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By: **Delegates Boutin and Owings**  
Introduced and read first time: January 27, 2003  
Assigned to: Health and Government Operations

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A BILL ENTITLED

1 AN ACT concerning

2                                   **State Board of Morticians - Creation of a Family Security Trust Fund -**  
3                                   **Elimination of Reporting Requirements**

4 FOR the purpose of requiring the State Board of Morticians to create, by regulation,  
5 a Family Security Trust Fund; specifying the purpose of the Family Security  
6 Trust Fund; specifying the powers and duties of trustees; authorizing the State  
7 Board of Morticians to assess an annual fee for a certain period; authorizing the  
8 State Board of Morticians to specify penalties and collect monetary  
9 contributions; authorizing the trustees to reimburse losses of consumers under  
10 certain circumstances; authorizing the trustees to enforce restitution claims  
11 against the Family Security Trust Fund; providing that certain funds may not  
12 transfer or revert to the General Fund of the State; requiring the Legislative  
13 Auditor to audit the Family Security Trust Fund; repealing certain reporting  
14 requirements of a seller of a pre-need contract; and generally relating to  
15 persons regulated by the State Board of Morticians.

16 BY adding to  
17 Article - Health Occupations  
18 Section 7-322 and 7-323  
19 Annotated Code of Maryland  
20 (2000 Replacement Volume and 2002 Supplement)

21 BY repealing  
22 Article - Health Occupations  
23 Section 7-405(i)  
24 Annotated Code of Maryland  
25 (2000 Replacement Volume and 2002 Supplement)

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

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**Article - Health Occupations**

2 7-322.

3 (A) THE STATE BOARD OF MORTICIANS SHALL ADOPT REGULATIONS THAT:

4 (1) ESTABLISH A FAMILY SECURITY TRUST FUND OF THE STATE BOARD  
5 OF MORTICIANS;6 (2) PROVIDE FOR THE APPOINTMENT OF TRUSTEES TO ADMINISTER THE  
7 FUND; AND

8 (3) PROVIDE FOR THE OPERATION OF THE FUND.

9 (B) THIS SECTION APPLIES ONLY TO LICENSEES THAT ARE LICENSED  
10 FUNERAL ESTABLISHMENTS, LICENSED FUNERAL DIRECTORS, AND LICENSED  
11 CORPORATIONS.12 (C) THE PURPOSE OF THE FAMILY SECURITY TRUST FUND IS TO MAINTAIN  
13 THE INTEGRITY OF THE FUNERAL HOME PROFESSION BY PAYING MONEY TO  
14 REIMBURSE LOSSES CAUSED BY THE DEFALCATION OF LICENSEES.

15 (D) BY REGULATION, THE STATE BOARD OF MORTICIANS SHALL:

16 (1) REQUIRE A LICENSEE TO PAY TO THE FAMILY SECURITY TRUST  
17 FUND AN ANNUAL FEE NOT TO EXCEED \$100 FOR UP TO 2 YEARS; AND18 (2) SPECIFY THE PENALTIES, INCLUDING REPRIMAND, LICENSE  
19 SUSPENSION, AND REVOCATION FOR PROVIDING MORTUARY SCIENCE OR FUNERAL  
20 SERVICES, FOR FAILURE OF A LICENSEE TO PAY THE FEE ESTABLISHED BY THE  
21 BOARD UNDER THE AUTHORITY OF THIS SUBSECTION.

22 7-323.

23 (A) THE TRUSTEES APPOINTED UNDER § 7-322 OF THIS SUBTITLE SHALL:

24 (1) RECEIVE CONTRIBUTIONS TO THE FAMILY SECURITY TRUST FUND;  
25 AND

26 (2) MANAGE THE ASSETS OF THE FUND.

27 (B) TO THE EXTENT THE TRUSTEES CONSIDER REIMBURSEMENT PROPER AND  
28 REASONABLE, THE TRUSTEES MAY USE THE FAMILY SECURITY TRUST FUND TO  
29 REIMBURSE A CONSUMER FOR A LOSS THAT WAS CAUSED BY A DEFALCATION OF A  
30 LICENSEE IF:31 (1) THE LICENSEE CAUSED THE LOSS WHILE UNDER A CONTRACTUAL  
32 OBLIGATION TO PROVIDE SERVICES TO THE CONSUMER; AND

33 (2) THE CONSUMER CANNOT RECOVER THE MONEY UNDER A BOND.

1 (C) THE TRUSTEE MAY ENFORCE A CLAIM FOR RESTITUTION ARISING BY  
2 SUBROGATION, ASSIGNMENT, OR OTHERWISE AGAINST ANY PERSON WHOSE  
3 ACTIONS GAVE RISE TO A CLAIM THAT THE FAMILY SECURITY TRUST FUND PAYS.

4 (D) ANY UNSPENT PORTION OF THE FUND MAY NOT BE TRANSFERRED OR  
5 REVERT TO THE GENERAL FUND OF THE STATE, BUT SHALL REMAIN IN THE FAMILY  
6 SECURITY TRUST FUND TO BE USED FOR THE PURPOSES SPECIFIED IN THIS  
7 SUBTITLE.

8 (E) THE LEGISLATIVE AUDITOR SHALL AUDIT THE ACCOUNTS AND  
9 TRANSACTIONS OF THE FAMILY SECURITY TRUST FUND AS PROVIDED IN § 2-1220 OF  
10 THE STATE GOVERNMENT ARTICLE.

11 7-405.

12 [(i) A seller shall annually file a report with the Board which includes:

13 (1) A certification by a certified public accountant as to the seller's  
14 compliance with the provisions of this section; and

15 (2) Any other information the Board deems necessary.]

16 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
17 October 1, 2003.