

Department of Legislative Services  
Maryland General Assembly  
2005 Session

FISCAL AND POLICY NOTE  
Revised

House Bill 573

(Delegate Boutin, *et al.*)

Health and Government Operations

Education, Health, and Environmental Affairs

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State Board of Morticians - Authority to Conduct Audits

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This bill authorizes the State Board of Morticians to audit a licensee that receives pre-need funds, places pre-need funds in a trust, or enters into a pre-need contract. The board may issue subpoenas and administer oaths in connection with such an audit.

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Fiscal Summary

**State Effect:** None. The change would not directly affect governmental finances.

**Local Effect:** None.

**Small Business Effect:** None.

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Analysis

**Current Law:** The board has various statutory powers and duties, including investigating any alleged violation, enforcing board statute, and inspecting licensed funeral establishments. The board may issue subpoenas and administer oaths in connection with an investigation.

Only a licensed mortician, a licensed funeral director, or a holder of a surviving spouse license may offer or agree to provide services or merchandise under a pre-need contract. A licensed mortician or a licensed funeral director employed by a funeral establishment may execute pre-need contracts on behalf of the funeral establishment.

Within 10 days after receiving a payment under a pre-need contract, the seller must deposit into an interest-bearing escrow or trust account: (1) 100% of the payment under

the contract for services; and (2) an amount equal to 80% of the selling price of a casket or casket vault under the contract and 100% of the payment for all other goods under the contract.

A pre-need contract seller may not withdraw any money from the account unless services and merchandise have been provided. A pre-need contract is ended and a seller must refund the buyer all payments and interest if: (1) the buyer or his or her legal representative demands a refund in writing; (2) the seller's business is discontinued or sold; (3) the seller is unable to perform under the contract's terms and conditions; or (4) the buyer fails to pay the entire contract price before the beneficiary's death and the seller considers the contract void.

**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. 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 as required by law.

There are 278 licensed funeral homes and 58 corporations licensed to operate a mortuary science business in Maryland.

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### **Additional Information**

**Prior Introductions:** HB 138 of 2004, which would have created a Family Security Trust Fund within the board to reimburse consumers for certain losses, had a hearing in the House Health and Government Operations Committee and was then withdrawn. Another similar bill, HB 756 of 2002, received an unfavorable report from the House Environmental Matters Committee.

**Cross File:** None.

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

**Fiscal Note History:** First Reader - February 15, 2005  
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Analysis by: Lisa A. Daigle

Direct Inquiries to:  
(410) 946-5510  
(301) 970-5510

