



Funeral Consumers Alliance of Maryland and Environs

Protecting a consumer's right to a meaningful, dignified, and affordable funeral.

HB 13 - Support

Testimony for the Committee on Health and Government Operations Of the Maryland General Assembly

January 29, 2014

Submitted by Brian E. Ditzler, Vice President
Funeral Consumers Alliance of Maryland & Environs

Chairman Hammen, Vice Chair Pendergrass and Members of the Committee:

Thank you for the opportunity to provide testimony from the Funeral Consumers Alliance of Maryland and Environs (FCAME) in support of House Bill 13.

FCAME is the volunteer-run, regional chapter of the Funeral Consumers Alliance (FCA), the oldest and largest non-profit watchdog organization protecting the rights (and wallets) of grieving consumers. FCA's many chapters across the country are dedicated to: helping consumers be more informed about death care options, and protecting the public from fraud and abuse in cremation, funeral and burial transactions. FCA and its chapters take no money from the death care industry or government, and act as a voice for consumer interests.

We strongly support House Bill 13 because it would increase consumer protections in our State laws governing cemeteries by clarifying how funds in perpetual care trusts and pre-need trust accounts can be used, and specifying when realized capital gains from investing such funds can be dispersed. These changes are needed to ensure that trust funds are always available when they are needed.

Protecting Perpetual Care Trust Funds

HB 13 would require that any realized capital gains of a perpetual care trust fund not be considered as income of the fund but rather as principal, and must be deposited in the fund. This would allow perpetual care trust funds to grow in size to achieve their intended purpose: generating income to continue maintenance and repair of the cemetery buildings and property in perpetuity.

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The bill also would prevent any perpetual care trust funds from being used to make a loan or investment on or in any real property of a cemetery or for buildings or structures associated with the property.

Protecting Pre-Need Trust Accounts

To protect funds in pre-need trust accounts (which are created after pre-need burial contracts are purchased), HB 13 would place reasonable restrictions on realized capital gains from investing trust account funds to ensure the full amount in the trust is available for use as provided in the burial contract when the contract buyer's death occurs.

Specifically, the bill would clarify that realized capital gains from investment of the funds in the pre-need trust accounts are trust income, which means such gains must remain in the trust until the contract is fulfilled.

HB 13 also would prohibit use of pre-need trust funds to purchase an interest in certain contracts or agreements, or to make a loan or investment of any kind.

Finally, the bill places reasonable restrictions on when realized capital gains from investment of individual pre-need trust accounts can be paid out. The realized capital gains can only be paid to the seller after goods and services are delivered to the contract buyer, when a buyer defaults on a pre-need burial contract, or if a trust has been dormant for at least 50 years and the seller cannot be located.

Similarly, the bill states when realized capital gains can be paid to the buyer such as when he/she cancels the pre-need contract or specific portions of it.

In summary, the restrictions contained in HB 13 on use of funds in perpetual care trusts and pre-need trust accounts, and on disbursement of realized capital gains make sense, protect the consumer, and are deserving of your support.

The Office of Cemetery Oversight is to be commended for recognizing the need to revise the laws governing perpetual care trust funds and pre-need trust accounts, and for writing this bill.

The Funeral Consumers Alliance of Maryland & Environs asks this committee to do what's best for the public welfare and consumers in our state. Please issue a favorable report on HB 13.