

State Can Protect Against Funeral Fraud with Insurance-Funded Pre-Arrangement Plans



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By Brent Taylor

In the wake of the Forest Hill fiasco, controversy still clouds the issue of pre-arranged funeral plans. New legislation backed by the Tennessee funeral industry attempts to ease the problem but would only make it worse.

The bill in the state legislature would let funeral directors take up to 10 percent of the cost of a prepaid plan, keeping a portion and sending the rest to a restitution fund for fraud victims. The Tennessee Funeral Directors Association (TFDA) thinks that letting funeral directors keep part of the money will encourage them to participate in the bailout program.

This makes no sense. It's worse than current state law, which requires that 100 percent of money for prepaid funerals be put in a trust fund or insurance policy. Peeling off a 10 percent slice for funeral directors only increases the risk that the funds could be misused.

There's a better way to protect the public and the funeral industry. Tennessee should ban trust-funded pre-arranged funerals and require that such plans be funded by insurance policies only. That's by far the safest course. I've learned that in more than 20 years as a funeral director.

Despite what some so-called consumer watchdogs claim, pre-paid funerals bring important benefits. They protect consumers from inflated costs. They allow key decisions to be made in advance. Again and again, I have seen how pre-paid plans bring families peace of mind amid their grief.

My experience also teaches that insurance-funded pre-arrangements are the safest course. That's the only type of pre-paid plan any of my funeral homes sell. Claims about the risk of pre-paid funerals only apply to trust-funded plans. An insurance-funded plan carries no more risk of failure than does a life insurance policy with a major provider. And traditionally, the rate of growth with insurance plans has been greater than with trust funds.

Trust funds for pre-paid funerals were at the heart of the Forest Hill scandal. The owner had access to the trust funds and that allegedly proved a fatal temptation. Now

former owner Clayton Smart and others are charged with stealing millions. It's understandable that the TFDA wants to avoid a repeat of this debacle and to protect victims of funeral fraud.

But consider this – throughout the funeral industry, there are no cases of failure involving pre-arranged plans that are insurance-funded. So the TFDA-backed legislation is misguided. By perpetuating the use of trust funds and giving funeral directors control over a portion of those funds, the legislation might worsen the problem it was designed to correct. Instead, the state should legislate in favor of insurance-funded plans.

Such plans protect the consumer. Just as with the trust-fund plans, the family makes selections in advance. The payments, however, go to an insurance company, not the funeral home. The insurance company invests the money, and at time of death, pays a funeral home the principal plus interest – usually 3 to 4 percent a year. Licensed agents at the funeral home sell the policies, but funeral directors have no access to or control over the funds. The policy only pays the funeral home once the family attests that the promised services were provided, and the funeral home produces a state-certified copy of the death certificate.

Insurance-funded plans are also transferable to any funeral home the next-of-kin may wish to use – local or out-of-town. And an insurance-funded plan protects you if the funeral home goes out of business.

Insurance-funded plans are the best way to provide the peace of mind that pre-arrangements offer. The consumer knows the money is protected from possible fraud or theft and will be there at their time of need. Insurance-funded plans also protect the funeral industry from the temptation of trust funds and the “black eyes” that cases like Forest Hill inflict. The Tennessee Legislature should reject the “10 percent” bill and establish insurance-funded pre-paid funeral plans as the standard in the state. ■