

## **BILL ANALYSIS**

Senate Research Center

H.B. 1843  
By: Marchant (Sibley)  
State Affairs  
5-15-97  
Committee Report (Amended)

### **DIGEST**

Currently, some cemeteries sell lawn crypts for \$800 to \$1000 that supposedly contain complex drainage systems and reinforced structures. Sometimes, however, what is delivered is a simple concrete box or other outer burial container, costing \$250 to \$450. There is concern that when a pre-need transaction takes place, the seller should be licensed by the Department of Banking. This would allow the consumer added protection and give the department clear authority to correct these practices when done on a pre-need basis.

H.B. 1843 would provide that if an outer burial chamber, other than a lawn crypt, is sold on a pre-need basis, it is covered under the prepaid funeral contract statute. The bill would amend current law to refer to a specific definition of lawn crypt in the Health and Safety Code. In addition, H.B. 1843 would give the banking commissioner the ability to waive the investment limitations on trust funds as long as there is not an unreasonable risk of loss to the funds.

### **PURPOSE**

As proposed, H.B. 1843 requires that if an outer burial chamber, other than a lawn crypt, is sold on a pre-need basis, it is covered under the prepaid funeral contract statute.

### **RULEMAKING AUTHORITY**

Rulemaking authority is granted to the banking commissioner of Texas under SECTION 2 (Section 5A, Article 548b, V.T.C.S.) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 1(b), Article 548b, V.T.C.S., to redefine "prepaid funeral benefits" and to define "crypt," "grave," "lawn crypt," "niche," "plot," "funeral merchandise" or "merchandise," and "funeral services" or "services."

SECTION 2. Amends Section 5A, Article 548b, V.T.C.S., by adding Subsection (i), to authorize the banking commissioner of Texas (commissioner) to waive a limitation provided by Subsection (e), (f), or (g), of this section, on written request of a permit holder, if the commissioner concludes that the waiver does not threaten an unreasonable risk of loss to the prepaid funeral benefits trust funds. Requires the commissioner, by order, to approve or disapprove the request not later than the 60th day after the date the commissioner receives the request. Provides that if the commissioner does not disapprove the request before the expiration of this period, the request is approved. Provides that if the permit holder does not request a hearing before the 11th day after the date of an order of disapproval, the order takes effect on that 11th day. Requires the hearing, if a hearing is timely requested, to be conducted as a contested case under Chapter 2001, Government Code.

SECTION 3. Amends Section 711.001(19), Health and Safety Code, to redefine "lawn crypt."

SECTION 4. Amends Chapter 711, Health and Safety Code, by adding Subchapter E, as follows:

#### **SUBCHAPTER E. LAWN CRYPTS**

Sec. 711.061. REQUIREMENTS FOR LAWN CRYPTS. Prohibits a lawn crypt from being

installed except under certain conditions.

Sec. 711.062. REQUEST TO INSTALL LAWN CRYPT IN FEWER THAN 10 UNITS. Authorizes a lawn crypt to be installed in fewer than 10 units if it is installed in a plot pursuant to the plot owner's written request that is in substantially a certain form. Sets forth the form.

SECTION 5. Makes application of SECTIONS 3 and 4 of this Act prospective.

SECTION 6. Effective date: September 1, 1997.

SECTION 7. Emergency clause.

**SUMMARY OF COMMITTEE CHANGES**

Amendment 1.

Page 1, line 10, strike "[~~or cemetery~~]" and substitute "or cemetery".