

REVENUE: No revenue impact

FISCAL: No fiscal impact

Action:	Do Pass
Vote:	8 - 0 - 0
Yeas:	Cameron, Clem, Matthews, Sheehan, Smith J., Weidner, Holvey, Whisnant
Nays:	0
Exc.:	0
Prepared By:	Jan Nordlund, Administrator
Meeting Dates:	2/1

WHAT THE MEASURE DOES: Allows the Department of Consumer and Business Services (Department) to regulate those who administer pre-need contracts in addition to those who sell or offer contracts. Gives greater discretion to the Department in setting fees. Caps the Consumer Protection Trust Fund at \$2 million. Clarifies who can name a successor certified provider under various circumstances. Clarifies which expenses may be paid out of earnings of trust fund deposits and allows the recalculation of the trust fund balance to be made at least once every six months. Establishes what constitutes fraud or deceit in the pre-need industry. Declares an emergency, effective on passage.

ISSUES DISCUSSED:

- Review of hearings held during the interim
- Penalty for committing fraud or deceit

EFFECT OF COMMITTEE AMENDMENT: No amendment.

BACKGROUND: The House Interim General Government and Consumer Protection Committee held a hearing on the issue of pre-need funeral goods and services in September 2011. A work group then formed to produce a consensus bill. Work group participants included the Department of Consumer and Business Services, master trustees, certified providers, a consumer advocate, and legislative staff. The stakeholders returned to the committee in January with the legislative concept that resulted in HB 4117.

The Oregon Mortuary and Cemetery Board regulates most components of the death industry. However, the Department oversees the prepayment of funeral goods and services before the time of need. Oregon law protects consumers who purchase preneed funeral contracts by requiring the sellers to be certified by the Department and requires seller to deposit preneed sales proceeds into trust accounts. The trust funds are managed either by a “master trustee” or a financial institution to ensure that funds are invested and available when the beneficiary dies. Earnings from the trust fund can be used to pay certain fees and expenses, but the payment must not exceed two percent of the value of the trust.

To administer the oversight functions, the Department collects fees from certified providers upon application for or renewal of certification. The Department also collects \$5 for each preneed contract sold to protect consumers against fraud. The consumer protection fund has a balance of approximately \$800,000. The fund was once as high as \$1.1 million.