



# ***Funeral Consumers Alliance of Maryland and Environs***

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

## **SB 159 - Support**

**Senate Committee on Education, Health and Environmental Affairs**  
Of the Maryland General Assembly

March 4, 2015

Testimony by: Brian E. Ditzler, FCAME Vice President

Madam Chair 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 Senate Bill 159, which would provide more transparency and accountability of funds that consumers prepay for their funeral expenses often years before the funds will be used. The bill would enable greater regulatory scrutiny of "pre-need" contracts, protect the privacy of pre-need contract owners, and would require minimal effort on the part of funeral establishments to comply with the bill.

It is unfortunate that theft of funds prepaid to cover funeral expenses has been a major source of consumer fraud nationwide -- including here in our state.

In 2014, the FBI reported on a prepaid funeral fraud scheme involving National Prearranged Services and a life insurance company that victimized some 97,000 customers in more than 16 states in the mid-west who lost more than \$450 million in funeral goods and services that were paid for in advance but never provided.

In Maryland, hundreds of consumers have lost many thousands of dollars each to theft of prepaid funds, with losses totaling in the millions. For example, Paul Stella, formerly a licensed mortician and funeral home owner in Baltimore, was convicted of plundering close to \$1M from prepaid funeral accounts of 191 customers.

Bradley Allen Stewart, formerly a licensed mortician and funeral home owner in Oakland, MD, was ordered upon his conviction to provide a total of \$677,000 in restitution to 149 victims of his pre-need contract embezzlement activities. However, the total amount he stole is thought by many to be as much as \$1.5 million.

A large percentage of the people with pre-need contracts are on Medicaid, in retirement and in the last years of their lives. They don't have other assets to enable them to replace money lost through theft of their prepaid funds. These people especially need greater protection of funds in their pre-need contracts.

Another problem is that families may not know that a parent prepaid for his or her funeral, or if family members think a pre-need contract may have been made, the funeral establishments contacted may say they have no record of it.

While the contents of pre-need contracts are clearly specified under current law, there is no requirement that sellers report to any government entity what pre-need contracts they have entered into, with whom, how much money they have accepted, or where that money is deposited.

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SB 159 would require funeral homes in Maryland to send a simple report quarterly, via email, to the State Board of Morticians & Funeral Directors if the establishment signed, received money on, or fulfilled one or more pre-need contracts the previous quarter.

The bill adopts an approach similar to that now used in the State of Pennsylvania and in Washington, DC, where funeral establishments are required to file a report with the respective Board of Morticians within 30 to 90 days after a pre-need contract is signed or fulfilled.

SB 159 would also require that the Board conduct an audit of a pre-need contract within 30 days from when a buyer or beneficiary of the contract requests one, and have the disclosure statement in pre-need contracts state that the buyer or beneficiary can contact the Board and request an audit.

The increased scrutiny of pre-need contracts by the Board of Morticians that this bill would provide would encourage compliance with pre-need laws and regulations by licensees. It also would help the Board to locate any missing pre-need funds, which would greatly increase the likelihood that individual consumers would get their money returned to them if they cancel their pre-need contract, if the funeral establishment is sold or its sole proprietor died, or if fraud or theft were to occur.

The bill could actually save funeral establishments money since they would not need to pay into the Family Security Trust Fund as much to maintain its desired balance. That's because reducing pre-need contract payment theft would cause fewer consumers to seek repayment from the Trust Fund for money lost through pre-need theft.

The proposed law would not impose a burden on funeral establishments because the information on pre-need contracts sent to the Board of Morticians would be essentially the same information that the establishments routinely compile themselves for basic recordkeeping purposes. Once a new pre-need contract is reported to the Board, funeral establishments would not need to mention that contract to the Board in a quarterly report again unless more money from the consumer had been received, or the contract had been fulfilled.

The privacy of pre-need contract holders would be protected because information provided by funeral establishments on pre-need contracts would not be a public record and could only be made available to parties of the contract for pre-need services, to heirs of the deceased, executors or administrators of the estate of the deceased, and to courts of competent jurisdiction.

Passing this bill would help protect the promise made to the elderly that funds they prepaid for their funeral would be available when needed, and their families would not be stuck with the burden of having to pay (a second time) for the funeral of their loved one.

The Maryland Board of Morticians & Funeral Directors joins with the Funeral Consumers Alliance of Maryland & Environs in strongly encouraging this committee to issue a favorable report on SB 159.

*FCAME is the volunteer-run, regional chapter of the Funeral Consumers Alliance (FCA), the oldest and largest consumer protection organization focused solely on guarding 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.*