

HOUSE BILL 1090

J2, C2

8lr1516

By: **Delegates Morhaim and Harrison**
Introduced and read first time: February 7, 2008
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 establishing the Family Security Trust Fund; requiring the State
4 Board of Morticians to administer the Fund and to build the Fund to a certain
5 monetary level; requiring the Board to order a certain payment of a certain
6 claim related to pre-need funds from the Fund in a certain manner; requiring
7 the Board to deposit all money collected to the credit of the Fund with the State
8 Treasurer; authorizing the State Treasurer to invest or reinvest Fund monies in
9 a certain manner; requiring that accounting and financial reports be publicly
10 available in a timely manner; requiring the Legislative Auditor to audit the
11 accounts and transactions of the Fund in a certain manner; authorizing the
12 Board to retain certain services for a certain purpose; requiring that costs of
13 certain services be paid out of the Fund; requiring the Board to adopt certain
14 regulations; specifying that the Fund is not subject to certain provisions of State
15 law; specifying that the Fund is not liable to any other expenses or obligations
16 of the Board; establishing the Family Security Trust Fund Advisory Committee;
17 specifying the membership, leadership, and terms of the Advisory Committee;
18 requiring the Advisory Committee to meet in a certain manner; specifying the
19 purpose of the Advisory Committee; requiring the Board to work with the
20 Advisory Committee in a certain manner and provide the Advisory Committee
21 with certain information in a certain manner; prohibiting Advisory Committee
22 members from receiving certain compensation but authorizing reimbursement
23 for certain expenses; requiring a funeral establishment applicant to pay a
24 certain fee to be credited to the Fund before the Board may issue an initial
25 funeral establishment license; requiring each funeral establishment licensee to
26 pay a certain annual fee to the Fund until the Fund has accumulated a certain
27 balance; requiring each funeral establishment to pay a certain fee to the Fund
28 under certain circumstances; prohibiting the Board from issuing a renewal
29 funeral establishment license to a funeral establishment that has not made
30 certain payment to the Board; requiring a funeral establishment to include
31 certain written notice regarding the Fund in each sales contract provided by the

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 funeral establishment; requiring that claims against the Fund be based on
 2 certain acts or omissions and be made in a certain manner; requiring the Board
 3 to process claims against the Fund in a certain manner; requiring the Board to
 4 provide the claimant and person against whom the complaint is made certain
 5 opportunities to participate in a certain hearing process; requiring that certain
 6 reimbursement be made to the Fund in a certain manner; establishing a certain
 7 lien in the favor of the State under certain circumstances; requiring the Board
 8 to take certain disciplinary action against a licensee under certain
 9 circumstances; repealing a certain requirement that a certain seller of pre-need
 10 goods and services annually file a certain report with the Board; providing that
 11 the provisions of this Act do not limit the authority of the Board to take certain
 12 action under certain circumstances; defining certain terms; providing for a
 13 delayed effective date; making certain technical changes; and generally relating
 14 to the Family Security Trust Fund and the Family Security Trust Fund
 15 Advisory Committee.

16 BY repealing and reenacting, with amendments,
 17 Article – Health Occupations
 18 Section 7–310(b)(1) and 7–314(c)
 19 Annotated Code of Maryland
 20 (2005 Replacement Volume and 2007 Supplement)

21 BY repealing
 22 Article – Health Occupations
 23 Section 7–405(i)
 24 Annotated Code of Maryland
 25 (2005 Replacement Volume and 2007 Supplement)

26 BY adding to
 27 Article – Health Occupations
 28 Section 7–4A–01 through 7–4A–13 to be under the new subtitle “Subtitle 4A.
 29 Family Security Trust Fund”
 30 Annotated Code of Maryland
 31 (2005 Replacement Volume and 2007 Supplement)

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

34 **Article – Health Occupations**

35 7–310.

36 (b) (1) To apply for a funeral establishment license, an applicant shall:

37 (i) Submit an application to the Board on the form that the
 38 Board requires; and

39 (ii) Pay to the Board [an]:

- 1 **1. AN application fee set by the Board; AND**
2 **2. THE FEE ESTABLISHED UNDER § 7-4A-05(A) OF**
3 **THIS TITLE.**

4 7-314.

5 (c) Except as otherwise provided in this section, before a license expires, the
6 licensee periodically may renew it for additional terms, if the licensee:

7 (1) Has met the qualifications for licensure and is not under a
8 suspension or revocation order of the Board;

9 (2) Except as otherwise provided under this title, pays to the Board a
10 renewal fee set by the Board;

11 (3) Submits to the Board a renewal application on the form that it
12 requires; [and]

13 (4) Submits to the Board satisfactory evidence of compliance with any
14 continuing education requirements the Board may adopt by regulation; **AND**

15 **(5) FOR A FUNERAL ESTABLISHMENT LICENSE, PROVIDES PROOF**
16 **OF ANY PAYMENT TO THE BOARD REQUIRED IN ACCORDANCE WITH §**
17 **7-4A-05(B) OF THIS TITLE.**

18 7-405.

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

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

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

23 **SUBTITLE 4A. FAMILY SECURITY TRUST FUND.**

24 **7-4A-01.**

25 **(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS**
26 **INDICATED.**

27 **(B) "ADVISORY COMMITTEE" MEANS THE FAMILY SECURITY TRUST**
28 **FUND ADVISORY COMMITTEE.**

1 (C) "FUND" MEANS THE FAMILY SECURITY TRUST FUND.

2 7-4A-02.

3 THIS SUBTITLE DOES NOT LIMIT THE AUTHORITY OF THE BOARD TO:

4 (1) TAKE ANY ACTION AGAINST A LICENSEE UNDER THE
5 DISCIPLINARY PROVISIONS OF §§ 7-316 THROUGH 7-320 OF THIS TITLE; OR

6 (2) TAKE ANY OTHER DISCIPLINARY OR OTHER ACTION
7 AUTHORIZED UNDER THIS TITLE.

8 7-4A-03.

9 (A) THERE IS A FAMILY SECURITY TRUST FUND.

10 (B) THE BOARD SHALL:

11 (1) ADMINISTER THE FUND; AND

12 (2) OVER A REASONABLE PERIOD OF TIME, BUILD THE FUND TO A
13 LEVEL OF AT LEAST \$1,000,000 AND THEREAFTER MAINTAIN THE FUND AT
14 THAT LEVEL.

15 (C) THE FUND IS A SPECIAL, NONLAPSING FUND THAT IS NOT SUBJECT
16 TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

17 (D) (1) THE BOARD SHALL DEPOSIT ALL MONEY COLLECTED TO THE
18 CREDIT OF THE FUND WITH THE STATE TREASURER FOR PLACEMENT INTO A
19 SPECIAL ACCOUNT.

20 (2) (I) THE STATE TREASURER MAY INVEST OR REINVEST
21 MONEY IN THE FUND IN THE SAME MANNER AS MONEY IN THE STATE
22 RETIREMENT AND PENSION SYSTEM.

23 (II) THE INVESTMENT EARNINGS SHALL BE:

24 1. CREDITED TO THE FUND; AND

25 2. AVAILABLE FOR THE SAME PURPOSES AS THE
26 MONEY DEPOSITED INTO THE FUND.

27 (E) THE FUND IS NOT LIABLE TO ANY OTHER EXPENSES OR
28 OBLIGATIONS OF THE BOARD.

1 **(F) (1) ACCOUNTING AND FINANCIAL REPORTS RELATED TO THE**
2 **FUND SHALL BE PUBLICLY AVAILABLE IN A TIMELY MANNER.**

3 **(2) THE LEGISLATIVE AUDITOR SHALL AUDIT THE ACCOUNTS**
4 **AND TRANSACTIONS OF THE FUND AS PROVIDED IN § 2-1220 OF THE STATE**
5 **GOVERNMENT ARTICLE.**

6 **(G) (1) THE BOARD MAY RETAIN THE SERVICES OF APPROPRIATE**
7 **EXPERTS OR SERVICE PROVIDERS TO ADVISE ABOUT, OR ADMINISTER, THE**
8 **FUND.**

9 **(2) THE COSTS OF THE SERVICES DESCRIBED IN PARAGRAPH (1)**
10 **OF THIS SUBSECTION SHALL BE PAID OUT OF THE FUND.**

11 **(H) THE BOARD SHALL ADOPT REGULATIONS FOR THE**
12 **ADMINISTRATION AND CLAIMS PROCEDURES OF THE FUND.**

13 **7-4A-04.**

14 **(A) THERE IS A FAMILY SECURITY TRUST FUND ADVISORY**
15 **COMMITTEE.**

16 **(B) THE ADVISORY COMMITTEE CONSISTS OF THE FOLLOWING FIVE**
17 **MEMBERS:**

18 **(1) THREE MEMBERS OF THE BOARD, INCLUDING ONE**
19 **CONSUMER MEMBER, APPOINTED BY THE BOARD;**

20 **(2) ONE MEMBER DESIGNATED BY THE MARYLAND STATE**
21 **FUNERAL DIRECTORS ASSOCIATION; AND**

22 **(3) ONE MEMBER DESIGNATED BY THE FUNERAL DIRECTORS**
23 **AND MORTICIANS ASSOCIATION OF MARYLAND, INC.**

24 **(C) THE ADVISORY COMMITTEE MEMBERS MAY BE, BUT ARE NOT**
25 **REQUIRED TO BE, LICENSEES OF THE BOARD.**

26 **(D) (1) EXCEPT FOR THE INITIAL TERMS OF THE ADVISORY**
27 **COMMITTEE, THE TERM OF A MEMBER IS 4 YEARS.**

28 **(2) A MEMBER CONTINUES TO SERVE UNTIL A SUCCESSOR IS**
29 **APPOINTED AND QUALIFIES.**

1 **(3) THE TERMS OF THE INITIAL MEMBERS SHALL BE STAGGERED**
2 **EVENLY BETWEEN 3 YEARS AND 4 YEARS AS THE ADVISORY COMMITTEE SHALL**
3 **DETERMINE AT THE ADVISORY COMMITTEE'S FIRST MEETING.**

4 **(4) A MEMBER MAY NOT SERVE FOR MORE THAN TWO 4-YEAR**
5 **TERMS.**

6 **(E) THE ADVISORY COMMITTEE SHALL ELECT ANNUALLY A CHAIR,**
7 **VICE CHAIR, AND SECRETARY FROM AMONG ITS MEMBERS.**

8 **(F) (1) THE ADVISORY COMMITTEE SHALL MEET AT THE CALL OF**
9 **THE CHAIR OR THE VICE CHAIR.**

10 **(2) THE ADVISORY COMMITTEE SHALL MEET AT LEAST TWICE**
11 **EACH YEAR AT THE TIMES AND PLACES THAT IT DETERMINES.**

12 **(G) THE PURPOSE OF THE ADVISORY COMMITTEE IS TO PROVIDE**
13 **NONBINDING COUNSEL AND ADVICE TO THE BOARD ON ANY FUND MATTERS**
14 **OTHER THAN PENDING INDIVIDUAL CLAIM MATTERS.**

15 **(H) THE BOARD SHALL:**

16 **(1) WORK WITH THE ADVISORY COMMITTEE IN A COOPERATIVE**
17 **MANNER; AND**

18 **(2) PROVIDE TO THE ADVISORY COMMITTEE, IN A TIMELY**
19 **MANNER:**

20 **(I) ALL APPROPRIATE FUND INFORMATION, OTHER THAN**
21 **INFORMATION INVOLVING PENDING CLAIM MATTERS; AND**

22 **(II) SUMMARY INFORMATION ABOUT THE OUTCOME OF ALL**
23 **CLOSED CLAIMS, INCLUDING ACTUAL AMOUNTS OF INDIVIDUAL AND TOTAL**
24 **CLAIM PAYMENTS.**

25 **(I) A MEMBER OF THE ADVISORY COMMITTEE:**

26 **(1) MAY NOT RECEIVE COMPENSATION AS A MEMBER OF THE**
27 **ADVISORY COMMITTEE; BUT**

28 **(2) MAY RECEIVE REIMBURSEMENT FOR EXPENSES UNDER THE**
29 **STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN THE STATE**
30 **BUDGET.**

1 **7-4A-05.**

2 (A) BEFORE THE BOARD ISSUES AN INITIAL FUNERAL ESTABLISHMENT
3 LICENSE, THE FUNERAL ESTABLISHMENT SHALL PAY, IN ADDITION TO ALL
4 OTHER APPLICABLE FEES, A FEE OF \$375 TO BE CREDITED TO THE FUND.

5 (B) (1) EACH FUNERAL ESTABLISHMENT SHALL PAY \$375 PER YEAR
6 INTO THE FUND, UNTIL THE FUND HAS ACCUMULATED A BALANCE OF
7 \$1,000,000.

8 (2) IF, AFTER THE FUND HAS ACCUMULATED A BALANCE OF
9 \$1,000,000, THE AMOUNT IN THE FUND FALLS BELOW \$1,000,000, THE BOARD
10 SHALL ASSESS EACH FUNERAL ESTABLISHMENT AN ADDITIONAL FEE IN AN
11 AMOUNT THAT WILL, OVER A REASONABLE PERIOD, RETURN THE FUND TO A
12 LEVEL OF AT LEAST \$1,000,000.

13 (3) THE BOARD MAY NOT ISSUE A RENEWAL FUNERAL
14 ESTABLISHMENT LICENSE IF THE FUNERAL ESTABLISHMENT HAS NOT PAID THE
15 FEE REQUIRED UNDER THIS SUBSECTION.

16 **7-4A-06.**

17 (A) SUBJECT TO THE PROVISIONS OF THIS SUBTITLE, A PERSON MAY
18 RECOVER COMPENSATION FROM THE FUND FOR AN ACTUAL PRE-NEED TRUST
19 FUND LOSS THAT OCCURRED ON OR AFTER JANUARY 1, 2010, AND IS BASED ON
20 AN ACT OR OMISSION AS DESCRIBED IN SUBSECTION (B) OF THIS SECTION.

21 (B) A CLAIM FOR THE LOSS SHALL:

22 (1) BE BASED ON AN ACT OR OMISSION THAT OCCURS IN THE
23 PROVISION OF FUNERAL PRE-NEED SERVICES BY:

24 (I) A LICENSED MORTICIAN;

25 (II) A LICENSED FUNERAL DIRECTOR;

26 (III) A LICENSED APPRENTICE MORTICIAN;

27 (IV) A LICENSED APPRENTICE FUNERAL DIRECTOR; OR

28 (V) AN UNLICENSED EMPLOYEE OF A LICENSED FUNERAL
29 ESTABLISHMENT;

1 (2) INVOLVE A TRANSACTION THAT RELATES TO PRE-NEED
2 FUNERAL PLANNING THAT OCCURRED IN THE STATE; AND

3 (3) BE BASED ON AN ACT OR OMISSION:

4 (I) IN WHICH PRE-NEED MONEY IS OBTAINED FROM A
5 PERSON BY THEFT, EMBEZZLEMENT, FALSE PRETENSES, OR FORGERY; OR

6 (II) THAT CONSTITUTES FRAUD OR MISREPRESENTATION.

7 (C) THE AMOUNT RECOVERED FOR ANY CLAIM AGAINST THE FUND:

8 (1) MAY NOT EXCEED THE ACTUAL MONETARY LOSS SUFFERED;
9 AND

10 (2) MAY NOT INCLUDE NONECONOMIC, CONSEQUENTIAL, OR
11 PUNITIVE DAMAGES.

12 (D) A FUNERAL ESTABLISHMENT SHALL INCLUDE IN EACH SALES
13 CONTRACT THAT IS PROVIDED BY THE FUNERAL ESTABLISHMENT A WRITTEN
14 NOTICE TO THE BUYER THAT THE BUYER MAY FILE A CLAIM WITH THE FUND.

15 **7-4A-07.**

16 (A) EACH CLAIM AGAINST THE FUND SHALL BE MADE IN ACCORDANCE
17 WITH THIS SECTION.

18 (B) EACH CLAIM SHALL:

19 (1) BE IN WRITING;

20 (2) BE MADE UNDER OATH;

21 (3) STATE THE AMOUNT OF LOSS CLAIMED;

22 (4) STATE THE FACTS ON WHICH THE CLAIM IS BASED; AND

23 (5) BE ACCOMPANIED BY ANY DOCUMENTATION OR OTHER
24 EVIDENCE THAT SUPPORTS THE CLAIM.

25 **7-4A-08.**

26 (A) THE BOARD SHALL ACT PROMPTLY ON A CLAIM MADE UNDER THIS
27 SUBTITLE.

1 **(B) ON RECEIPT OF A CLAIM, THE BOARD SHALL:**

2 **(1) FORWARD A COPY OF THE CLAIM:**

3 **(I) TO EACH LICENSEE ALLEGED TO BE RESPONSIBLE FOR**
4 **THE ACT OR OMISSION GIVING RISE TO THE CLAIM;**

5 **(II) TO EACH UNLICENSED EMPLOYEE ALLEGED TO BE**
6 **RESPONSIBLE FOR THE ACT OR OMISSION GIVING RISE TO THE CLAIM; AND**

7 **(III) TO EACH FUNERAL ESTABLISHMENT THAT EMPLOYS A**
8 **LICENSEE OR UNLICENSED EMPLOYEE ALLEGED TO BE RESPONSIBLE FOR THE**
9 **ACT OR OMISSION GIVING RISE TO THE CLAIM; AND**

10 **(2) REQUEST FROM EACH OF THE PERSONS LISTED IN ITEM (1)**
11 **OF THIS SUBSECTION A WRITTEN RESPONSE WITHIN 10 DAYS TO THE**
12 **ALLEGATIONS SET FORTH IN THE CLAIM.**

13 **(C) (1) THE BOARD:**

14 **(I) SHALL REVIEW THE CLAIM AND ANY RESPONSE TO THE**
15 **CLAIM; AND**

16 **(II) MAY CONDUCT AN INVESTIGATION OF THE CLAIM.**

17 **(2) ON THE BASIS OF ITS REVIEW AND ANY INVESTIGATION THAT**
18 **THE BOARD CONDUCTS, THE BOARD SHALL:**

19 **(I) SET THE MATTER FOR A HEARING; OR**

20 **(II) IF THE CLAIM IS FRIVOLOUS, MADE IN BAD FAITH, OR**
21 **LEGALLY INSUFFICIENT, DISMISS THE CLAIM.**

22 **(D) AT ANY CLAIM HEARING, THE BURDEN OF PROOF SHALL BE ON THE**
23 **CLAIMANT TO ESTABLISH THE VALIDITY OF THE CLAIM.**

24 **7-4A-09.**

25 **(A) THE BOARD SHALL GIVE THE FOLLOWING PERSONS NOTICE OF THE**
26 **HEARING AND AN OPPORTUNITY TO PARTICIPATE IN THE HEARING:**

27 **(1) THE CLAIMANT;**

1 (2) **EACH LICENSEE ALLEGED TO BE RESPONSIBLE FOR THE ACT**
2 **OR OMISSION GIVING RISE TO THE CLAIM;**

3 (3) **EACH UNLICENSED EMPLOYEE ALLEGED TO BE RESPONSIBLE**
4 **FOR THE ACT OR OMISSION GIVING RISE TO THE CLAIM; AND**

5 (4) **EACH FUNERAL ESTABLISHMENT THAT EMPLOYS A LICENSEE**
6 **OR UNLICENSED EMPLOYEE ALLEGED TO BE RESPONSIBLE FOR THE ACT OR**
7 **OMISSION GIVING RISE TO THE CLAIM.**

8 (b) **THE BOARD MAY NOT PROCEED WITH THE HEARING UNLESS THE**
9 **RECORDS OF THE BOARD SHOW THAT THE BOARD PROVIDED EACH NOTICE**
10 **REQUIRED UNDER THE PROVISIONS OF THIS SECTION AND § 7-4A-08 OF THIS**
11 **SUBTITLE.**

12 **7-4A-10.**

13 (a) **IF A CLAIM AGAINST THE FUND ALLEGES THAT THE ACT OR**
14 **OMISSION GIVING RISE TO THE CLAIM WAS PERFORMED BY A LICENSEE, THE**
15 **BOARD MAY JOIN THE PROCEEDING ON THE CLAIM WITH ANY DISCIPLINARY**
16 **PROCEEDING AGAINST THE LICENSEE UNDER THIS TITLE ARISING FROM THE**
17 **SAME FACTS ALLEGED IN THE CLAIM.**

18 (b) (1) **FOR THAT PART OF A HEARING ON CONSOLIDATED**
19 **PROCEEDINGS THAT RELATES TO DISCIPLINARY ACTION BUT DOES NOT RELATE**
20 **TO THE FUND CLAIM AGAINST A LICENSEE, THE CLAIMANT:**

21 (i) **MAY NOT BE A PARTY; AND**

22 (ii) **MAY PARTICIPATE ONLY AS A WITNESS.**

23 (2) **FOR THAT PART OF A HEARING ON CONSOLIDATED**
24 **PROCEEDINGS THAT RELATES TO THE CLAIM AGAINST THE FUND, THE**
25 **CLAIMANT IS A PARTY.**

26 **7-4A-11.**

27 (a) **THE BOARD SHALL ORDER FULL OR PARTIAL PAYMENT OF A CLAIM**
28 **BY THE FUND IF, ON THE HEARING, THE CLAIMANT PROVES THAT THE**
29 **CLAIMANT HAS A VALID CLAIM UNDER THIS SUBTITLE.**

30 (b) **THE BOARD MAY ORDER FULL OR PARTIAL PAYMENT BY THE FUND**
31 **ONLY FOR THE ACTUAL MONETARY LOSS SUFFERED BY THE CLAIMANT AS A**
32 **RESULT OF THE CLAIM PROVEN BY THE CLAIMANT.**

1 **(C) A PAYMENT MAY NOT BE MADE BY THE FUND UNDER AN ORDER OF**
2 **THE BOARD UNTIL:**

3 **(1) THE EXPIRATION OF THE TIME PROVIDED UNDER TITLE 10,**
4 **SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE FOR SEEKING JUDICIAL**
5 **REVIEW OF THE BOARD'S ORDER; OR**

6 **(2) THE EXPIRATION OF ANY JUDICIAL STAY OF THE ORDER OF**
7 **THE BOARD.**

8 **(D) THE BOARD SHALL ORDER PAYMENT OF EACH CLAIM DUE IN THE**
9 **ORDER IN WHICH THE CLAIM WAS AWARDED.**

10 **(E) IF, AT THE TIME A PAYMENT IS DUE, THE MONEY IN THE FUND IS**
11 **INSUFFICIENT TO SATISFY FULLY THE ORDER FOR PAYMENT, THE BOARD:**

12 **(1) IMMEDIATELY SHALL PAY TO THE CLAIMANT THE AMOUNT**
13 **THAT IS AVAILABLE IN THE FUND; AND**

14 **(2) WHEN SUFFICIENT FUNDS ARE AVAILABLE IN THE FUND,**
15 **SHALL PAY THE CLAIMANT THE BALANCE DUE ON THE ORDER.**

16 **7-4A-12.**

17 **(A) AFTER PAYMENT OF A CLAIM BY THE FUND, A LICENSEE WHO THE**
18 **BOARD FINDS RESPONSIBLE FOR THE ACT OR OMISSION THAT GAVE RISE TO**
19 **THE CLAIM SHALL REIMBURSE THE FUND IN FULL FOR:**

20 **(1) THE AMOUNT PAID BY THE FUND; AND**

21 **(2) INTEREST ON THE AMOUNT PAID BY THE FUND AT AN**
22 **ANNUAL RATE OF 6%.**

23 **(B) EACH LICENSEE WHO THE BOARD FINDS RESPONSIBLE FOR THE**
24 **ACT OR OMISSION THAT GAVE RISE TO A CLAIM IS JOINTLY AND SEVERALLY**
25 **LIABLE FOR THE CLAIM.**

26 **(C) IF A LICENSEE DOES NOT REIMBURSE THE FUND AS PROVIDED IN**
27 **SUBSECTION (A) OF THIS SECTION, THE BOARD OR THE STATE CENTRAL**
28 **COLLECTION UNIT, AS ASSIGNEE OF THE BOARD, MAY BRING AN ACTION**
29 **AGAINST THE LICENSEE FOR THE AMOUNT THAT HAS NOT BEEN REIMBURSED.**

1 (D) THE BOARD OR THE STATE CENTRAL COLLECTION UNIT, AS
2 ASSIGNEE OF THE BOARD, SHALL BE ENTITLED TO A JUDGMENT FOR THE
3 AMOUNT THAT THE LICENSEE HAS NOT REIMBURSED THE FUND IF THE BOARD
4 PROVES THAT:

5 (1) PAYMENT WAS MADE BY THE FUND BASED ON AN ACT OR
6 OMISSION FOR WHICH THE BOARD FOUND THE LICENSEE WAS RESPONSIBLE;

7 (2) A PERIOD OF AT LEAST 30 DAYS HAS PASSED SINCE PAYMENT
8 WAS MADE BY THE FUND; AND

9 (3) THE LICENSEE HAS NOT REIMBURSED THE FUND FOR THE
10 AMOUNT FOR WHICH THE JUDGMENT IS SOUGHT.

11 (E) (1) IF A PERSON LIABLE FOR REIMBURSING THE FUND UNDER
12 THIS SECTION RECEIVES A DEMAND FOR REIMBURSEMENT AND FAILS TO
13 REIMBURSE THE FUND, THE REIMBURSEMENT AMOUNT AND ANY ACCRUED
14 INTEREST OR COST ARE A LIEN IN FAVOR OF THE STATE ON ANY REAL
15 PROPERTY OF THE PERSON IF THE LIEN IS RECORDED AND INDEXED AS
16 PROVIDED IN THIS SUBSECTION.

17 (2) (I) THE LIEN IN FAVOR OF THE STATE CREATED BY THIS
18 SUBSECTION MAY NOT ATTACH TO SPECIFIC PROPERTY UNTIL THE STATE
19 CENTRAL COLLECTION UNIT RECORDS WRITTEN NOTICE OF THE LIEN IN THE
20 OFFICE OF THE CLERK OF THE COURT FOR THE COUNTY IN WHICH THE
21 PROPERTY SUBJECT TO THE LIEN OR ANY PART OF THE PROPERTY IS LOCATED.

22 (II) THE NOTICE REQUIRED UNDER SUBPARAGRAPH (I) OF
23 THIS PARAGRAPH SHALL CONTAIN THE NAME AND ADDRESS OF THE PERSON
24 AGAINST WHOSE PROPERTY THE LIEN EXISTS, THE AMOUNT OF THE LIEN, A
25 DESCRIPTION OF OR REFERENCE TO THE PROPERTY SUBJECT TO THE LIEN,
26 AND THE DATE THE FUND PAID THE CLAIM GIVING RISE TO THE LIEN.

27 (3) THE LIEN IN FAVOR OF THE STATE CREATED BY THIS
28 SUBSECTION DOES NOT HAVE PRIORITY AS TO ANY SPECIFIC PROPERTY OVER
29 ANY PERSON WHO IS A LIENHOLDER OF RECORD AT THE TIME THE NOTICE
30 REQUIRED UNDER PARAGRAPH (2) OF THIS SUBSECTION IS RECORDED.

31 (4) ON PRESENTATION OF A RELEASE OF ANY LIEN IN FAVOR OF
32 THE STATE CREATED BY THIS SUBSECTION, THE CLERK OF THE COURT IN
33 WHICH THE LIEN IS RECORDED AND INDEXED SHALL RECORD AND INDEX THE
34 RELEASE AND SHALL NOTE IN THE LIEN DOCKET THE DATE THE RELEASE IS
35 FILED AND THE FACT THAT THE LIEN IS RELEASED.

1 **(5) THE NOTICE REQUIRED UNDER PARAGRAPH (2) OF THIS**
2 **SUBSECTION AND ANY RELEASE FILED UNDER PARAGRAPH (4) OF THIS**
3 **SUBSECTION SHALL BE INDEXED WITH THE JUDGMENT LIEN RECORDS**
4 **MAINTAINED BY THE OFFICE OF THE CLERK OF THE COURT WHERE THE NOTICE**
5 **IS RECORDED.**

6 **(6) THE CLERK MAY COLLECT A REASONABLE FEE FOR**
7 **RECORDING AND INDEXING EACH NOTICE OF LIEN OR RELEASE OF ANY LIEN**
8 **UNDER THIS SUBSECTION.**

9 **(F) FOR THE PURPOSE OF EXCEPTING TO A DISCHARGE OF A LICENSEE**
10 **UNDER 11 U.S.C. § 523, THE BOARD OR THE STATE CENTRAL COLLECTION**
11 **UNIT, AS ASSIGNEE OF THE BOARD, IS A CREDITOR OF THE LICENSEE FOR THE**
12 **AMOUNT THAT WAS PAID BY THE FUND BUT THAT HAS NOT BEEN REIMBURSED**
13 **BY THE LICENSEE.**

14 **7-4A-13.**

15 **(A) IF THE BOARD ORDERS PAYMENT BY THE FUND OF A CLAIM BASED**
16 **ON AN ACT OR OMISSION FOR WHICH A LICENSEE IS RESPONSIBLE, THE BOARD**
17 **IMMEDIATELY AND WITHOUT FURTHER PROCEEDINGS SHALL SUSPEND THE**
18 **LICENSE OF THE LICENSEE.**

19 **(B) THE BOARD MAY NOT REINSTATE A LICENSE THAT IS SUSPENDED**
20 **UNDER THIS SECTION UNTIL THE PERSON WHOSE LICENSE WAS SUSPENDED:**

21 **(1) REPAYS IN FULL:**

22 **(I) THE AMOUNT PAID BY THE FUND; AND**

23 **(II) THE INTEREST DUE UNDER § 7-4A-12(A)(2) OF THIS**
24 **SUBTITLE; AND**

25 **(2) APPLIES TO THE BOARD FOR REINSTATEMENT OF THE**
26 **LICENSE.**

27 **(C) REGARDLESS OF WHETHER THE DISCIPLINARY SANCTION WAS**
28 **IMPOSED FOR THE SAME ACT OR OMISSION THAT GAVE RISE TO THE CLAIM**
29 **AGAINST THE FUND, THE REIMBURSEMENT OF THE FUND BY A LICENSEE DOES**
30 **NOT AFFECT ANY SANCTION IMPOSED BY THE BOARD AGAINST A PERSON**
31 **UNDER THE DISCIPLINARY PROVISIONS OF §§ 7-316 THROUGH 7-320 OF THIS**
32 **TITLE.**

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
2 January 1, 2009.