

1-1 By: Carona S.B. No. 237
1-2 (In the Senate - Filed January 24, 2005; February 3, 2005,
1-3 read first time and referred to Committee on Business and Commerce;
1-4 April 28, 2005, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 8, Nays 0; April 28, 2005,
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 237 By: Carona

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to requirements applicable to purchase agreements for
1-11 certain funeral, cemetery, and crematory services.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. The intent of the legislature in enacting this
1-14 Act is to more clearly set forth the original intent of the meaning
1-15 of the term "cash advance items" as provided by 22 T.A.C. Section
1-16 203.20. This Act is intended to protect the rights of consumers as
1-17 provided by 22 T.A.C. Chapter 203.

1-18 SECTION 2. Section 651.001, Occupations Code, is amended by
1-19 amending Subdivision (1) and adding Subdivision (1-a) to read as
1-20 follows:

1-21 (1) "Cash advance item" means any item of service or
1-22 merchandise described by a funeral provider to a purchaser as "cash
1-23 advance," "accommodation," "cash disbursement," or similar item,
1-24 and any item obtained from a third party and paid for by the funeral
1-25 provider on the purchaser's behalf. The term may include cemetery
1-26 or crematory services, pallbearers, public transportation, clergy
1-27 honoraria, flowers, musicians, singers, nurses, obituary notices,
1-28 gratuities, and death certificates. To ensure consistency in the
1-29 term's use, the term shall be construed and interpreted in
1-30 accordance with pronouncements and rulings issued by the Federal
1-31 Trade Commission.

1-32 (1-a) "Cemetery" means a place that is used or
1-33 intended to be used for interment, and includes a graveyard, burial
1-34 park, or mausoleum.

1-35 SECTION 3. Subsections (a) and (d), Section 651.406,
1-36 Occupations Code, are amended to read as follows:

1-37 (a) A purchase agreement must state:

1-38 (1) the name, address, and telephone number of the
1-39 funeral establishment;

1-40 (2) the amount paid or owed to another person by the
1-41 funeral establishment on behalf of the customer for cash advance
1-42 items and each fee charged the customer for a cash advance item [the
1-43 cost of advancing funds or becoming indebted to another person on
1-44 behalf of the customer];

1-45 (3) the printed notice required by Subsection (b);

1-46 (4) the name, mailing address, and telephone number of
1-47 the commission; and

1-48 (5) a statement that complaints may be directed to the
1-49 commission.

1-50 (d) If the customer selects a package arrangement [~~based on~~
1-51 ~~unit pricing~~], the itemization requirement described by Section
1-52 651.001(15) is satisfied by listing the funeral goods and funeral
1-53 services included in [providing a purchase agreement that itemizes
1-54 the discount provided by] the package arrangement, the current
1-55 retail price of each of those items, the total amount of any
1-56 discount, and the total price of the funeral goods and funeral
1-57 services selected.

1-58 SECTION 4. Subsections (a) and (d), Section 651.4065,
1-59 Occupations Code, are amended to read as follows:

1-60 (a) A purchase agreement must state:

1-61 (1) the name, address, and telephone number of the
1-62 cemetery or crematory;

1-63 (2) the amount paid or owed to another person by the

2-1 cemetery or crematory on behalf of the customer for cash advance
2-2 items and each fee charged the customer for a cash advance item [~~the~~
2-3 ~~cost of advancing funds or becoming indebted to another person on~~
2-4 ~~behalf of the customer~~];

2-5 (3) the printed notice required by Subsection (b);

2-6 (4) the name, mailing address, and telephone number of
2-7 the commission;

2-8 (5) a statement that complaints may be directed to the
2-9 commission; and

2-10 (6) any other items that the commission may by rule
2-11 require.

2-12 (d) If the customer selects a package arrangement [~~based on~~
2-13 ~~unit pricing~~], the itemization requirement described by Section
2-14 651.001(15) is satisfied by listing the funeral goods and funeral
2-15 services included in [~~providing a purchase agreement that itemizes~~
2-16 ~~the discount provided by~~] the package arrangement, the current
2-17 retail price of each of those items, the total amount of any
2-18 discount, and the total price of the funeral goods and funeral
2-19 services selected.

2-20 SECTION 5. The changes in law made by this Act to Sections
2-21 651.406 and 651.4065, Occupations Code, apply only to a purchase
2-22 agreement entered into on or after the effective date of this Act.
2-23 A purchase agreement entered into before the effective date of this
2-24 Act is governed by the law in effect on the date the agreement was
2-25 entered into, and the former law is continued in effect for that
2-26 purpose.

2-27 SECTION 6. This Act takes effect September 1, 2005.

2-28 * * * * *