
By: **Delegates Boutin and Owings**

Introduced and read first time: January 19, 2004

Assigned to: Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

2 **State Board of Morticians - Family Security Trust Fund**

3 FOR the purpose of creating the Family Security Trust Fund to reimburse losses
4 incurred by certain consumers due to the wrongdoing of certain licensees of the
5 State Board of Morticians; requiring the Board to adopt certain regulations;
6 authorizing the Board to assess an annual fee for a certain time period;
7 requiring the Board to specify penalties for nonpayment of fees; specifying the
8 duties of the Trustees of the Fund; specifying the use of the Fund; authorizing
9 the Trustees to enforce a claim of restitution; providing that funds may not
10 revert to the General Fund of the State; requiring a legislative audit;
11 eliminating certain reporting requirements of a seller of a pre-need contract;
12 and generally relating to persons regulated by the State Board of Morticians.

13 BY repealing and reenacting, with amendments,
14 Article - Health Occupations
15 Section 7-405(i)
16 Annotated Code of Maryland
17 (2000 Replacement Volume and 2003 Supplement)

18 BY adding to
19 Article - Health Occupations
20 Section 7-405.1
21 Annotated Code of Maryland
22 (2000 Replacement Volume and 2003 Supplement)

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

25 **Article - Health Occupations**

26 7-405.

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

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

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

4 7-405.1.

5 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
6 INDICATED.

7 (2) "BOARD" MEANS THE MARYLAND STATE BOARD OF MORTICIANS.

8 (3) "FUND" MEANS THE FAMILY SECURITY TRUST FUND.

9 (B) THIS SECTION APPLIES ONLY TO LICENSEES THAT ARE LICENSED
10 FUNERAL ESTABLISHMENTS OR LICENSED CORPORATIONS.

11 (C) (1) THERE IS A FAMILY SECURITY TRUST FUND.

12 (2) THE PURPOSE OF THE FUND IS TO MAINTAIN THE INTEGRITY OF THE
13 FUNERAL HOME PROFESSION BY PAYING MONEY TO REIMBURSE LOSSES INCURRED
14 BY A CONSUMER OF A PRE-NEED CONTRACT DUE TO THE DEFALCATION OF
15 LICENSEES.

16 (D) THE BOARD SHALL ADOPT REGULATIONS THAT:

17 (1) IMPLEMENT THE ESTABLISHMENT OF THE FAMILY SECURITY TRUST
18 FUND OF THE STATE BOARD OF MORTICIANS;

19 (2) PROVIDE FOR THE APPOINTMENT OF TRUSTEES TO ADMINISTER THE
20 FUND; AND

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

22 (E) THE BOARD SHALL:

23 (1) REQUIRE A LICENSEE TO PAY TO THE FUND AN ANNUAL FEE NOT TO
24 EXCEED \$100 FOR UP TO 2 YEARS; AND

25 (2) SPECIFY THE PENALTIES FOR FAILURE OF A LICENSEE TO PAY THE
26 FEE ESTABLISHED BY THE BOARD, WHICH MAY INCLUDE:

27 (I) REPRIMAND;

28 (II) LICENSE SUSPENSION; OR

29 (III) REVOCATION OF A LICENSE TO PRACTICE MORTUARY SCIENCE
30 AND PROVIDE FUNERAL SERVICES.

31 (F) THE TRUSTEES APPOINTED UNDER SUBSECTION (D) (2) OF THIS SECTION
32 SHALL:

1 (1) RECEIVE CONTRIBUTIONS TO THE FUND; AND

2 (2) MANAGE THE ASSETS OF THE FUND.

3 (G) THE FUND SHALL BE USED TO REIMBURSE A CONSUMER FOR A LOSS THAT
4 WAS CAUSED BY A DEFALCATION OF A LICENSEE IF:

5 (1) THE TRUSTEES CONSIDER REIMBURSEMENT PROPER AND
6 REASONABLE; AND

7 (2) (I) THE LICENSEE CAUSED THE LOSS WHILE UNDER A
8 CONTRACTUAL OBLIGATION TO PROVIDE SERVICES TO THE CONSUMER; AND

9 (II) THE CONSUMER CANNOT RECOVER THE MONEY UNDER A
10 BOND.

11 (H) THE TRUSTEES MAY ENFORCE A CLAIM FOR RESTITUTION ARISING BY
12 SUBROGATION, ASSIGNMENT, OR OTHERWISE AGAINST ANY PERSON WHOSE
13 ACTIONS GAVE RISE TO A CLAIM THAT THE FUND PAYS.

14 (I) ANY UNSPENT PORTIONS OF THE FUND MAY NOT BE TRANSFERRED OR
15 REVERT TO THE GENERAL FUND OF THE STATE, BUT SHALL REMAIN IN THE FUND TO
16 BE USED FOR THE PURPOSES SPECIFIED IN THIS SECTION.

17 (J) THE LEGISLATIVE AUDITOR SHALL AUDIT THE ACCOUNTS AND
18 TRANSACTIONS OF THE FUND AS PROVIDED IN § 2-1220 OF THE STATE GOVERNMENT
19 ARTICLE.

20 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
21 October 1, 2004.