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REVISE PREPAID FUNERAL CONTRACT FUNDING ACT

House Bill 5834

Sponsor: Rep. Ilona Varga

Committee: Regulatory Affairs

Complete to 5-20-98

A SUMMARY OF HOUSE BILL 5834 AS INTRODUCED 5-7-98

The bill is part of a package of bills that would amend various acts that regulate the cemetery and funeral home industries and that are tie-barred to each other. House Bill 5834 would amend the Prepaid Funeral Contract Funding Act to, among other things, add definitions, require more detailed reporting, require that 70 percent of the value of preneed funeral services and goods be placed in trust accounts, regulate discounting of funeral goods and services, and revise regulations pertaining to escrow funds. Significant changes include:

* “Funeral goods” would be defined under the bill as all goods sold by a licensed mortician and would include caskets, combination units, and other related goods of any type that were directly or indirectly related to a funeral and also vaults or other outside containers of any type, monuments, markers, urns, caskets, catafalques, cemetery merchandise sold by cemeteries registered under the Cemetery Regulation Act (MCL 456.521 et al.), or any other goods connected to the final disposition of a deceased person.

* “Funeral services” would be defined as all services offered by a licensed mortician including embalming, the care and preparation of the deceased for final disposition, visitation, memorial services, grave openings and closings, flowers, cremations, foundation installations, transportation, and other services provided by a cemetery registered under the Cemetery Regulation Act.

* Funds would have to be escrowed according to the bill’s provisions. The bill would require that 70 percent of the retail cost of all preneed funeral services and goods would have to be escrowed. The bill would establish new reporting criteria for escrow accounts and would provide for departmental inspections of records. The bill would delete a prohibition on the contract seller or the provider of a guaranteed price contract from serving as the escrow agent. A contract buyer would be entitled to a 100 percent refund upon cancellation of a contract, as opposed to current practice of refunding a percentage of the contract price plus interest earned on the escrow account.

* The names of all owners of a funeral home, such as a cemetery, another funeral home, or an entity made up of a group of cemeteries or funeral homes, would have to be disclosed on all contracts and stationery. Also, a person would have to disclose to a buyer of a preneed contract that the contract seller or provider had a contractual relationship with a cemetery.

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* The bill would prohibit a person from manipulating prices of either cemetery or funeral merchandise and services in order to shift a disproportionate share of the total price to any of the merchandise or services. Customers would have to be charged the same prices regardless of whether the customer did business with both a funeral establishment and an affiliated cemetery. Discounts could be provided for groupings of goods and services within the separate categories of either funeral or cemetery goods and services. A person selling such goods and services could not base a benefit or discount on the condition that a customer agreed to do business with both a funeral establishment and its affiliated cemetery, nor could he or she sell goods or services of any kind at below their actual cost or solicit funeral goods and services door-to-door without prior consent.

* Prepaid funeral contracts would include contracts where physical delivery and retention of funeral goods had not been made before the death of the contract beneficiary. "Physical delivery and retention" would mean the actual control and possession of funeral goods that were permanently relinquished by a contract seller or provider to the contract buyer or the contract beneficiary. Physical delivery and retention would not be considered to have occurred if the contract seller or provider arranged or induced the buyer to arrange for the storage or warehousing of funeral goods ordered under a prepaid funeral contract, or acquired or reacquired possession of funeral goods after their initial delivery to the contract buyer or beneficiary.

* A person registered under the act would have to maintain a list of all future performance obligations. The list would have to be kept current and would have to include a complete description of the future performance obligations involved (such as vaults, memorials, services by type, and caskets by model); total cost of full performance of all obligations as of the date of statement; and complete information on the means, provision, trust, or other vehicle which would assure fulfillment of all obligations.

The bill is tie-barred to House Bill 5831, which would amend the Public Health Code; House Bill 5832, which would amend the Occupational Code; and House Bill 5833, which would amend the Cemetery Regulation Act.

MCL328.214 et al.

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.