

SENATE BILL 578

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1999 Regular Session
9r2184
CF 9r1357

By: **Senator Kelley**
Introduced and read first time: February 5, 1999
Assigned to: Finance

Committee Report: Favorable with amendments
Senate action: Adopted
Read second time: March 29, 1999

CHAPTER _____

1 AN ACT concerning

2 **Life Insurance and Annuities - Funding Pre-Need Contracts and Preneed**
3 **Burial Contracts**

4 FOR the purpose of authorizing a pre-need contract or preneed burial contract to be
5 funded by a life insurance policy or annuity contract under certain
6 circumstances; exempting from certain provisions of insurance law life
7 insurance or an annuity used to fund a pre-need contract or preneed burial
8 contract; exempting certain pre-need contracts that are funded by a life
9 insurance policy or annuity contract from certain provisions of law; and
10 generally relating to pre-need contracts and preneed burial contracts funded by
11 life insurance and annuities.

12 BY adding to
13 Article - Business Regulation
14 Section 5-702(e)
15 Annotated Code of Maryland
16 (1998 Replacement Volume)

17 BY repealing and reenacting, with amendments,
18 Article - Health Occupations
19 Section 7-405(f)
20 Annotated Code of Maryland
21 (1994 Replacement Volume and 1998 Supplement)

22 BY repealing and reenacting, with amendments,
23 Article - Insurance

1 Section 27-211 and 27-218
2 Annotated Code of Maryland
3 (1997 Volume and 1998 Supplement)

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

6 **Article - Business Regulation**

7 5-702.

8 (E) (1) A PRENEED BURIAL CONTRACT MADE IN ACCORDANCE WITH § 5-704
9 OF THIS SUBTITLE MAY BE FUNDED BY A LIFE INSURANCE POLICY OR AN ANNUITY
10 CONTRACT IF:

11 (I) THE OWNER OR OPERATOR OF THE CEMETERY IS NOT THE
12 OWNER OF OR BENEFICIARY UNDER THE LIFE INSURANCE POLICY OR ANNUITY
13 CONTRACT;

14 (II) AN ASSIGNMENT OF BENEFITS TO THE OWNER OR OPERATOR
15 OF THE CEMETERY MAY BE REVOKED AT ANY TIME BY THE OWNER OF THE LIFE
16 INSURANCE POLICY OR ANNUITY CONTRACT;

17 (III) SUBJECT TO ITEM (IV) OF THIS PARAGRAPH, THE OWNER OR
18 OPERATOR OF THE CEMETERY AGREES TO ACCEPT THE BENEFITS PAYABLE UNDER
19 THE LIFE INSURANCE POLICY OR ANNUITY CONTRACT AS PAYMENT IN FULL FOR
20 THE SERVICES AND MERCHANDISE AGREED ON IN THE PRENEED BURIAL CONTRACT;
21 AND

22 (IV) ANY BENEFITS PAYABLE UNDER THE LIFE INSURANCE POLICY
23 OR ANNUITY CONTRACT IN EXCESS OF THE AMOUNT NECESSARY TO PAY THE TOTAL
24 PRICE, AS DETERMINED AT THE TIME OF DEATH OF THE INSURED, OF THE SERVICES
25 AND MERCHANDISE AGREED ON IN THE PRENEED BURIAL CONTRACT ARE PAID TO
26 THE BENEFICIARY UNDER THE LIFE INSURANCE POLICY OR ANNUITY CONTRACT.

27 (2) A PRENEED BURIAL CONTRACT THAT IS FUNDED BY A LIFE
28 INSURANCE POLICY OR AN ANNUITY CONTRACT SHALL TERMINATE IF THE
29 ASSIGNMENT OF BENEFITS TO THE OWNER OR OPERATOR OF A CEMETERY IS
30 REVOKED BY THE OWNER OF THE LIFE INSURANCE POLICY OR ANNUITY CONTRACT.

31 (3) (I) THE OFFER, SALE, OR ASSIGNMENT OF A LIFE INSURANCE
32 POLICY OR ANNUITY CONTRACT TO FUND A PRENEED BURIAL CONTRACT IS NOT
33 SUBJECT TO THIS SUBTITLE.

34 (II) A PRENEED BURIAL CONTRACT FUNDED BY A LIFE INSURANCE
35 POLICY OR AN ANNUITY CONTRACT IS NOT SUBJECT TO § 5-705, § 5-706, § 5-707, §
36 5-708, OR § 5-709 OF THIS SUBTITLE.

Article - Health Occupations

2 7-405.

3 (f) (1) A pre-need contract is not subject to the Retail Installment Sales Act.

4 (2) The making of a pre-need contract by a licensed mortician, a licensed
5 funeral director, or a holder of a surviving spouse license is not the practice of
6 insurance business.

7 (3) (I) A PRE-NEED CONTRACT MAY BE FUNDED BY A LIFE
8 INSURANCE POLICY OR AN ANNUITY CONTRACT IF:

9 1. ~~A THE MORTICIAN, FUNERAL DIRECTOR, OR UNDERTAKER~~
10 ~~SURVIVING SPOUSE IS NOT THE OWNER OF OR BENEFICIARY UNDER THE LIFE~~
11 ~~INSURANCE POLICY OR ANNUITY CONTRACT; AND~~

12 2. ~~THE BENEFITS PAYABLE AT THE DEATH OF THE INSURED~~
13 ~~TO THE ASSIGNEE UNDER THE POLICY OR CONTRACT ARE LIMITED TO THE AMOUNT~~
14 ~~NECESSARY TO PAY THE TOTAL PRICE OF THE SERVICES AND MERCHANDISE~~
15 ~~AGREED ON IN THE PRE-NEED CONTRACT.~~

16 2. AN ASSIGNMENT OF BENEFITS TO THE MORTICIAN,
17 FUNERAL DIRECTOR, OR SURVIVING SPOUSE MAY BE REVOKED AT ANY TIME BY THE
18 OWNER OF THE LIFE INSURANCE POLICY OR ANNUITY CONTRACT;

19 3. SUBJECT TO ITEM 4 OF THIS SUBPARAGRAPH, THE
20 MORTICIAN, FUNERAL DIRECTOR, OR SURVIVING SPOUSE AGREES TO ACCEPT THE
21 BENEFITS PAYABLE UNDER THE LIFE INSURANCE POLICY OR ANNUITY CONTRACT
22 AS PAYMENT IN FULL FOR THE SERVICES AND MERCHANDISE AGREED ON IN THE
23 PRE-NEED CONTRACT; AND

24 4. ANY BENEFITS PAYABLE UNDER THE LIFE INSURANCE
25 POLICY OR ANNUITY CONTRACT IN EXCESS OF THE AMOUNT NECESSARY TO PAY THE
26 TOTAL PRICE, AS DETERMINED AT THE TIME OF DEATH OF THE INSURED, OF THE
27 SERVICES AND MERCHANDISE AGREED ON IN THE PRE-NEED CONTRACT ARE PAID
28 TO THE BENEFICIARY UNDER THE LIFE INSURANCE POLICY OR ANNUITY CONTRACT.

29 (II) A PRE-NEED CONTRACT THAT IS FUNDED BY A LIFE
30 INSURANCE POLICY OR AN ANNUITY CONTRACT SHALL TERMINATE IF THE
31 ASSIGNMENT OF BENEFITS TO THE MORTICIAN, FUNERAL DIRECTOR, OR SURVIVING
32 SPOUSE IS REVOKED BY THE OWNER OF THE LIFE INSURANCE POLICY OR ANNUITY
33 CONTRACT.

34 ~~(H)~~ (III) 1. THE OFFER, SALE, OR ASSIGNMENT OF A LIFE
35 INSURANCE POLICY OR ANNUITY CONTRACT TO FUND A PRE-NEED CONTRACT IS
36 NOT SUBJECT TO THIS SECTION.

