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PREPAID FUNERAL CONTRACTS

House Bill 4037

Sponsor: Rep. Joseph Young, Jr.

Committee: State Affairs

Complete to 2-4-93

A SUMMARY OF HOUSE BILL 4037 AS INTRODUCED 2-2-93

There is a practice in the funeral industry known as "warehousing," in which a cemetery or funeral casket dealer sells a casket under a pre-paid contract, arranges for its storage, and provides the buyer with a warehouse receipt. The bill would amend the Prepaid Funeral Contract Funding Act (Public Act 255 of 1986) to regulate so-called "warehousing" of funeral caskets under the act.

More specifically, the bill would amend the definition of "prepaid funeral contract," and add a definition of "physical delivery and retention" [of funeral goods]. Under the act, a "prepaid funeral contract" is defined as "a contract requiring payment in advance for funeral services or for funeral goods, physical delivery and retention of which would occur after death under a guaranteed price contract or a nonguaranteed price contract." The bill would amend this definition to specify that "prepaid funeral contract" also included a contract where physical delivery and retention of the funeral goods had not been made prior to the death of the contract beneficiary and that money paid under such contracts was subject to the Prepaid Funeral Contract Funding Act.

The bill would define "physical delivery and retention" to mean "actual control and possession of funeral goods that have been permanently relinquished by a contract seller or a provider, or the agent of either, to the contract buyer or the contract beneficiary." The definition would specify that physical delivery and retention would not occur if the contract seller or provider either arranged (or induced the buyer to arrange) for the storage or warehousing of funeral goods ordered under a prepaid funeral contract ("with or without evidence that legal title ha[d] passed"), or acquired or reacquired actual or constructive possession or control of funeral goods after their initial delivery to the contract buyer or beneficiary.

MCL 328.215

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