

SENATE BILL No. 308

May 9, 1991, Introduced by Senator DILLINGHAM and referred to the Committee on Health Policy.

A bill to amend section 5 of Act No. 255 of the Public Acts of 1986, entitled

"Prepaid funeral contract funding act,"

being section 328.215 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 5 of Act No. 255 of the Public Acts of
2 1986, being section 328.215 of the Michigan Compiled Laws, is
3 amended to read as follows:

4 Sec. 5. (1) "Nonguaranteed price contract" means a prepaid
5 funeral contract under which funds received are held pursuant to
6 an escrow agreement between a contract seller or provider and a
7 contract buyer. Under the terms of this contract, a contract
8 seller or provider agrees to apply the principal and income to
9 the cost of the funeral goods or funeral services, which funeral
10 goods and funeral services may be selected by the contract buyer

1 at the time the contract is signed or as selected by a person
2 legally authorized to procure funeral goods and funeral services
3 at the time of death of the contract beneficiary. ~~However,~~
4 ~~this~~ A NONGUARANTEED PRICE contract ~~shall~~ DOES not obligate
5 the contract beneficiary's estate or the person who is legally
6 entitled to make funeral arrangements for a deceased contract
7 beneficiary to purchase specific FUNERAL goods and FUNERAL serv-
8 ices which were selected before the contract beneficiary's death,
9 nor shall this contract obligate either the contract
10 beneficiary's estate or the person who is entitled to make
11 funeral arrangements for a deceased contract beneficiary OR to
12 expend a specific amount OF MONEY on funeral goods or funeral
13 services.

14 (2) "Person" means an individual, group of individuals, sole
15 proprietorship, partnership, association, corporation, a govern-
16 mental agency, or a combination of these legal entities.

17 (3) "PHYSICAL DELIVERY AND RETENTION" MEANS ACTUAL CONTROL
18 AND POSSESSION OF FUNERAL GOODS THAT HAVE BEEN PERMANENTLY RELIN-
19 QUISHED BY A CONTRACT SELLER OR A PROVIDER, OR THE AGENT OF
20 EITHER, TO THE CONTRACT BUYER OR THE CONTRACT BENEFICIARY.

21 PHYSICAL DELIVERY AND RETENTION DOES NOT OCCUR IF THE CONTRACT
22 SELLER OR PROVIDER TAKES EITHER OF THE FOLLOWING ACTIONS:

23 (A) ARRANGES OR INDUCES THE BUYER TO ARRANGE FOR THE STORAGE
24 OR WAREHOUSING OF FUNERAL GOODS ORDERED PURSUANT TO A PREPAID
25 FUNERAL CONTRACT, WITH OR WITHOUT EVIDENCE THAT LEGAL TITLE HAS
26 PASSED.

1 (B) ACQUIRES OR REACQUIRES ACTUAL OR CONSTRUCTIVE POSSESSION
2 OR CONTROL OF FUNERAL GOODS AFTER THEIR INITIAL DELIVERY TO THE
3 CONTRACT BUYER OR CONTRACT BENEFICIARY.

4 (4) ~~-(3)-~~ "Prepaid funeral contract" means a contract
5 requiring payment in advance for funeral services or for funeral
6 goods, physical delivery and retention of which would occur after
7 death OF A CONTRACT BENEFICIARY under a guaranteed price contract
8 or a nonguaranteed price contract. Prepaid funeral contracts
9 ~~shall~~ DO not include a contract for the sale of funeral goods
10 or funeral services which is entered into after the death of the
11 ~~person for whose benefit the goods or services are acquired~~
12 CONTRACT BENEFICIARY. PREPAID FUNERAL CONTRACT INCLUDES A CON-
13 TRACT WHERE PHYSICAL DELIVERY AND RETENTION OF THE FUNERAL GOODS
14 HAS NOT BEEN MADE PRIOR TO THE DEATH OF THE CONTRACT BENEFICIARY
15 AND, AS SUCH, THE MONEY PAID PURSUANT TO THE CONTRACT IS SUBJECT
16 TO THIS ACT.

17 (5) ~~-(4)-~~ "Principal" means the money, finance charges, or
18 other consideration actually deposited in the escrow accounts
19 required by section 12.

20 (6) ~~-(5)-~~ "Provider" means any person who furnishes or
21 agrees to furnish funeral goods or funeral services pursuant to a
22 prepaid funeral contract, whether or not that person is the con-
23 tract seller. In the case of funeral goods, provider ~~shall~~
24 ~~mean~~ MEANS the person who arranges for delivery of the funeral
25 goods at the time of the death of the contract beneficiary ~~and~~
26 BUT DOES not INCLUDE the manufacturer of the FUNERAL goods. In
27 the case of funeral services, provider ~~shall mean~~ MEANS a

1 person licensed pursuant to section 1806(3) of the occupational
2 code, Act No. 299 of the Public Acts of 1980, being section
3 ~~339.1806(3)~~ 339.1806 of the Michigan Compiled Laws.

4 (7) ~~-(6)-~~ "Registrant" means a person who has registered
5 with the department pursuant to section 6.