
By: **Delegate Boutin**
Introduced and read first time: February 4, 2005
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; requiring the
9 Trustees to determine certain reimbursement after considering certain
10 factors; authorizing the Trustees to enforce a claim of restitution; providing that
11 funds may not revert to the General Fund of the State; requiring a legislative
12 audit; eliminating certain reporting requirements of a seller of a pre-need
13 contract; and generally relating to persons regulated by the State Board of
14 Morticians.

15 BY repealing and reenacting, with amendments,
16 Article - Health Occupations
17 Section 7-405(i)
18 Annotated Code of Maryland
19 (2000 Replacement Volume and 2004 Supplement)

20 BY adding to
21 Article - Health Occupations
22 Section 7-405.1
23 Annotated Code of Maryland
24 (2000 Replacement Volume and 2004 Supplement)

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

1

Article - Health Occupations

2 7-405.

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

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

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

7 7-405.1.

8 (A) IN THIS SECTION, "FUND" MEANS THE FAMILY SECURITY TRUST FUND.

9 (B) THIS SECTION APPLIES ONLY TO ENTITIES THAT ARE LICENSED FUNERAL
10 ESTABLISHMENTS, LICENSED CORPORATIONS, AND OTHER LICENSED ENTITIES
11 THAT RECEIVE OR PLACE IN A TRUST ANY PRE-NEED FUNDS OR ENTER INTO A
12 PRE-NEED CONTRACT.

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

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

18 (D) THE BOARD SHALL ADOPT REGULATIONS THAT:

19 (1) IMPLEMENT THE ESTABLISHMENT OF THE FAMILY SECURITY TRUST
20 FUND OF THE STATE BOARD OF MORTICIANS;21 (2) PROVIDE FOR THE APPOINTMENT OF TRUSTEES TO ADMINISTER THE
22 FUND; AND

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

24 (E) THE BOARD SHALL:

25 (1) REQUIRE A LICENSEE LISTED UNDER SUBSECTION (B) OF THIS
26 SECTION TO PAY TO THE FUND AN ANNUAL FEE NOT TO EXCEED \$250 FOR UP TO 5
27 YEARS; AND28 (2) SPECIFY THE PENALTIES FOR FAILURE OF A LICENSEE LISTED
29 UNDER SUBSECTION (B) OF THIS SECTION TO PAY THE FEE ESTABLISHED BY THE
30 BOARD, WHICH MAY INCLUDE:

31 (I) REPRIMAND;

32 (II) LICENSE SUSPENSION; OR

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

3 (F) THE TRUSTEES APPOINTED UNDER SUBSECTION (D) (2) OF THIS SECTION
4 SHALL:

5 (1) RECEIVE CONTRIBUTIONS TO THE FUND; AND

6 (2) MANAGE THE ASSETS OF THE FUND.

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

9 (1) THE TRUSTEES CONSIDER REIMBURSEMENT PROPER AND
10 REASONABLE; AND

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

13 (II) THE CONSUMER CANNOT RECOVER THE MONEY UNDER A
14 BOND.

15 (H) THE TRUSTEES SHALL DETERMINE THE AMOUNT OF REIMBURSEMENT TO
16 THE CONSUMER AFTER TAKING INTO CONSIDERATION THE AMOUNT OF MONEY IN
17 THE FUND AND ANY ANTICIPATED CLAIMS AGAINST THE FUND.

18 (I) THE TRUSTEES MAY ENFORCE A CLAIM FOR RESTITUTION ARISING BY
19 SUBROGATION, ASSIGNMENT, OR OTHERWISE AGAINST ANY PERSON WHOSE
20 ACTIONS GAVE RISE TO A CLAIM THAT THE FUND PAYS.

21 (J) ANY UNSPENT PORTIONS OF THE FUND MAY NOT BE TRANSFERRED OR
22 REVERT TO THE GENERAL FUND OF THE STATE, BUT SHALL REMAIN IN THE FUND TO
23 BE USED FOR THE PURPOSES SPECIFIED IN THIS SECTION.

24 (K) THE LEGISLATIVE AUDITOR SHALL AUDIT THE ACCOUNTS AND
25 TRANSACTIONS OF THE FUND AS PROVIDED IN § 2-1220 OF THE STATE GOVERNMENT
26 ARTICLE.

27 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take
28 effect October 1, 2005.