

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL MEMORANDUM

SB 602 - HB 785

April 2, 2019

SUMMARY OF ORIGINAL BILL: Decreases, from the 20th day of the month following the month of receipt, to 15 calendar days, the period of time in which a pre-need funeral contract seller must deposit all funds received by a contract purchaser for the purpose of funding the contract through a trust with the trustee. Authorizes a trustee to establish a single trust fund for all pre-need funeral contracts issued by multiple pre-need sellers, instead of having to establish a trust fund for each pre-need seller. Requires accounting records for pre-need funeral trust beneficiaries to be available to the Comptroller of the Treasury upon request.

FISCAL IMPACT OF ORIGINAL BILL:

NOT SIGNIFICANT

IMPACT TO COMMERCE OF ORIGINAL BILL:

NOT SIGNIFICANT

SUMMARY OF AMENDMENT (006663): Deletes and rewrites all language after the enacting clause such that the substantive changes are: (1) establishes that a trustee managing a trust under this legislation must conform to the *Tennessee Uniform Prudent Investor Act of 2002*, and may not expand, restrict, eliminate, or otherwise alter the Prudent Investor Rule in the provisions of such trust; (2) establishes that a trustee shall provide a semiannual financial report concerning the trust to the Department of Commerce and Insurance (DCI); and (3) establishes that if a trustee uses a board for the management of a trust, the trustee must maintain insurance on behalf of each board member.

FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENT:

Unchanged from the original fiscal note.

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Assumptions for the bill as amended:

- Any additional administrative duties for DCI to receive financial reports of pre-need funeral trusts can be accomplished within existing resources.
- The proposed legislation will not change the scope or frequency of audits conducted by the Division of State Audit.
- The proposed legislation will impact private parties and will not have a significant impact on state or local government.

IMPACT TO COMMERCE WITH PROPOSED AMENDMENT:

Unchanged from the original fiscal note.

Assumptions for the bill as amended:

- Providing a semiannual report of pre-need trust accounts to the Department is estimated to be accomplished within existing resources.
- The number of trustees that would require additional liability insurance for board members is estimated to be minimal.
- The proposed legislation requires separate trust funds for each pre-need funeral contract or a single trust fund for all pre-need funeral contracts issued by a single pre-need seller established by a trustee to be carried in the name of a pre-need seller based in this state.
- The proposed legislation authorizes a trustee to establish a single trust fund for each contract issued by multiple pre-need sellers in any state.
- Pursuant to Tenn. Code Ann. § 62-5-407(b), the Commissioner of the Department of Commerce and Insurance is authorized to require a pre-need seller to deposit future trust funds in a shorter time frame if any past deposits were not made in a timely manner.
- The authorizations and requirements for pre-need sellers will not impact commerce or jobs in Tennessee in a significant manner.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.



Krista Lee Carsner, Executive Director

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