

1 State of Arkansas
2 80th General Assembly
3 Regular Session, 1995
4 By: Representative Argue

A Bill

HOUSE BILL 1406

For An Act To Be Entitled

"AN ACT TO PROVIDE ADDITIONAL CONSUMER PROTECTION FOR
PERSONS WHO PURCHASE CEMETERY PROPERTIES; AND FOR OTHER
PURPOSES."

Subtitle

"TO PROVIDE ADDITIONAL CONSUMER
PROTECTION FOR PERSONS WHO PURCHASE
CEMETERY PROPERTIES."

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

SECTION 1. The purpose of this act is to promote the public welfare by providing additional consumer protection to the protection already offered by state and federal law.

SECTION 2. As used in this act, unless the context otherwise requires:

(1) "Cemetery properties" means property, real or personal, sold or provided in connection with the final disposition of human remains, including, but not limited to, cemetery plots for earth interment, spaces, crypts, or niches for interment above ground, grave liners, monuments, grave markers, cremation urns, and similar items, which real or personal property is purchased in advance of need and which will not be provided or delivered until the death of the consumer named in the contract.

(2) "Cemetery properties provider" means any individual, firm, partnership, corporation, society, or association that sells cemetery properties.

SECTION 3. (a) On demand of the purchaser, a cemetery properties

1 provider shall refund eighty-five percent (85%) of the contract, or eighty-
2 five percent (85%) of the total amount paid by the purchaser under the terms
3 of an installment sales contract, to the consumer named in the contract or
4 his agent at any time prior to delivery of the cemetery properties. *The*
5 *demand of the purchaser shall be made within three (3) years of the date of*
6 *the contract or within the term of the installment sales contract, whichever*
7 *period is longer.*

8 (b) On demand of the purchaser, a cemetery properties provider who
9 misrepresents contract terms or misrepresents cemetery properties provided to
10 a consumer shall refund one hundred percent (100%) of the contract price, or
11 one hundred percent (100%) of the total amount paid by the purchaser under
12 the terms of an installment sales contract, to the consumer named in the
13 contract or his agent.

14 (c) No contract for cemetery properties shall be enforceable unless
15 the provisions for refunds set forth in this section are conspicuous and
16 printed in all capital letters in the contract.

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18 SECTION 4. A cemetery properties provider who knowingly and willfully
19 misrepresents contract terms or knowingly and willfully misrepresents
20 cemetery properties provided to a consumer or his agent shall be guilty of a
21 Class B misdemeanor and, upon a plea of guilty, a plea of nolo contendere, or
22 a finding of guilt in the circuit court of any county in this state in which
23 any portion of the unlawful misrepresentation occurred, shall be subject to
24 punishment accordingly.

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26 SECTION 5. All provisions of this act of a general and permanent
27 nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas
28 Code Revision Commission shall incorporate the same in the Code.

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30 SECTION 6. If any provision of this act or the application thereof to
31 any person or circumstance is held invalid, such invalidity shall not affect
32 other provisions or applications of the act which can be given effect without
33 the invalid provision or application, and to this end the provisions of this
34 act are declared to be severable.

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As Engrossed: 1/27/95

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