



Funeral Consumers Alliance of Maryland and Environs

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

HB 1239 - Favorable

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

March 5, 2014

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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 1239 that would lessen theft of funds prepaid for funerals. The bill also would help address the problem of unclaimed cremated human remains in our state.

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.

House Bill 1239 would enable greater regulatory scrutiny of prepaid funds. It would require funeral establishments to send a simple report quarterly, via email, to the State Board of Morticians & Funeral Directors if the establishment signed or fulfilled one or more "pre-need" contracts the previous quarter. The bill 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.

And, in recognition of another problem many funeral establishments currently have --unclaimed cremated human remains -- the bill also would require that the quarterly email reports from funeral establishments include a list of cremated human remains they have that are unclaimed after 60 days. Crematories with unclaimed cremated human remains also would have a similar reporting requirement.

The goal is simply to ascertain what unclaimed cremated human remains are stacked up in the storage areas of funeral establishments and crematories around the state (as thousands are at present), and to encourage delivery of the cremains to the State Board of Anatomy for burial.

The importance of pre-need contracts to the funeral industry is demonstrated by the fact that there are five different bills being considered this session of the General Assembly (not counting cross-files) that are focused on pre-needs. There are several reasons why funeral establishments are eager to have consumers prepay for funeral goods and services.

1. Signing a pre-need contract essentially locks a consumer into using that particular funeral establishment when the consumer's death occurs sometime in the future.

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2. If a mortician sells a consumer a life insurance policy or annuity to fund the pre-need contract, the mortician earns a nice commission up front for doing so.

3. When cash is paid, the funeral establishment gets all the money up front, and can keep all the income earned on the pre-need funds until the consumer's death occurs.

Unfortunately, getting money from consumers (often years before it will be needed) has proven to be an easy way to steal money. This definitely has been the case here in Maryland as demonstrated by a number of major cases in recent years.

For example, Paul Stella, formerly a licensed mortician and owner of Paul Stella Funeral Home in Baltimore City, was convicted of plundering close to \$1 million from the prepaid funeral accounts of 191 customers.

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

In 2008, the Maryland General Assembly authorized creation of a \$1,000,000 Family Security Trust Fund to help reimburse consumers for pre-need funds they lost through fraud and theft. Unfortunately, in light of the way the law was written and the total amount of pre-need funds thought to have been stolen in Maryland, the Board of Morticians & Funeral Directors to date has agreed to reimburse no more than 20 percent of pre-need funds that individual consumers could prove were stolen by a licensed funeral establishment.

HB 1239 takes a more proactive approach that is intended to discourage pre-need theft from happening in the first place. The bill adopts an approach similar to that now used in the State of Pennsylvania where funeral establishments are required to file a report with the State within 90 days after a pre-need contract is signed, and within 30 days after a pre-need contract is fulfilled.

Under this bill, funeral establishments would be required to provide the state with a short report electronically each quarter if they sold or fulfilled any pre-need contracts the previous quarter. The Board of Morticians would retain these quarterly reports for reference as needed, including when the owner of a funeral establishment dies, when an establishment closes or is sold, or when an establishment is found to not have good records on consumer funds received. The reports would also facilitate auditing of a pre-need contract within 30 days by the Board when contacted by a consumer with concerns about his/her contract. The Board also would reference the quarterly reports during periodic inspections of funeral establishments when pre-need contract records are examined.

This increased scrutiny of pre-need contracts by the Board of Morticians would encourage compliance with pre-need laws and regulations by licensees. HB 1239 also would greatly increase the likelihood that all prepaid funds would be available to fulfill contracts for funeral services and merchandise or be returned if a contract holder decided to cancel his/her pre-need contract.

The information on pre-need contracts that would be contained in the email reports funeral establishments would be required to file each quarter is essentially the same information funeral establishments routinely compile themselves for basic recordkeeping purposes, so submitting the quarterly reports would take minimal effort.

In summary, HB 1239 would lessen theft of funds prepaid for funerals and help ensure more cremated human remains receive respectful disposition. The Funeral Consumers Alliance of Maryland & Environs joins with the Maryland Board of Morticians & Funeral Directors in strongly supporting HB 1239 and encouraging a favorable report on the bill from this committee.

