



Senate Fiscal Agency  
P. O. Box 30036  
Lansing, Michigan 48909-7536



BILL ANALYSIS

Telephone: (517) 373-5383  
Fax: (517) 373-1986  
TDD: (517) 373-0543

Senate Bill 512 (Substitute S-1 as reported by the Committee of the Whole)  
Senate Bill 513 (Substitute S-1 as reported by the Committee of the Whole)  
Sponsor: Senator Laura M. Toy  
Committee: Local, Urban and State Affairs

### **CONTENT**

Senate Bill 512 (S-1) would amend the Prepaid Funeral Contract Funding Act to extend the Act to the provision of cemetery services and merchandise; rename the Act the "Prepaid Funeral and Cemetery Sales Act"; and do all of the following:

- Require a provider of merchandise or services under a prepaid contract, in order to be registered under the Act, to be licensed or registered under Chapter 18 (Mortuary Science) of the Occupational Code (as currently required) or under the Cemetery Regulation Act.
- Require a registrant under the Act to comply with requirements that apply to an escrow agent, under certain circumstances.
- Allow an escrow agent in a guaranteed price contract to be selected by any provider, if a prepaid contract did not include funeral services.
- Require a registrant to have available for annual examination by the Department of Consumer and Industry Services (DCIS) an annual statement or record of its fiscal year, showing the financial status of all contractual liabilities and obligations for future performance of services.
- Require a registrant to secure a special report prepared by a certified public accountant pertaining to prepaid funds annually, rather than once every three years (as is currently required).
- Allow the DCIS to charge a registrant for the actual expenses of an examination, review, or audit, but not more than \$1,000.
- Require the purchaser or assignee of a registrant's business to notify the DCIS and contract buyers of the purchase or assignment of prepaid contracts.
- Prohibit certain business activities, such as refusing the use of merchandise bought from another vendor, and requiring the purchase of a cemetery burial vault or other outside container from a particular person as a condition to burial in a Michigan cemetery.
- Make failure to place funds in escrow or trust a felony.
- Specify that a court-appointed receiver would have all the powers, authority, and remedies of an assignee for the benefit of creditors under the Revised Judicature Act; and authorize a receiver, under appropriate circumstances, to file for protection under the Bankruptcy Code.

Senate Bill 513 (S-1) would amend the Cemetery Regulation Act to require the Cemetery Commissioner (the DCIS Director or the Director's designee) to inspect cemetery facilities and grounds at least every three years, and allow him or her to charge up to \$1,000 for an inspection; increase from \$100 to \$1,000 the maximum amount the State may charge a cemetery for audits and inspections of books; delete a requirement that a cemetery establish a merchandise trust account and deposit in it a percentage of the proceeds of sales of cemetery merchandise; prohibit a developer from developing or building a mausoleum or columbarium or engaging in preconstruction sales of crypts or niches unless the developer agreed to complete construction within four years or refund the price of the sales plus interest; expand the circumstances under which the Commissioner may take disciplinary action against a

registrant or applicant; and allow the Commissioner to impose an administrative fine of up to \$5,000 for each violation of the Act.

The bills are tie-barred.

MCL 328.211 et al. (S.B. 512)  
456.522 et al. (S.B. 513)

Legislative Analyst: Patrick Affholter

### **FISCAL IMPACT**

Senate Bill 512 (S-1) could increase some of the regulatory responsibilities of the Department of Consumer and Industry Services regarding the licensure of prepaid contract providers, but the license fee revenue would be used to offset any additional costs. Also, the Department would be able to charge an annual fee for the cost of auditing the contract seller or provider of the prepaid contacts.

Senate Bill 513 (S-1) would increase the existing audit fee from \$100 to up to \$1,000 and create an inspection fee once every three years up to \$1,000, as well as create a \$5,000 administrative fine for violations.

In FY 2001-02, the Department licensed 147 cemeteries in the State. The increased audit fee could generate a maximum of \$132,300 in new revenue if every cemetery were audited in one year. The inspection fee could generate up to \$147,000 every three years. This revenue would be used to offset the costs of regulating this industry. The amount of revenue that would be generated through the administrative fine is indeterminate as the number and severity of violations are not known.

Date Completed: 6-18-03

Fiscal Analyst: Maria Tyszkiewicz

Floor\sb512

This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.