

HOUSE BILL 1042

J2

(4lr2774)

ENROLLED BILL

— *Health and Government Operations/Education, Health, and Environmental Affairs* —

Introduced by **Delegates Anderson, Cullison, and Pena-Melnyk**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this

_____ day of _____ at _____ o'clock, _____ M.

Speaker.

CHAPTER _____

1 AN ACT concerning

2 **State Board of Morticians and Funeral Directors – Funeral Establishments**
3 **Owned by a Single Owner – Pre-Need Trustee Licenses and Public**
4 **Notification of Death**

5 FOR the purpose of requiring the State Board of Morticians and Funeral Directors to
6 issue an executor license to an applicant if the applicant is the appointed
7 personal representative of a deceased surviving spouse’s estate under certain
8 circumstances; requiring a certain personal representative of a surviving
9 spouse’s estate to be licensed by the Board; ~~altering the number of days after~~
10 ~~the death of a licensed mortician, funeral director, or surviving spouse that~~
11 ~~certain documentation is required to be submitted to the Board by an applicant~~
12 ~~for an executor license;~~ requiring an applicant for an executor license to submit
13 to the Board, within a certain time period, the name of a licensed funeral
14 director or mortician who has agreed to apply for a certain pre-need trustee

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.

Italics indicate opposite chamber/conference committee amendments.



1 ~~license; altering the number of months for which an executor license is valid;~~
 2 requiring the Board to provide for the term of an executor license, rather than
 3 specifying the term in a certain provision of law; providing that the term of an
 4 executor license may not exceed a certain number of months; authorizing the
 5 Board to renew an executor license for a certain time period under certain
 6 circumstances; establishing a pre-need trustee license; requiring the Board to
 7 issue a pre-need trustee license to an applicant under certain circumstances;
 8 providing that a pre-need trustee license authorizes the license holder to
 9 manage pre-need accounts held by a funeral establishment until the closing or
 10 sale of the funeral establishment; establishing the term of a pre-need trustee
 11 license; providing that a pre-need trustee license holder may be the supervising
 12 mortician in a funeral establishment; applying a certain section of law to a
 13 certain owner of a funeral establishment; requiring a certain mortician to post a
 14 certain notice ~~and record a certain message within a certain period of time after~~
 15 ~~the death of a certain owner;~~ requiring a licensed pre-need trustee to send a
 16 letter to certain holders of certain pre-need contracts regarding certain options
 17 available under certain provisions of law; requiring a certain letter to be
 18 returned within a certain period of time after receipt and to include certain
 19 information; ~~requiring that for any letter not returned within a certain period of~~
 20 ~~time, certain pre-need funds be considered unclaimed property;~~ requiring a
 21 licensed pre-need trustee, within a certain time period, to identify to the Board
 22 and the licensed executor certain pre-need bank trust money; requiring the
 23 licensed pre-need trustee to make a certain claim against a certain estate;
 24 requiring the licensed executor to transfer certain money to the abandoned
 25 property office in the Office of the Comptroller; requiring a licensed pre-need
 26 trustee to send a certain list to the Board containing certain information
 27 regarding pre-need accounts within a certain period of time after the death of a
 28 certain owner; requiring a licensed pre-need trustee to send a certain list to the
 29 Board containing certain information regarding unclaimed cremains within a
 30 certain period of time after the death of a certain owner; requiring the Board to
 31 work with the State Anatomy Board to ensure proper distribution of certain
 32 cremains; requiring a licensed pre-need trustee to send certain information to
 33 the Board in a certain format; and generally relating to the State Board of
 34 Morticians and Funeral Directors and the regulation of morticians, funeral
 35 directors, and funeral establishments.

36 BY repealing and reenacting, with amendments,
 37 Article – Health Occupations
 38 Section 7–308.1(a), (b), and (f)
 39 Annotated Code of Maryland
 40 (2009 Replacement Volume and 2013 Supplement)

41 BY adding to
 42 Article – Health Occupations
 43 Section 7–308.2 and 7–308.3
 44 Annotated Code of Maryland
 45 (2009 Replacement Volume and 2013 Supplement)

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

3 **Article – Health Occupations**

4 7–308.1.

5 (a) A personal representative of a deceased mortician's [or], funeral
6 director's, **OR SURVIVING SPOUSE'S** estate shall be licensed by the Board before
7 continuing operation of the mortuary science business.

8 (b) The Board shall issue an executor license to an applicant if the applicant:

9 (1) Is the appointed personal representative of a deceased mortician's
10 [or], funeral director's, **OR SURVIVING SPOUSE'S** estate in accordance with the
11 requirements established in Title 5 of the Estates and Trusts Article;

12 (2) Submits to the Board, within ~~30~~ **14** days of the death of the
13 licensed mortician [or], funeral director, [written] **OR SURVIVING SPOUSE:**

14 (I) **WRITTEN** verification of the death of the licensee[, written];

15 (II) **WRITTEN** verification of appointment as a personal
16 representative[, and the]; **AND**

17 (III) **THE** application required by the Board; ~~and~~

18 ~~(IV)~~ **(3) THE WITHIN 14 DAYS AFTER THE DEATH OF THE**
19 **LICENSED MORTICIAN, FUNERAL DIRECTOR, OR SURVIVING SPOUSE, SUBMITS**
20 **TO THE BOARD THE NAME OF A LICENSED FUNERAL DIRECTOR OR MORTICIAN**
21 **WHO HAS AGREED TO APPLY FOR A PRE-NEED TRUSTEE LICENSE ISSUED**
22 **UNDER § 7–308.2 OF THIS SUBTITLE; AND**

23 ~~(3)~~ **(4)** Pays a fee set by the Board.

24 (f) **(1) (I)** Notwithstanding the provisions of § 7–314 of this subtitle,
25 **THE BOARD SHALL PROVIDE FOR THE TERM OF AN EXECUTOR LICENSE.**

26 **(II) THE TERM OF** an executor license ~~is valid for [six] 9~~
27 ~~months from the date of issuance [and may not be renewed or reinstated after~~
28 ~~expiration]~~ **MAY NOT BE MORE THAN 12 MONTHS.**

29 **(2) AN EXECUTOR LICENSE MAY BE RENEWED FOR ONE**
30 **ADDITIONAL 3-MONTH PERIOD ~~PROVIDED IF:~~**

1 (I) A BUYER OF THE FUNERAL ESTABLISHMENT HAS BEEN
2 IDENTIFIED AND HAS ENTERED INTO A SALES CONTRACT, BUT THE SALE OF THE
3 FUNERAL ESTABLISHMENT HAS NOT BEEN COMPLETED; ~~OR~~

4 (II) A PRE-NEED ACCOUNT AUDIT HAS NOT BEEN
5 COMPLETED AND EVIDENCE IS PRESENTED TO THE BOARD THAT FAILURE TO
6 COMPLETE THE AUDIT IS DUE TO CIRCUMSTANCES BEYOND THE CONTROL OF
7 THE FUNERAL ESTABLISHMENT; OR

8 (III) THE BOARD DETERMINES THAT A RENEWAL IS NEEDED
9 DUE TO UNFORESEEN CIRCUMSTANCES.

10 **7-308.2.**

11 (A) SUBJECT TO THE PROVISIONS OF THIS SECTION, THE BOARD SHALL
12 ISSUE A PRE-NEED TRUSTEE LICENSE TO AN APPLICANT IF THE APPLICANT:

13 (1) APPLIES TO THE BOARD ON AN APPLICATION PROVIDED BY
14 THE BOARD;

15 (2) HAS BEEN ACTIVELY LICENSED IN GOOD STANDING BY THE
16 BOARD FOR A MINIMUM OF 5 YEARS WHILE WORKING IN A FACILITY THAT HAS
17 ACCEPTED PRE-NEED CONTRACTS AND WHO CAN PROVIDE PROOF TO THE
18 BOARD THAT THESE SERVICES HAVE BEEN PROVIDED BY THE APPLICANT;

19 (3) HAS BEEN APPOINTED AS A PRE-NEED TRUSTEE BY THE
20 HOLDER OF AN EXECUTOR LICENSE ISSUED UNDER § 7-308.1 OF THIS
21 SUBTITLE;

22 (4) IS OF GOOD MORAL CHARACTER; AND

23 (5) PAYS THE REQUIRED FEE.

24 (B) (1) WHILE A PRE-NEED TRUSTEE LICENSE IS EFFECTIVE, THE
25 LICENSE AUTHORIZES THE LICENSE HOLDER TO MANAGE PRE-NEED ACCOUNTS
26 HELD BY A FUNERAL ESTABLISHMENT UNTIL THE CLOSING OR SALE OF THE
27 FUNERAL ESTABLISHMENT.

28 (2) NOTWITHSTANDING THE PROVISIONS OF § 7-314 OF THIS
29 SUBTITLE, A PRE-NEED TRUSTEE LICENSE IS VALID FROM THE DATE OF
30 ISSUANCE UNTIL THE DATE OF EXPIRATION OF THE LICENSE OF THE EXECUTOR
31 WHO APPOINTED THE LICENSE HOLDER AS A PRE-NEED TRUSTEE UNDER
32 SUBSECTION (A)(3) OF THIS SECTION.

1 (C) THE HOLDER OF A PRE-NEED TRUSTEE LICENSE ISSUED UNDER
2 THIS SECTION MAY BE THE SUPERVISING MORTICIAN IN A FUNERAL
3 ESTABLISHMENT.

4 7-308.3.

5 (A) THIS SECTION APPLIES TO A FUNERAL ESTABLISHMENT OWNED BY
6 A FUNERAL DIRECTOR, MORTICIAN, OR SURVIVING SPOUSE WHO WAS THE
7 SINGLE OWNER AND SOLE LICENSEE OF A FUNERAL ESTABLISHMENT.

8 ~~(B) WITHIN 24 HOURS AFTER THE DEATH OF A SINGLE OWNER OF A~~
9 ~~FUNERAL ESTABLISHMENT, A SIGN SHALL BE PROMINENTLY POSTED BY THE~~
10 ~~SUPERVISING MORTICIAN ON ALL PUBLIC ENTRANCES TO THE FUNERAL~~
11 ~~ESTABLISHMENT NOTIFYING THE PUBLIC OF THE DEATH OF THE SINGLE~~
12 ~~OWNER.~~

13 ~~(C)~~ (B) WITHIN 7 DAYS AFTER THE DEATH OF THE SINGLE OWNER
14 AND SOLE LICENSEE OF A FUNERAL ESTABLISHMENT, THE SUPERVISING
15 MORTICIAN SHALL:

16 (1) PLACE AN OBITUARY FOR THE DECEASED SINGLE OWNER AND
17 SOLE LICENSEE IN THE DEATH NOTICES SECTION OF A NEWSPAPER WITH
18 GENERAL CIRCULATION IN THE AREA OF THE FUNERAL ESTABLISHMENT; AND

19 ~~(2) RECORD A MESSAGE ON THE ANSWERING MACHINE~~
20 ~~NOTIFYING THE PUBLIC OF THE DEATH OF THE SINGLE OWNER; AND~~

21 ~~(3)~~ (2) PLACE A NOTICE TO THE PUBLIC OF THE DEATH OF THE
22 SINGLE OWNER AND SOLE LICENSEE ON ANY WEB SITE MAINTAINED BY THE
23 FUNERAL ESTABLISHMENT.

24 ~~(D)~~ (C) (1) WITHIN ~~30~~ 90 DAYS AFTER THE DEATH OF A SINGLE
25 OWNER OF A FUNERAL ESTABLISHMENT, THE PRE-NEED TRUSTEE LICENSED
26 UNDER § 7-308.2 OF THIS SUBTITLE SHALL SEND A LETTER TO ALL PRE-NEED
27 CONTRACT HOLDERS WHO HAVE FUNDS IN TRUST WITH OR AN INSURANCE
28 PRODUCT ASSIGNED TO THE FUNERAL ESTABLISHMENT STATING THE OPTIONS
29 AVAILABLE UNDER § 7-405 OF THIS TITLE.

30 (2) THE LETTER REQUIRED BY PARAGRAPH (1) OF THIS
31 SUBSECTION SHALL BE RETURNED WITHIN 5 DAYS AFTER RECEIPT AND SHALL
32 INCLUDE THE FULL SIGNATURE OF THE PRE-NEED CONTRACT HOLDER NEXT TO
33 THE OPTION CHOSEN FROM THOSE AVAILABLE UNDER § 7-405 OF THIS TITLE.

~~(3) FOR ANY LETTER NOT RETURNED WITHIN 30 DAYS AFTER THE DAY THE LETTER IS DATED, THE PRE-NEED FUNDS OF THE BENEFICIARY OF THE PRE-NEED CONTRACT SHALL BE CONSIDERED UNCLAIMED PROPERTY AND THE LICENSED PRE-NEED TRUSTEE SHALL SEND THE FUNDS TO UNCLAIMED PROPERTY IN THE OFFICE OF THE COMPTROLLER.~~

(D) (1) WITHIN 90 DAYS AFTER THE DEATH OF A SINGLE OWNER AND SOLE LICENSEE OF A FUNERAL ESTABLISHMENT, THE PRE-NEED TRUSTEE LICENSED UNDER § 7-308.2 OF THIS SUBTITLE SHALL IDENTIFY TO THE BOARD AND THE EXECUTOR LICENSED UNDER § 7-308.1 OF THIS SUBTITLE ALL PRE-NEED BANK TRUST MONEY THAT ~~HAVE~~ HAS BEEN DEPOSITED UNDER THE FEDERAL IDENTIFICATION NUMBER OF THE FUNERAL ESTABLISHMENT OR THE SOCIAL SECURITY NUMBER OF THE DECEASED SINGLE OWNER AND SOLE LICENSEE, INSTEAD OF THE SOCIAL SECURITY NUMBER OF THE BENEFICIARY OR BUYER OF THE PRE-NEED CONTRACT.

(2) THE PRE-NEED TRUSTEE LICENSED UNDER § 7-308.2 OF THIS SUBTITLE SHALL MAKE A CLAIM AGAINST THE ESTATE OF THE DECEASED SINGLE OWNER AND SOLE LICENSEE OF THE ESTABLISHMENT WHICH THE LICENSEE PREVIOUSLY OWNED FOR THE MONEY IDENTIFIED UNDER PARAGRAPH (1) OF THIS SUBSECTION.

(3) THE EXECUTOR LICENSED UNDER § 7-308.1 OF THIS SUBTITLE SHALL TRANSFER ALL MONEY IDENTIFIED IN PARAGRAPH (1) OF THIS SUBSECTION TO THE ABANDONED PROPERTY OFFICE IN THE OFFICE OF THE COMPTROLLER IN THE PROPER NAME OF THE BENEFICIARY OR BUYER OF THE PRE-NEED CONTRACT.

(E) ~~WITHIN 45~~ 90 DAYS AFTER THE DEATH OF THE SINGLE OWNER OF A FUNERAL ESTABLISHMENT, THE PRE-NEED TRUSTEE LICENSED UNDER § 7-308.2 OF THIS SUBTITLE SHALL SEND TO THE BOARD A LIST THAT INCLUDES:

(1) THE NAMES OF ALL FUNDED PRE-NEED CONTRACT HOLDERS;

(2) THE AMOUNT OF THE FUNDS ENTRUSTED TO THE FUNERAL ESTABLISHMENT THROUGH A BANK ACCOUNT OR INSURANCE PRODUCT; AND

(3) THE LOCATION WHERE THE FUNDS CURRENTLY ARE MAINTAINED.

(F) (1) ~~WITHIN 60~~ 90 DAYS AFTER THE DEATH OF THE SINGLE OWNER OF A FUNERAL ESTABLISHMENT, THE PRE-NEED TRUSTEE LICENSED UNDER § 7-308.2 OF THIS SUBTITLE SHALL SEND TO THE BOARD A LIST OF ALL UNCLAIMED CREMAINS, INCLUDING:

1 (I) ~~THE DATE OF BIRTH AND DATE OF DEATH OF A COPY OF~~
2 THE FILED DEATH CERTIFICATE FOR EACH CREMATED DECEDENT; AND

3 (II) THE CREMATORY CERTIFICATE FOR EACH CREMAINS;
4 ~~AND~~

5 ~~(III) THE CONTACT INFORMATION FOR THE NEXT OF KIN~~
6 ~~FOR EACH CREMATED DECEDENT.~~

7 (2) THE BOARD SHALL WORK COLLABORATIVELY WITH THE
8 STATE ANATOMY BOARD TO ENSURE PROPER DISPOSITION OF THE CREMAINS.

9 (G) THE PRE-NEED TRUSTEE LICENSED UNDER § 7-308.2 OF THIS
10 SUBTITLE SHALL SUBMIT TO THE BOARD A DIGITAL IMAGE ON REMOVABLE
11 MEDIA OR ON CLOUD-BASED STORAGE THAT INCLUDES:

12 (1) ALL SIGNED PRE-NEED CONTRACTS; AND

13 (2) ANY ASSOCIATED PAPERWORK DATING FROM THE SIGNING OF
14 THE PRE-NEED CONTRACT.

15 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
16 October 1, 2014.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.