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By: Senator Kelley

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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 <u>Section 5-702(e)</u>
- 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 OF5 MARYLAND, That the Laws of Maryland read as follows:

Article - Business Regulation

7 5-702.

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8(E)(1)A PRENEED BURIAL CONTRACT MADE IN ACCORDANCE WITH § 5-7049OF THIS SUBTITLE MAY BE FUNDED BY A LIFE INSURANCE POLICY OR AN ANNUITY10CONTRACT 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) <u>AN ASSIGNMENT OF BENEFITS TO THE OWNER OR OPERATOR</u>
 15 <u>OF THE CEMETERY MAY BE REVOKED AT ANY TIME BY THE OWNER OF THE LIFE</u>
 16 INSURANCE POLICY OR ANNUITY CONTRACT;

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

22(IV)ANY BENEFITS PAYABLE UNDER THE LIFE INSURANCE POLICY23OR ANNUITY CONTRACT IN EXCESS OF THE AMOUNT NECESSARY TO PAY THE TOTAL24PRICE, AS DETERMINED AT THE TIME OF DEATH OF THE INSURED, OF THE SERVICES25AND MERCHANDISE AGREED ON IN THE PRENEED BURIAL CONTRACT ARE PAID TO26THE BENEFICIARY UNDER THE LIFE INSURANCE POLICY OR ANNUITY CONTRACT.

(2) <u>A PRENEED BURIAL CONTRACT THAT IS FUNDED BY A LIFE</u>
 INSURANCE POLICY OR AN ANNUITY CONTRACT SHALL TERMINATE IF THE
 ASSIGNMENT OF BENEFITS TO THE OWNER OR OPERATOR OF A CEMETERY IS
 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, §

 26
 5.708, OB § 5.700, OE THIS SUBTILE

36 5-708, OR § 5-709 OF THIS SUBTITLE.

•	SENATE BILL 578
1	Article - Health Occupations
2	7-405.
3	(f) (1) A pre-need contract is not subject to the Retail Installment Sales Act.
	(2) The making of a pre-need contract by a licensed mortician, a licensed funeral director, or a holder of a surviving spouse license is not the practice of insurance business.
7 8	(3) (I) A PRE-NEED CONTRACT MAY BE FUNDED BY A LIFE INSURANCE POLICY OR AN ANNUITY CONTRACT IF:
	1. A <u>THE</u> MORTICIAN, FUNERAL DIRECTOR, OR UNDERTAKER <u>SURVIVING SPOUSE</u> IS NOT THE OWNER OF <u>OR BENEFICIARY UNDER</u> THE <u>LIFE</u> <u>INSURANCE</u> POLICY OR <u>ANNUITY</u> CONTRACT; AND
14	2. THE BENEFITS PAYABLE AT THE DEATH OF THE INSURED TO THE ASSIGNEE UNDER THE POLICY OR CONTRACT ARE LIMITED TO THE AMOUNT NECESSARY TO PAY THE TOTAL PRICE OF THE SERVICES AND MERCHANDISE AGREED ON IN THE PRE NEED CONTRACT.
	2. <u>AN ASSIGNMENT OF BENEFITS TO THE MORTICIAN,</u> FUNERAL DIRECTOR, OR SURVIVING SPOUSE MAY BE REVOKED AT ANY TIME BY THE OWNER OF THE LIFE INSURANCE POLICY OR ANNUITY CONTRACT;
21 22	<u>3.</u> <u>SUBJECT TO ITEM 4 OF THIS SUBPARAGRAPH, THE</u> MORTICIAN, FUNERAL DIRECTOR, OR SURVIVING SPOUSE AGREES TO ACCEPT THE BENEFITS PAYABLE UNDER THE LIFE INSURANCE POLICY OR ANNUITY CONTRACT AS PAYMENT IN FULL FOR THE SERVICES AND MERCHANDISE AGREED ON IN THE PRE-NEED CONTRACT; AND
26 27 28 29 30	POLICY OR ANNUITY CONTRACT IN EXCESS OF THE AMOUNT NECESSARY TO PAY THE TOTAL PRICE, AS DETERMINED AT THE TIME OF DEATH OF THE INSURED, OF THE SERVICES AND MERCHANDISE AGREED ON IN THE PRE-NEED CONTRACT ARE PAID TO THE BENEFICIARY UNDER THE LIFE INSURANCE POLICY OR ANNUITY CONTRACT. (II) <u>A PRE-NEED CONTRACT THAT IS FUNDED BY A LIFE</u> INSURANCE POLICY OR AN ANNUITY CONTRACT SHALL TERMINATE IF THE
31 32	ASSIGNMENT OF BENEFITS TO THE MORTICIAN, FUNERAL DIRECTOR, OR SURVIVING SPOUSE IS REVOKED BY THE OWNER OF THE LIFE INSURANCE POLICY OR ANNUITY CONTRACT.
34 35	(II) (III) 1. THE OFFER, SALE, OR ASSIGNMENT OF A LIFE INSURANCE POLICY OR ANNUITY CONTRACT TO FUND A PRE-NEED CONTRACT IS

36 NOT SUBJECT TO THIS SECTION.

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12.A PRE-NEED CONTRACT FUNDED BY A LIFE INSURANCE2POLICY OR AN ANNUITY CONTRACT IS NOT SUBJECT TO SUBSECTION (D) OR (E) OF3THIS SECTION.

- 4	

Article - Insurance

5 27-211.

6 (a) This section does not apply to:

7 (1) insurance on the life of a debtor in connection with a specific loan or 8 other credit transaction; [or]

9 (2) insurance on a debtor that provides indemnity for payments that are 10 due on a specific loan or other credit transaction while the debtor is disabled as 11 defined in the policy; OR

(3) LIFE INSURANCE OR AN ANNUITY USED TO FUND A PRE-NEED
 CONTRACT AS DEFINED IN § 7-101 OF THE HEALTH OCCUPATIONS ARTICLE OR A
 PRENEED BURIAL CONTRACT AS DEFINED IN § 5-701 OF THE BUSINESS REGULATION
 ARTICLE.

16 (b) An insurer may not directly or indirectly, or by an agent or representative 17 of the insurer, participate in a plan to offer or effect a kind or kinds of life insurance,

18 health insurance, or annuities in the State as an inducement to, or in combination

 $19\,$ with, the purchase by the public of goods, securities, commodities, services, or

20 subscriptions to periodicals.

21 27-218.

22 (a) All burial insurance benefits shall be paid in cash to the beneficiary.

(b) A person engaged in the business of burial insurance may not pay or24 contract to pay wholly or partly burial insurance or its benefits to:

25 (1) an official mortician, funeral director, or undertaker;

26 (2) a designated mortician, funeral director, undertaker, or funeral 27 directing or undertaking concern; or

28 (3) a particular tradesperson or businessperson.

29 (C) THIS SECTION DOES NOT APPLY TO LIFE INSURANCE OR AN ANNUITY 30 USED TO FUND A PRE-NEED CONTRACT AS DEFINED IN § 7-101 OF THE HEALTH 31 OCCUPATIONS ARTICLE <u>OR A PRENEED BURIAL CONTRACT AS DEFINED IN § 5-701 OF</u> 32 THE BUSINESS REGULATION ARTICLE.

33 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect 34 June 1, 1999.

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