

REVENUE: No revenue impact**FISCAL: No fiscal impact**

Action:	Do Pass
Vote:	5 - 0 - 0
Yeas:	Boquist, Dingfelder, George, Rosenbaum, Shields
Nays:	0
Exc.:	0
Prepared By:	Jan Nordlund, Administrator
Meeting Dates:	2/15

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 emergency, effective on passage.

ISSUES DISCUSSED:

- Importance of protecting consumer payments in trust account
- Past use of Consumer Protection Trust Fund
- Rulemaking to occur during 2012 interim
- Enforcement of anti-fraud provision

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 2011. A work group formed to produce a consensus bill. Participants included the Department of Consumer and Business Services, master trustees, certified providers, consumer advocates, and legislative staff. The stakeholders returned to the committee in January with the legislative concept that became House Bill 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 pre-need funeral contracts by requiring the sellers to be certified by the Department and requires sellers to deposit pre-need 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 pre-need 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.

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This summary has not been adopted or officially endorsed by action of the committee.