

Josh, I am not sure what your reference to MFDEA was referring to, but I hope you are aware that, on behalf of MFDEA, I both stated our view and voted to increase the trust amount to more than 80% on guaranteed-price contracts, which is what the majority of our members support (although there is some disagreement among us on, for example, if it should be 90, 95 or 100% etc.). While it is disappointing that this was not changed, there are going to be a number of very important items in the recommendations from the group that will greatly improve the current law for consumers including:

- Allowing portability
- 100% Trusting on non-guaranteed contracts
- Requiring that all funds be deposited into the trust then any % for expenses paid out
- Requiring that all income earned stay in the trust
- Increasing reporting and disclosure requirements
- Giving the State Board clear investigatory and auditing powers and rulemaking authority
- Streamlining the discipline process
- Providing for civil penalties for violations
- licensing/registering preneed salespeople, "real" licensing of preneed sellers
- Increasing the duties regarding investing and preventing some dangerous investment choices
- Increasing the fiduciary responsibilities of the Trustee
- 10% of income to consumer on cancellation of guaranteed contract, 100% on non-guaranteed contracts.

Given this, even at the 80% level with guaranteed contracts, the consumer is in a far better position than if they wish to cancel an insurance policy where they are lucky to get pennies on the dollar -- if anything at all. There is, in effect, a "charge" to the consumer in exchange for the huge benefit of locking-in prices but, with proper disclosures, why should that not be the consumer's choice? They also get the full value of the money paid into the trust unlike many insurance options where the consumer can very easily wind up paying \$12,000 for a \$6,000 funeral.

Although I feel the group's recommendations could be stronger in some areas and may even go too far in others, what I expect to be the final proposal will so much better than the current 436, I would hate to see it defeated because your group or others did not get everything you would like. Given the realities of the legislative process, as Representative Meadows clearly stated on several occasions, if there is significant opposition to any legislation that comes out of the joint committee, the likelihood is that nothing at all will get passed leaving us with the current 436 language that has so many flaws.

One example that you missed is that, under the current law, if the previous owners of NPS came to the State of Missouri today to start up a new trust to be run the same way as their old one, the State would be powerless to do anything. They would have to give a license to the new company. It can also take up to three years to discipline anyone under Chapter 436 because the enforcement language is so bizarre and the state can't fix the problem or clarify things as it has no rulemaking authority. If nothing else these kind of situations need to be changed and the recommendations that have been approved would do that. If no bill is passed, the current very bad 436 would stay in effect and we would have

lost perhaps our only chance in years to improve the situation.

Lastly, I must also take exception to your phrase "fleecing the consumer." Even with all of the recent problems with preneed, to my knowledge no consumer has failed to receive the funeral that they have paid for because of the chapter 436 provisions, as flawed as they may be. If anyone was "fleeced" in the past several years it was funeral homes who are providing the funerals to the consumers regardless of how much they are receiving from insurance companies, trusts or third-party sellers. Even when a funeral home has gone out of business, the state and the industry has stepped in to protect the consumer. Many of the positions many of us took at the meetings would actually hurt our "bottom line" but we did so because we felt they were best for the consumer while still being workable for the industry.

In short, the State's "job" is to ensure that, when regulation of *any* industry is necessary, it creates a system that is fair and equitable to all parties and that, whatever the rules and regulations may be, that they are clearly understood and properly enforced. The recommendations of the working group, although not perfect, will make that process much easier and will benefit both the consumer and the funeral homes that serve them.

I hope that neither your group, AARP or any other interest will prevent needed changes to the law from going into force just because any proposed legislation is not "perfect." An "all or nothing" approach is going to get us nothing.

As I mentioned at the meeting, please feel free to call me at any time to discuss the matter in more detail

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