

**PREPAID FUNERAL AND CEMETERY  
SALES**

**Senate Bill 512 (Substitute H-2)**  
**Senate Bill 513 (Substitute H-1)**  
**Sponsor: Sen. Laura M. Toy**

**Addendum to SFA Analysis (2-11-04)**

**Senate Committee: Local, Urban and  
State Affairs**  
**House Committee: Commerce**

**ADDENDUM TO SENATE FISCAL AGENCY ANALYSIS OF SENATE BILL 512  
(SUBSTITUTE H-2) AND SENATE BILL 513 (SUBSTITUTE H-1) DATED 8-14-03:**

***HOUSE COMMITTEE ACTION:***

The House Committee on Commerce reported out a substitute for each of the bills. The principal changes from the Senate-passed versions are as follows.

Senate Bill 512, as passed by the Senate, would require that all funds received in connection with a prepaid contract be held in escrow by an escrow agent for the benefit of the contract beneficiary. The substitute adopted by the House Commerce Committee would retain that provision with one exception. It would allow for a smaller percentage of funds received by a cemetery for cemetery merchandise to be escrowed. For the first 12 months after the bill's effective date, the required amount would be 60 percent of the funds received; for the 13<sup>th</sup> through the 24<sup>th</sup> month, 65 percent; for the 25<sup>th</sup> through the 36<sup>th</sup> month, 70 percent; for the 37<sup>th</sup> month through the 48<sup>th</sup> month, 75 percent; and for the 49<sup>th</sup> month and thereafter, 80 percent.

The substitute bill would allow a cemetery that had elected to escrow less than 100 percent of funds for cemetery merchandise (as described above) to provide by written agreement with the escrow agent to be paid accumulated income. The payments to the cemetery could not be paid more than once in a 12-month period and could not exceed the net amount of income earned in the previous 12 months, less any amounts paid to the escrow agent for expenses and fees and an amount equal to any increase in the Detroit consumer price index.

For this lesser escrow option, when a contract buyer canceled a prepaid contract prior to the death of the contract beneficiary, the escrow agent would disburse the principal and income in the account to the cemetery, and the cemetery would have to disburse to the contract buyer 100 percent of the contract price, plus an amount equal to any increase in the Detroit consumer price index since the execution of the contract.

The Senate-passed version of Senate Bill 512 would prohibit a person selling or offering to sell merchandise or funeral or cemetery services from refusing to use merchandise bought from another vendor or from discriminating by price, burial fee, or otherwise for not purchasing their merchandise or for not purchasing merchandise under their direction. The substitute bill would

clarify this provision by specifying that it was not intended to prohibit a cemetery from adopting and enforcing consistent rules and regulations to be followed by both the cemetery and outside vendors as to the quality, size, shape, type, installation, and maintenance of a grave memorial or a cemetery burial vault or other outside container, or an urn. However, these regulations could not limit who could be a supplier or vendor.

The substitute for Senate Bill 512 also contains some changes in recordkeeping requirements, including information that must be available for state inspection, and requires that CPA reviews be by a "Michigan licensed" certified public accountant, among other items.

Senate Bill 513, as passed by the Senate, would have required that the state cemetery commission inspect at least every three years the facilities and grounds of each cemetery, with the commission able to charge the cemetery for the actual expenses of the inspection, up to \$1,000. The substitute bill reported by the House Commerce Committee does not contain the inspection and inspection fee provisions.

The substitute bills would take effect January 1, 2005. They are tie-barred to one another.

[NOTE: New substitute bills that will incorporate what have been described as additional technical amendments are expected to be introduced on the House Floor.]

For a full analysis of the bills, see the analysis by the Senate Fiscal Agency dated 8-14-03. It is on the Michigan Legislature web site.

***POSITIONS:***

The Michigan Funeral Directors Association supports the substitute bills. (2-10-04)

The Michigan Cemeteries Association has indicated support for the substitute bills in concept. (2-10-04)

The Michigan Department of Labor and Economic Growth is officially neutral on the bills. (2-10-04)

Analyst: C. Couch

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.