

By: Davis of Dallas

H.B. No. 1731

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the payment for funeral services performed by a
3 transferring funeral home under a prepaid funeral contract or a
4 purchase agreement for funeral services or merchandise.

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

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

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

9 (1) be in writing;

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

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

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

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

24 (a) The funeral provider under a prepaid funeral benefits

1 contract subject to this chapter shall:

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

6 (2) after the death of the contract beneficiary:

7 (A) deliver the contracted funeral merchandise
8 and services and cash advance items required under the contract,
9 subject to Section [154.1551](#);

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

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

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

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

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

27 (A) sign the reconciliations required by

1 Subdivision (2);

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

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

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

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

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

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

27 SECTION 4. Sections 154.151(b) and 154.161(a), Finance

1 Code, as amended by this Act, and Section 651.406(e), Occupations
2 Code, as added by this Act, apply only to a sales contract or
3 purchase agreement entered into or renewed on or after the
4 effective date of this Act. A sales contract or purchase agreement
5 entered into or renewed before the effective date of this Act is
6 governed by the law in effect immediately before the effective date
7 of this Act, and that law is continued in effect for that purpose.

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