

**Written Testimony of John McGough on behalf of the
Ohio Funeral Directors Association
in Support of Sub. H.B. 168**

BEFORE THE SENATE FINANCE COMMITTEE

January 30, 2018

Chairman Oelslager, Vice-Chair Manning, Ranking Member Skindell and members of the Senate Finance Committee, I am submitting this testimony in my capacity as Legislative Agent of the Ohio Funeral Directors Association (OFDA). OFDA is a statewide association of 910 funeral homes and approximately 2,300 funeral professionals throughout the State of Ohio.

OFDA supports language that is included in Sub. H.B. 168 as passed by the Ohio House. The language makes technical changes to provisions that were included in Am. Sub. H.B. 149, the state's biennial budget. These changes are also supported by the State Board of Embalmers and Funeral Directors, the state entity that regulates the funeral profession. Below is a summary of the changes:

1. **Board Quorum** Section 4717.03(A) – Under current law, 5 of the 7 members of the Board of Embalmers & Funeral Directors shall be licensed funeral directors but only 4 of the licensed funeral directors are required to also have an embalmers license. So, for quorum purposes, this language allows all of the 5 funeral director members to be counted for purposes of determining a quorum.
2. **Disposition in Thirty Days** New division 4717.13(A) (12) requires a funeral home to complete disposition of a dead body within 30 days of taking custody of the body unless the person with the right of disposition orders otherwise. Sub. H.B. 168 provides this same authority to coroners to extend the disposition beyond 30 days.
3. **Crematory Operator Permit** To make it clear that any individual who engages in cremation shall have a crematory operator permit, a new division (A)(13) was added to Revised Code Section 4717.13. There is a concern that some licensed crematories are allowing persons to perform cremations without having such a permit.
4. **Initial Service Fee for Installment Contracts** Section 4717.36(B), as revised by Am. Sub. H.B. 49, permits the collection of an initial service fee of 10% on a guaranteed-price, trust-funded preneed funeral contract. For installment contracts, it provides that no more than one-half of the installment payments may be applied to the initial service fee. However, installment contracts are not

“guaranteed-price” until all of the installments have been paid. Therefore, Sub. H.B. 168 revises 4717.36(B) to make it clear that the initial service fee can only be collected by the seller after all installment payments have been paid.

5. **Payment to the Trustee** Am. Sub. H.B. 49 revised Division 4717.36(C) to require that all payments made by a consumer on a preneed contract must be paid directly to the trustee rather than to the seller of the preneed contract. However, some trustees may use a designated depository or lockbox at another financial institution to receive and process payments. Therefore, language was added to 4717.36(C) to allow consumer payments to also be made to a trustee’s designed depository.
6. **4717.13 Prohibited Conduct** Revised Code Section 4717.13(A) is amended to make it clear that there are penalties under Ohio law if a person engages in cremation without a crematory operators permit or engages in the profession of funeral directing, embalming or operating a crematory or performing cremation without a license.
7. **4717.14 Disciplinary actions** The two changes in this section relate to disciplinary actions that the Board of Embalmers & Funeral Directors may take when there are violations of certain sections of Chapter 4717 of the Ohio Revised Code. They are:
 - a. The Board of Embalmers and Funeral Directors and the Ohio Funeral Directors Association both agree that “recklessly” as opposed to “purposely” is the appropriate mens rea (state of mind) to determine when a violation of the applicable sections occur.
 - b. New language that authorizes the Board of Embalmers and Funeral Directors to suspend a license or permit via a telephone conference after reviewing allegations was requested by the Board of Embalmers & Funeral Directors to be able to act expeditiously when appropriate. Paragraph (C) of this section of the Ohio Revised Code already establishes the circumstances under which the Board may suspend a license if “the licensee's continued practice presents a danger of immediate and serious harm to the public”. The new language gives the Board a quicker method to suspend a license when this type of eminent danger is present.

Thanks for your consideration of this testimony.