Statement of the Funeral Consumers Alliance of Maine Presented at the public hearing on the bill on April 3, 2013

L.D. 1018

An Act Regarding Preneed Funeral Insurance

Senator Gratwick, Representative Treat and members of the **Insurance and Financial Services Committee**, my name is Cushman Anthony and I live in Falmouth. I was a member of the 113th, 114th, and 115th Maine Legislature. I am currently the President of the Funeral Consumers Alliance of Maine, an organization with which I have had a long association.

I am speaking here today on behalf of the Funeral Consumers Alliance of Maine.

We are a non-profit, all volunteer, educational organization dedicated to helping members make informed decisions about after-death arrangements that are dignified, meaningful, and affordable.

We achieve this goal through consumer education and outreach, including group presentations by informed speakers, printed materials, Maine price surveys, information about Maine funeral laws, and coordination with our parent national organization. Members are strongly encouraged to discuss after-death preferences with family, friends and/or trusted advisors.

Founded in 1973, FCAMaine is one of more than 100 similar groups across the country, supported by the national Funeral Consumers Alliance (www.funerals.org). We have a mailing list of over 1200 individuals, most of which are members of our organization and all of which are supporters of our work. We have no connection to the funeral industry and often have served as a watchdog over that industry. We have no affiliation with any religious group.

We promote simplicity, dignity and economy in funeral arrangements through advance planning.

We strongly oppose passage of this bill.

Our core mission is encouraging individuals to make decisions about what they prefer to happen with their body after their death, and to communicate those wishes to their family members. We have learned that what one wishes at one point during his or her life often changes over time, and revised requests often need to be prepared and disseminated. As a consequence, while we encourage preplanning, we discourage pre-paying for what will happen. Make the plans clear, and if you wish, set aside some assets to cover the cost of what you are recommending. But do not set your plans in cement. You may change your mind later.

Also, what you want may need to be modified based on the circumstances at the time of your death. If you have moved to another part of the country, using the funeral provider that you selected may have become impractical. Many prepaid plans cannot be transferred from state to state. You may also find that the funeral director you selected has gone out of business, and as a consequence you have lost all the money you expected to be available for your funeral. If you die while traveling overseas, that creates another whole series of considerations for your next of kin when selecting the best way to deal with your body and your funeral arrangements. We live in a highly mobile society. It is for these reasons that we encourage preplanning but not pre-paying for death arrangements.

There is one exception to this general rule. If one is going onto Medicaid for help with health expenses near the end of life, it is a good idea for that person to create a separate account dedicated to paying for funeral arrangements. Under the Medicaid rules, that account will not be considered part of your assets when deciding when or whether you are eligible for Medicaid assistance.

So we encourage our members and those who consult with us to avoid being locked in to any particular funeral arrangement by paying for it in advance. Nevertheless, some of our members choose to prepay for their funerals despite this advice. That is fine. We are advisers, not an organization that requires our member to choose any option. We believe strongly in consumer free choice. For those people who wish to pre-pay, the laws in Maine have a very satisfactory method of doing that, which is to create a mortuary trust with a bank pursuant to Title 14 Section 1401.

A funeral director of your choice can assist you in establishing one of these revocable trusts, or you can speak to a knowledgeable person in the trust department of most banks. Under one of these trusts, you continue to own the money, and if it is not used at the time of your death for the arrangements you have selected, the next of kin can have those funds returned and made part of your estate for distribution under your will. This arrangement is far superior to having purchased insurance, where you lose control over the funds you wish utilized for paying for your funeral.

You can also simply establish an ordinary revocable trust account in your name rather than a specifically mortuary trust, and simply explain to your next of kin that you intend this fund was established to be available for paying for funeral expenses.

I should point out as well that the funeral arrangements do not need to cost the six or ten thousand dollars that is so often paid for funerals in Maine. Many of the people who contact our Funeral Consumers Alliance of Maine are seeking less expensive funeral arrangements than are usually set up with the help of funeral directors. Some folks even wish to avoid funeral directors entirely and have family members do all aspects of the death arrangements, and we advise those folks as to how that can be done. Usually the prime motivation of those people is not to save

money, but rather to have their loved ones be the only persons involved in handling the deceased's body.

We have also learned that if you purchase so-called preneed death insurance, you may end up paying significantly more for the arrangements you make through a funeral home than what your next of kin would have paid to purchase the same funeral at the time of your death. The national Funeral Consumers Alliance, of which we are a member organization, reports to us that they have found this to be true often.

The best funeral directors are the ones who meet the needs as they are presented to them, and not the ones who seek to sell insurance well in advance and take a commission on that sale. Passing this bill would be helping the greedy ones, and not those who represent the best of that profession. It runs totally contrary to all that the Funeral Consumers Alliance of Maine stands for. For these reasons, we urge an "ought not to pass" unanimous vote on this bill.

We would be pleased to participate in work sessions and further committee discussions about this bill. Thank you.