

Department of Legislative Services
 Maryland General Assembly
 2002 Session

FISCAL NOTE

House Bill 756 (Delegate Boutin, *et al.*)
 Environmental Matters

State Board of Morticians - Creation of a Family Security Trust Fund

This bill requires the State Board of Morticians (SBM) to adopt regulations that establish a Family Security Trust Fund as part of the SBM.

Fiscal Summary

State Effect: Special fund revenues of \$36,600 would accrue to the Family Security Trust Fund (FSTF) in FY 2003 and FY 2004. Revenues beyond FY 2004 would depend upon the entry of new eligible licensees and the impact of private fund raising which cannot be precisely estimated but is expected to be minimal.

(in dollars)	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
SF Revenue	\$36,600	\$36,600	-	-	-
Expenditure	\$0	\$0	\$0	\$0	\$0
Net Effect	\$36,600	\$36,600	\$0	\$0	\$0

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: The bill provides for a FSTF in SBM. The purpose of FSTF is to reimburse losses to consumers caused by failure of a licensee to return money held in trust for a consumer while the licensee was under a contractual obligation to provide services to the consumer. The bill requires funeral establishments, funeral directors, and

corporation licensees to pay into the FSTF. A licensee pays an annual fee for up to two years. The maximum fee that may be assessed by SBM is \$100. SBM is also required to specify penalties including reprimand, license suspension, and revocation for the failure to pay the FSTF fee.

SBM is responsible for appointing trustees to manage the assets of FSTF and receive voluntary contributions. Any unspent portion of FSTF may not be transferred to the State general fund but remains in FSTF. If the trustees consider reimbursement to a consumer proper and reasonable, then the trustees may provide restitution to a consumer. The trustees may require a licensee to provide restitution for any payments made due to the failure of the licensee to handle consumer funds appropriately. The trustees may only provide reimbursement for a loss caused while a licensee was under a contractual obligation to provide services to the consumer, and the consumer is unable to recover the money through a bond. The Legislative Auditor is required to audit the accounts and transactions of FSTF.

Current Law: SBM does not require any of its licensees to pay into a trust fund that is intended to reimburse consumer losses caused by the mishandling of consumer funds by a licensee.

There is a Clients' Security Trust Fund of the Bar of Maryland. Lawyers pay a maximum annual fee of \$20 to maintain the fund. Lawyers that do not pay the fee are subject to disciplinary action. The fund may accept voluntary contributions, and its trustees may raise money on behalf of the fund. Proceeds from the fund may be used to reimburse a consumer if a lawyer has wrongfully converted funds held in trust for the consumer. Trustees may enforce a claim of restitution against lawyers who cause the trustees to make payments to consumers because of their wrongdoing.

Background: Consumers often purchase what are called "pre-need" burial contracts well in advance of ill health or death to ease funeral preparations when the time comes for burial. Consumers contract with funeral establishments and place the funds in an escrow account. Morticians and funeral establishments are required to hold the funds in trust for the consumer until the time comes to execute the burial contract. Before execution of the burial contract, consumers have the right to transfer funds to a new contractor or decide not to do business with a particular establishment. The consumer is entitled to the funds for the pre-need contract and any interest that may have accrued while the account was in escrow. This bill is intended to provide some recourse to consumers who find that a funeral establishment has mishandled their funds and does not provide the refund with interest required by law.

State Revenues: This bill applies to funeral director, corporation, and funeral establishment licensees. The estimate assumes each eligible licensee is assessed the maximum fee of \$100. The groups would be assessed annually for two years, and then assessments would cease. The number of corporation and funeral director licensees is fixed by statute. The funeral director category contains 43 licensees. The corporation category contains 60 licensees. Revenues from the corporation licensees would be \$6,000 annually for two years. Revenues from funeral director licensees would be \$4,300 annually for two years. Currently, there are 263 funeral establishment licensees in Maryland. Revenues from these licensees would be \$26,300 annually for two years. The number of funeral establishment licensees has remained stable for the last several years. Future growth in this category is not expected. Revenues accruing in year one to FSTF would be \$36,600 (\$4,300 + \$6,000 + \$26,300). Revenues accruing in year two are expected to be the same as year one. New revenues would vary depending on interest accumulation, the level of voluntary contributions, and payouts from FSTF.

Additional Information

Prior Introductions: None.

Cross File: None.

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

Fiscal Note History: First Reader - February 15, 2002
ncs/cer

Analysis by: Karen D. Morgan

Direct Inquiries to:
John Rixey, Coordinating Analyst
(410) 946-5510
(301) 970-5510