

# HOUSE BILL No. 5360

December 9, 2003, Introduced by Rep. LaSata and referred to the Committee on Commerce.

A bill to amend 1968 PA 251, entitled  
"Cemetery regulation act,"  
(MCL 456.521 to 456.543) by adding sections 17 and 17a.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1       Sec. 17. (1) As used in this section and section 17a:

2       (a) "Buyer" means a person participating in a preneed  
3 transaction regulated under this act or the prepaid funeral  
4 contract funding act, 1986 PA 255, MCL 328.211 to 328.235.

5       (b) "Fund" means the consumer preneed protection fund created  
6 in subsection (2).

7       (c) "Provider" means either of the following:

8       (i) A person who furnishes or agrees to furnish funeral goods  
9 or funeral services, or both, under the prepaid funeral contract  
10 funding act, 1986 PA 255, MCL 328.211 to 328.235.

11       (ii) A person who furnishes or agrees to furnish cemetery

1 services or cemetery merchandise, or both, under this act.

2 (d) "Registrar" means the state registrar or a local  
3 registrar as those terms are defined under part 28 of the public  
4 health code, 1978 PA 368, MCL 333.2801 to 333.2899.

5 (2) There is created a consumer preneed protection fund as a  
6 restricted fund in the state treasury. Money collected under  
7 section 17a of this act and section 7a of the prepaid funeral  
8 contract funding act, 1986 PA 255, MCL 328.217a, by the  
9 registrars on behalf of a buyer shall be deposited into the  
10 fund. The state treasurer may receive money or other assets from  
11 any source for deposit into the fund and shall direct the  
12 investment of the fund. The state treasurer shall credit to the  
13 fund interest and earnings from fund investments. The  
14 disbursements and expenditures from the fund shall be made by the  
15 commissioner.

16 (3) The fund shall be used to reimburse a buyer or the estate  
17 of a buyer who has suffered a loss by a default, in whole or  
18 part, of the provider.

19 (4) A buyer may be reimbursed by the commissioner for a loss  
20 by doing the following:

21 (a) Apply to the commissioner on a form or in an electronic  
22 format acceptable to the commissioner.

23 (b) Provide all documentation related to the transaction and  
24 any other documentation or evidence requested by the  
25 commissioner.

26 (c) Execute any documentation or release required by the  
27 commissioner to allow the commissioner to communicate with the

1 provider and to allow the commissioner to be subrogated to the  
2 rights of the buyer.

3 (d) Cooperate with the commissioner regarding any evidence or  
4 testimony needed to substantiate the loss.

5 (5) The amount of reimbursement from the fund shall not  
6 exceed the gross amount of the preneed contract plus interest at  
7 the adjusted prime rate as defined and determined by section 23  
8 of 1941 PA 122, MCL 205.23, deducting the amount or value of  
9 merchandise delivered or services rendered as well as any amount  
10 still existing in trust or escrow. The fund shall not be used  
11 for reimbursement of any fees regarding any legal or  
12 administrative actions brought by the commissioner.

13 (6) Payment from the fund to a buyer or buyer's estate  
14 entitles the commissioner to be subrogated to the buyer's  
15 rights. Any payment collected by the commissioner on behalf of  
16 the buyer shall be deposited into the fund.

17 (7) The commissioner shall annually file a report regarding  
18 the balance of the fund at the time of the report and a detailed  
19 account of the expenditures in the preceding fiscal year. The  
20 report shall be sent to the chairs of the appropriations  
21 committees of the senate and house of representatives.

22 (8) When the balance of the fund reaches \$3,000,000.00, the  
23 commissioner shall notify in writing or electronic form the  
24 registrars of the state to suspend the \$3.00 assessment imposed  
25 in section 17a and section 7a of the prepaid funeral contract  
26 funding act, 1986 PA 255, MCL 328.217a. If the fund balance is  
27 below \$2,000,000.00, the commissioner shall notify in writing or

1 electronic form the registrars of the state to reactivate the  
2 \$3.00 assessment at a date certain contained in the notice.

3       Sec. 17a. (1) In addition to the fee imposed for a burial  
4 permit, a cemetery registered under this act shall pay an  
5 additional fee of \$3.00 to the registrar in which the burial  
6 takes place for deposit into the fund.

7       (2) The additional fee of \$3.00 is not required under  
8 circumstances where the commissioner has notified the registrar  
9 to suspend the fee under section 17(8).

10       Enacting section 1. This amendatory act does not take  
11 effect unless all of the following bills of the 92nd Legislature  
12 are enacted into law:

13       (a) Senate Bill No. \_\_\_\_\_ or House Bill No. 5361 (request  
14 no. 04778'03 a).

15       (b) Senate Bill No. \_\_\_\_\_ or House Bill No. 5362 (request  
16 no. 04778'03 b).