivered or
35 preneed services not performed ONLY if the buyer:

1 (i) permanently moves more than 75 miles from the cemetery
2 specified in the preneed burial contract; and

3 (ii) gives to the seller written notice, under oath, of the move and
4 includes the buyer's new permanent address.

5 (2) In that event:

6 (i) the seller shall certify to the trustee:

7 1. the cancellation of the preneed burial contract;

8 2. the amount of the remaining specific funds applicable to
9 the preneed burial contract; and

10 3. the name and address of the buyer; and

11 (ii) the trustee shall then pay to the buyer the remaining specific
12 funds and accrued interest.

13 (B)(1) BY WRITTEN NOTICE, A BUYER MAY CANCEL THE PURCHASE OF A CASKET
14 OR CASKET VAULT UNDER A PRENEED BURIAL CONTRACT AT ANY TIME PRIOR TO
15 THE TIME THE BUYER NEEDS THE CASKET OR CASKET VAULT FOR BURIAL.

16 (2) IN THAT EVENT:

17 (I) THE SELLER SHALL CERTIFY TO THE TRUSTEE:

18 1. THE CANCELLATION OF THE PURCHASE OF THE CASKET
19 OR CASKET VAULT UNDER THE PRENEED BURIAL CONTRACT;

20 2. THE AMOUNT OF THE SPECIFIC FUNDS APPLICABLE TO
21 THE CASKET OR CASKET VAULT UNDER THE PRENEED BURIAL CONTRACT; AND

22 3. THE NAME AND ADDRESS OF THE BUYER;

23 (II) THE TRUSTEE SHALL PAY TO THE BUYER THE SPECIFIC FUNDS
24 AND INTEREST ACCRUED ON THOSE FUNDS; AND

25 (III) IN ADDITION TO THE REFUND PAID BY THE TRUSTEE, THE
26 SELLER SHALL PAY TO THE BUYER AN AMOUNT OF MONEY NECESSARY TO PROVIDE
27 THE BUYER WITH A REFUND OF 100% OF THE MONEY PAID FOR THE CASKET OR
28 CASKET VAULT UNDER THE PRENEED BURIAL CONTRACT.

29 [(b)] (C) If a buyer FAILS TO PROVIDE WRITTEN NOTICE OF CANCELLATION
30 AND defaults on a preneed burial contract and, as a result, the seller terminates the
31 preneed burial contract:

32 (1) the seller shall certify to the trustee:

33 (i) the default and termination of the preneed burial contract;

1 (ii) the amount of the specific funds; and

2 (iii) the reasonable expenses of the seller; and

3 (2) the trustee shall then pay:

4 (i) to the buyer, those specific funds and accrued interest, less the
5 reasonable expenses of the seller; and

6 (ii) to the seller, the reasonable expenses of the seller.

7 [(c)] (D) If specific funds on deposit in a trust account have been dormant for
8 at least 50 years since the date of the last deposit or disbursement and the seller
9 cannot locate the buyer:

10 (1) the seller shall certify to the trustee:

11 (i) that the trust account is dormant and the buyer cannot be
12 located; and

13 (ii) the amount of the specific funds; and

14 (2) the trustee shall then pay to the seller those specific funds and
15 accrued interest.

16 SECTION 2. AND BE IT FURTHER ENACTED, That a presently existing
17 obligation or contract right may not be impaired in any way by this Act.

18 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
19 October 1, 1998.