

## Session 115 - (2003-2004)

**H\*3617 (Rat #0215, Act #0188 of 2004) General Bill, By Sandifer, Bailey, Frye, Cato, E.H. Pitts, Cotty, J.H. Neal, J. Brown, Anthony, Ceips, Duncan, Freeman, Mahaffey, McCraw, Ott, Phillips, M.A. Pitts, Stille, White and Whitmire**

**Summary:** Preneed funeral home loss reimbursement fund established; preneed burial contracts

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 32-7-60 SO AS TO CREATE THE PRENEED FUNERAL LOSS REIMBURSEMENT FUND AND TO PROVIDE FOR THE PURPOSE AND USES OF MONIES IN THE FUND; TO AMEND SECTION 32-7-45, RELATING TO THE TRANSFER PROCEDURES FOR TRUST FUNDS HELD PURSUANT TO PRENEED BURIAL CONTRACTS, SO AS TO REVISE THESE PROCEDURES; AND TO AMEND SECTION 32-7-50, RELATING TO LICENSURE REQUIREMENTS TO OFFER AND ENTER INTO PRENEED BURIAL CONTRACTS, SO AS TO PROVIDE A PENALTY FOR ENTERING INTO SUCH CONTRACTS WITHOUT BEING LICENSED, TO PROVIDE THAT A LICENSEE WHO CANCELS HIS LICENSE AND LATER APPLIES FOR A NEW LICENSE, MUST HAVE HIS BOOKS, RECORDS, AND ACCOUNTS INVESTIGATED BY THE FUNERAL SERVICES BOARD TO DETERMINE WHETHER HE HAS VIOLATED CERTAIN PROVISIONS, TO REQUIRE A PERSON WHO SELLS PRENEED FUNERAL CONTRACTS TO PROVIDE THE BOARD WITH A LISTING OF EACH CONTRACT SOLD, TO PROVIDE A CIVIL PENALTY OF TEN DOLLARS TO BE ASSESSED A PERSON WHO SELLS PRENEED FUNERAL CONTRACTS WHO DOES NOT REPORT SERVICE CHARGES OR A CONTRACT LISTING TO THE BOARD IN A TIMELY MANNER AND PROVIDE THAT THE PENALTY MUST BE DEPOSITED IN THE PRENEED FUNERAL LOSS REIMBURSEMENT FUND, TO PROVIDE THAT THE BOARD MUST INVESTIGATE A PERSON'S BOOKS, RECORDS, AND ACCOUNTS IF IT BELIEVES THAT SERVICE CHARGES ARE BEING COLLECTED AND ARE EITHER NOT BEING REMITTED OR NOT TIMELY REMITTED, TO PROVIDE THE MAXIMUM AMOUNT THAT A SERVICE CHARGE FOR EACH CONTRACT MAY NOT EXCEED AND TO PROVIDE FOR ITS DISBURSEMENT, AND TO PROVIDE THAT THE BOARD MUST KEEP A RECORD OF EACH PRENEED FUNERAL CONTRACT FOR WHICH IT RECEIVES A SERVICE CHARGE; TO AMEND SECTION 32-7-70, RELATING TO REQUIRING A PROVIDER OF PRENEED FUNERAL CONTRACTS TO KEEP ACCURATE ACCOUNTS, BOOKS, AND RECORDS OF TRANSACTIONS, AGREEMENTS, AND OTHER INFORMATION, AND MAKE ALL BOOKS AND RECORDS PERTAINING TO TRUST FUND AVAILABLE TO THE STATE BOARD OF FINANCIAL INSTITUTIONS FOR EXAMINATIONS, SO AS TO REQUIRE THE BOARD TO INVESTIGATE A PROVIDER'S BOOKS, RECORDS, AND ACCOUNTS IF THE BOARD BELIEVES OR HAS RECEIVED A COMPLAINT ALLEGING THAT THE PROVIDER HAS VIOLATED CERTAIN PROVISIONS; TO AMEND SECTION 32-7-110, RELATING TO THE ENFORCEMENT OF THE PROVISIONS THAT GOVERN THE ADMINISTRATION OF PRENEED FUNERAL CONTRACTS, SO AS TO PROVIDE FOR THE INVESTIGATION OF ANY FUNERAL HOME, FUNERAL DIRECTOR, OR BUSINESS THAT IS BELIEVED TO BE ACTING AS A PROVIDER OF PRENEED FUNERAL CONTRACTS; TO AMEND SECTION 40-19-110, AS AMENDED, RELATING TO CERTAIN UNPROFESSIONAL CONDUCT THAT RESULTS IN THE NONISSUANCE, NONRENEWAL, SUSPENSION, REVOCATION OF A LICENSE OF A FUNERAL DIRECTOR OR EMBALMER OR THE PLACEMENT OF A FUNERAL DIRECTOR OR EMBALMER ON PROBATION SO AS TO MAKE A TECHNICAL CHANGE; TO AMEND SECTION 40-19-290, AS AMENDED, RELATING TO A FUNERAL ESTABLISHMENT'S DISCLOSURE OF EXPENSES IN CONNECTION WITH AVAILABLE SERVICES, SO AS TO MAKE A TECHNICAL CHANGE, AND TO PROVIDE THAT THE STATE BOARD OF FINANCIAL INSTITUTIONS MUST UNDERTAKE INVESTIGATIONS AND CONDUCT HEARINGS TO DETERMINE WHETHER PAYMENTS RECEIVED BY FUNERAL ESTABLISHMENTS FOR FUNERAL MERCHANDISE THAT IS PURCHASED ARE BEING RECEIVED IN VIOLATION OF THE PROVISIONS THAT REGULATE PRENEED FUNERAL CONTRACTS; AND TO PROVIDE THAT THE POWERS AND DUTIES OF THE STATE BOARD OF FINANCIAL INSTITUTIONS RELATING TO PRENEED CONTRACTS AND INSTALLMENT PLANS WILL BE TRANSFERRED TO THE DEPARTMENT OF CONSUMER AFFAIRS ON JULY 1, 2006. - ratified title

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| <b>02/13/03</b> | <b>House</b>  | <b>Introduced and read first time HJ-27</b>                              |
| <b>02/13/03</b> | <b>House</b>  | <b>Referred to Committee on Labor, Commerce and Industry HJ-27</b>       |
| <b>05/21/03</b> | <b>House</b>  | <b>Committee report: Favorable Labor, Commerce and Industry HJ-3</b>     |
| <b>05/22/03</b> | <b>House</b>  | <b>Read second time HJ-18</b>  |
| <b>05/22/03</b> | <b>House</b>  | <b>Unanimous consent for third reading on next legislative day HJ-19</b> |
| <b>05/22/03</b> |               | <b>Scrivener's error corrected</b>                                       |
| <b>05/23/03</b> | <b>House</b>  | <b>Read third time and sent to Senate HJ-2</b>                           |
| <b>05/27/03</b> | <b>Senate</b> | <b>Introduced and read first time SJ-20</b>                              |
| <b>05/27/03</b> | <b>Senate</b> | <b>Referred to Committee on Judiciary SJ-20</b>                          |
| <b>05/29/03</b> | <b>Senate</b> | <b>Recalled from Committee on Judiciary SJ-5</b>                         |
| <b>05/29/03</b> | <b>Senate</b> | <b>Read second time SJ-5</b>   |

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| 05/29/03 | Senate | Ordered to third reading with notice of amendments SJ-5   |
| 01/14/04 | Senate | Amended SJ-36   |
| 01/14/04 | Senate | Read third time and returned to House with amendments SJ-36   |
| 01/15/04 |        | Scrivener's error corrected   |
| 01/21/04 | House  | Debate adjourned on Senate amendments until Wednesday, January 28, 2004 HJ-17                         |
| 01/28/04 | House  | Non-concurrence in Senate amendment HJ-20   |
| 02/03/04 | Senate | Senate insists upon amendment and conference committee appointed Alexander, Pinckney and Cromer SJ-23 |
| 02/04/04 | House  | Conference committee appointed Reps. Sandifer, Bales and Richardson HJ-2                              |
| 02/25/04 | House  | Conference report received and adopted HJ-16  |
| 02/25/04 | Senate | Conference report received and adopted SJ-21  |
| 02/26/04 | House  | Ordered enrolled for ratification HJ-3  |
| 03/02/04 |        | Scrivener's error corrected   |
| 03/10/04 |        | Ratified R 215  |
| 03/17/04 |        | Became law without Governor's signature   |
| 03/29/04 |        | Copies available  |
| 03/29/04 |        | Effective date 03/17/04   |
| 04/05/04 |        | Act No. 188   |