

HOUSE BILL 446

By Faison

AN ACT to amend Tennessee Code Annotated, Title 46,  
Chapter 1, relative to merchandise offered by  
cemeteries.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 46-1-102(19), is amended by deleting the subdivision and substituting the following:

(19) "Merchandise" means any personal property sold, on a pre-need or at-need basis, by a cemetery company, including, but not limited to, foundations, markers, memorials, memorial bases, monuments, urns, urn vaults, vaults, outer burial containers, grave boxes, grave liners, vases, lawn crypts, and mausoleum crypts;

SECTION 2. Tennessee Code Annotated, Section 46-1-207(b)(1)(A), is amended by deleting the word "and".

SECTION 3. Tennessee Code Annotated, Section 46-1-207(b)(1)(B), is amended by adding the language "except any consideration paid for urn vaults, vaults, or outer burial containers," in the first sentence after the language "to the contract", and deleting the period at the end of the subdivision and substituting the language "; and".

SECTION 4. Tennessee Code Annotated, Section 46-1-207(b)(1), is further amended by adding the following language as a new subdivision:

(C) The seller, within sixty (60) days following receipt of any consideration paid pursuant to the contract for urn vaults, vaults, or outer burial containers, shall deposit all funds received in a special general fund trust account in a state or national bank authorized by law to administer trust funds. If the sales contract provides for payment on an installment or deferred basis, the seller may elect:

(i) To pay into the trust account the pro rata portion relating to all funds received of each urn vault, vault, or outer burial container for each installment or deferred payment received; or

(ii) To pay one hundred percent (100%) of all funds received for the urn vault, vault, or outer burial container as of the date of sale.

SECTION 5. Tennessee Code Annotated, Section 46-1-207, is further amended by adding the following language as a new subsection:

(i)

(1) Nothing in this part applies to contracts for the sale of funeral merchandise and services. Contracts for the sale of funeral merchandise and services shall be regulated under title 62, chapter 5, and other general laws of this state.

(2) Contracts for the sale of merchandise as described in this part shall be subject only to the requirements of this part, not title 62, chapter 5.

SECTION 6. Tennessee Code Annotated, Section 46-1-207(e)(1), is amended by deleting the last sentence and substituting the following:

The procurement costs so determined shall be the basis for the deposits required by subdivision (b)(1)(B) and shall be adjusted and verified annually to the commissioner.

SECTION 7. Tennessee Code Annotated, Section 46-1-208(b), is amended by deleting the first sentence and substituting the following:

Notwithstanding subsection (a), the trustee shall pay the seller, at the seller's option, the net income accumulated as of the end of any fiscal year; provided, that the trust assets, after the disbursement of income, shall not have a market value of less than one hundred twenty percent (120%) of the aggregate procurement costs of merchandise and services, which are held in trust as required by § 46-1-207(b)(1)(B), plus any deposits required from the pre-need sale of urn vaults, vaults, and outer burial containers as required by § 46-1-207(b)(1)(C), plus any income accumulated from any deposits

required from the pre-need sale of urn vaults, vaults, and outer burial containers as required by § 46-1-207(b)(1)(C), subject to the proration allowed under § 46-1-207.

SECTION 8. This act shall take effect upon becoming a law, the public welfare requiring it.