



1997 ASSEMBLY BILL 515

September 16, 1997 - Introduced by JOINT COMMITTEE FOR REVIEW OF ADMINISTRATIVE RULES. Referred to Committee on Insurance, Securities and Corporate Policy.

1 **AN ACT to amend** 445.12 (3) (b) and 445.125 (3m) (j) 2.; and **to create** 440.925,
2 440.95 (5m) and 445.12 (3m) of the statutes; **relating to:** prohibiting the use
3 of telephone solicitations to solicit the sale of burial agreements, cemetery
4 merchandise, cemetery lots, mausoleum spaces, insurance contracts to pay for
5 funeral merchandise or services or cemetery merchandise, or burial, funeral or
6 preneed insurance, and providing a penalty.

Analysis by the Legislative Reference Bureau

Under current law, a person may enter into an agreement to purchase funeral or burial merchandise or services for himself or herself (burial agreement) only if payment for the merchandise or services is made from the proceeds of a life insurance policy (insurance-funded burial agreement) or from funds held in trust by the seller (trust-funded burial agreement). The funeral directors examining board is allowed to promulgate rules establishing standards for the sale of insurance-funded burial agreements, including standards for telephone solicitation of prospective purchasers.

This bill prohibits the seller of an insurance-funded or trust-funded burial agreement from using a telephone solicitation to solicit the sale of such an agreement. In addition, the bill prohibits any person from using a telephone solicitation to solicit the sale of any of the following:

1. Cemetery lots, developed or undeveloped mausoleum spaces or "cemetery merchandise", which is defined as certain goods associated with the burial of human

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remains, including monuments, markers, nameplates, vases and urns, but not including caskets or outer burial containers.

2. A contract in which an insurer agrees to pay for funeral merchandise or services or cemetery merchandise.

3. A life insurance policy that the seller represents as a burial or funeral insurance policy, preneed policy or any other policy in which the proceeds are primarily intended to pay for funeral merchandise or services or cemetery merchandise.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 440.925 of the statutes is created to read:

2 **440.925 Telephone solicitation prohibited.** (1) In this section, “telephone
3 solicitation” means the unsolicited initiation of a telephone call by a person in this
4 or any other state to a recipient of the call who is located in this state.

5 (2) No person may use a telephone solicitation to solicit the sale of a cemetery
6 lot, mausoleum space, undeveloped space or cemetery merchandise to an individual.

7 **SECTION 2.** 440.95 (5m) of the statutes is created to read:

8 440.95 (5m) Any person who violates s. 440.925 (2) may be fined not less than
9 \$50 nor more than \$200 or imprisoned for not less than 30 days nor more than 3
10 months.

11 **SECTION 3.** 445.12 (3) (b) of the statutes, as created by 1995 Wisconsin Act 295,
12 is amended to read:

13 445.12 (3) (b) The solicitation or sale of burial agreements under s. 445.125 (1)
14 and the solicitation and sale of burial agreements under s. 445.125 (3m) to the extent
15 permitted under ~~sub.~~ subs. (3g) and (3m) and s. 445.125 (3m).

16 **SECTION 4.** 445.12 (3m) of the statutes is created to read:

17 445.12 (3m) (a) In this subsection:

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- 1 1. "Cemetery merchandise" has the meaning given in s. 157.061 (3).
- 2 2. "Funeral merchandise or funeral services" has the meaning given in s.
- 3 445.125 (3m) (a) 4.
- 4 (b) No person may use a telephone solicitation, as defined in s. 440.925 (1), to
- 5 solicit the sale to an individual of any of the following:
- 6 1. A burial agreement that is funded by a trust under s. 445.125 (1) (a).
- 7 2. A burial agreement, as defined in s. 445.125 (3m) (a) 2., that is funded with
- 8 the proceeds of a life insurance policy.
- 9 3. A contract in which an insurer, as defined in s. 600.03 (27), agrees to pay for
- 10 funeral merchandise or funeral services or cemetery merchandise.
- 11 4. A life insurance policy that the seller represents as a burial or funeral
- 12 insurance policy, preneed policy or any other policy in which the proceeds are
- 13 primarily intended to pay for funeral merchandise or services or cemetery
- 14 merchandise.

15 **SECTION 5.** 445.125 (3m) (j) 2. of the statutes, as created by 1995 Wisconsin Act

16 295, is amended to read:

17 445.125 **(3m)** (j) 2. The examining board may promulgate rules establishing

18 standards for marketing practices for a burial agreement that is funded with the

19 proceeds of a life insurance policy, ~~including standards for telephone solicitation of~~

20 ~~prospective purchasers. The rules promulgated under this subdivision may prohibit~~

21 ~~a method of telephone solicitation if the examining board determines that the~~

22 ~~prohibition is necessary to protect the public.~~

23 **SECTION 6. Initial applicability.**

