



Protecting a consumer's right to choose meaningful, dignified, and affordable funerals since 1963

April 28, 2008

To: All Missouri Lawmakers, Regulators, and Parties Interested in Reforming Prepaid Funeral Law

re HB 2469, HB 2594, and an unnumbered bill proposed by the Missouri Board of Embalmers and Funeral Directors

Dear Ladies and Gentlemen:

We write to you from Funeral Consumers Alliance, a national nonprofit federation of consumer information societies dedicated to protecting grieving families' rights to meaningful and affordable funerals, and from FCA of Greater Kansas City. Our nationwide membership approaches 400,000, and the state chapter, the FCA of Greater Kansas City, advocates for funeral consumers in Missouri and Kansas.

As you know, Missouri, Kentucky, Texas, Iowa, Illinois, and Ohio are taking action against National Prearranged Services, the prepaid funeral insurance company under scrutiny by Missouri Attorney General Jay Nixon. While all the details are unclear, it's obvious the company's in financial trouble, which puts consumers and funeral homes in jeopardy if NPS is unable to pay out on contracts. This has sparked efforts to reform Missouri's prepaid funeral laws, which we applaud. However, both bills above fall short of what's needed for true consumer protection. Some provisions of the proposal by the state funeral board come closer, but that document contains many serious flaws as well.

The prepaid funeral business can be complicated, and few lawmakers, regulators or citizens understand how it works and how it affects consumers. That's understandable, but it shows in the bills and proposals put forward. Unfortunately, they are confusing, sometimes contradictory, and contain some anti-consumer provisions that may not be apparent to the drafters. FCA would like to help clarify these issues and offer our recommendations. We've been monitoring funeral law at the state and federal level for decades, and we can offer a consumer-based perspective that often gets lost in the arcane debates over statutory wording.

Instead of trying to patch up an outdated, verbose and obscurely written statute, we believe it would be best to start from the ground up. Writing a new statute with effective consumer protections as the guiding principle would be a lot easier and more effective.

We want to keep this letter short and offer you several provisions FCA believes should be included in any state law regulating prepaid funerals. But we're also enclosing detailed commentary on each of the bills (prepared by Joshua Slocum, Executive Director of FCA National) and proposals above so those interested can see where the proposals make progress, where they go wrong, and why. At a minimum, Missouri law should:

- Require 100 percent deposit of a customer's prepaid funeral money in a regulated financial institution.
- Require funeral providers to refund 100 percent of consumers' money, with interest, if the consumer wishes to cancel the contract before death.
- Require funeral providers to transfer the consumer's investment - principal and interest - to a new provider of the consumer's choice on request.



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- Cap any administrative fees, or fees of any sort, at $\frac{3}{4}$ of 1 percent, as New York state does. Missouri's current law allows providers to skim an unconscionable 20 percent from the customer's account, in addition to **all the interest annually**. This is not only grossly unfair to the consumer, it encourages providers to indulge in short term greed that puts the financial security of the business and the consumer at great future risk.
- Prohibit funeral providers from converting a customer's trust-funded funeral to an insurance policy under any circumstances.
- Require funeral providers to send customers an annual 1-page statement showing how much money is in the customer's trust account and how much interest has accrued.
- Require funeral providers to submit to the state annually a copy of each preneed contract sold.
- Require the state to audit a reasonable sample of funeral providers annually to determine compliance with trusting laws.
- Lift unjustifiable restrictions on public access to information on government regulation and licensing of prepaid funeral sellers. All three proposals above are alarming in how completely they restrict public access to legitimate information, such as the registration status of a preneed seller and any complaints filed or adjudicated. These restrictions prevent any outside scrutiny of the state's oversight and prevent consumers from making informed decisions about whom to do business with. They may even violate the state's current open records statutes.

We appreciate that lawmakers and regulators take this issue seriously, and we're glad to see such effort toward reforming state laws. We know the work is well-intended, we're just concerned that all parties may not understand the consequences of what's being proposed. FCA and FCA of Greater Kansas City very much want to participate in the drafting of any new laws affecting prepaid funerals. We believe it's crucial to include knowledgeable consumer advocates to balance the input from industry members who have an economic stake in the matter. Please contact us with any questions, and we'd appreciate being notified of any developments or new proposals.

Sincerely,

A handwritten signature in black ink that reads "Joshua Slocum".

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Attachments:

- A. FCA online article critiquing HB 2469 and HB 2594
- B. Line-by-line analysis and commentary of the proposed bill drafted by the Board of Embalmers and Funeral Directors