86R8042 SOS-D

By:  Davis of Dallas H.B. No. 1731

A BILL TO BE ENTITLED

AN ACT

relating to the payment for funeral services performed by a transferring funeral home under a prepaid funeral contract or a purchase agreement for funeral services or merchandise.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1.  Section 154.151(b), Finance Code, is amended to read as follows:

(b)  A sales contract for prepaid funeral benefits must:

(1)  be in writing;

(2)  state the name of the funeral provider or other person primarily responsible for providing the prepaid funeral benefits specified in the contract; [~~and~~]

(3)  state the details of the prepaid funeral benefits to be provided, including a description and specifications of the material used in the caskets or grave vaults to be furnished; and

(4)  state that if the funeral provider receives a dead human body transferred from another funeral provider, the funeral provider shall remit to the transferring funeral provider the cost of the services provided by the transferring funeral provider and may not charge that cost to or collect that cost from the purchaser of the contract or any other party.

SECTION 2.  Section 154.161(a), Finance Code, is amended to read as follows:

(a)  The funeral provider under a prepaid funeral benefits contract subject to this chapter shall:

(1)  in compliance with applicable law, protect any nonpublic personal financial and health information of the purchaser and contract beneficiary in the possession of the funeral provider;

(2)  after the death of the contract beneficiary:

(A)  deliver the contracted funeral merchandise and services and cash advance items required under the contract, subject to Section 154.1551;

(B)  if the funeral provider receives a dead human body transferred from another funeral provider, remit to the transferring funeral provider the cost of the services provided by the transferring funeral provider and may not charge the cost to or collect the cost from the purchaser of the contract or any other party;

(C)  prepare a written pre-need to at-need reconciliation to verify that the specified goods and services are delivered or performed for the agreed price and promptly refund any contract overcharges that may be revealed by the reconciliation;

(D) [~~(C)~~]  if advance payment of cash advance items was included in the contract, prepare a reconciliation of proceeds applied to cash advance items; and

(E) [~~(D)~~]  retain a copy of each reconciliation until the third anniversary of the date of service; and

(3)  with respect to each prepaid funeral benefits contract for which the funeral provider is not also the seller:

(A)  sign the reconciliations required by Subdivision (2);

(B)  promptly deliver the records that verify contract performance to the seller, including the final at-need contract, the certificate of performance, and the reconciliations required under Subdivision (2);

(C)  if requested by the seller, correct or explain any discrepancy in a reconciliation required under Subdivision (2);

(D)  subject to Subsection (d), provide copies of any other records or documentation related to the offer, sale, and performance of the contract that are reasonably requested by the seller or the department, including records related to any refund required by Section 154.1511 or 154.1551; and

(E)  inform each seller with which the funeral provider has an outstanding contract of any closure of the provider's funeral establishments not later than the 15th day after the date of closure.

SECTION 3.  Section 651.406, Occupations Code, is amended by adding Subsection (e) to read as follows:

(e)  A funeral establishment that receives a dead human body transferred from another funeral establishment shall include in the purchase agreement any amount owed by the customer to the transferring funeral establishment. The recipient funeral establishment shall remit to the transferring funeral establishment any amount collected on behalf of the transferring funeral establishment.

SECTION 4.  Sections 154.151(b) and 154.161(a), Finance Code, as amended by this Act, and Section 651.406(e), Occupations Code, as added by this Act, apply only to a sales contract or purchase agreement entered into or renewed on or after the effective date of this Act. A sales contract or purchase agreement entered into or renewed before the effective date of this Act is governed by the law in effect immediately before the effective date of this Act, and that law is continued in effect for that purpose.

SECTION 5.  This Act takes effect September 1, 2019.