

Honolulu, Hawaii

APR 05 2007

RE: H.B. No. 1337
H.D. 1
S.D. 1

Honorable Colleen Hanabusa
President of the Senate
Twenty-Fourth State Legislature
Regular Session of 2007
State of Hawaii

Madam:

Your Committee on Commerce, Consumer Protection, and
Affordable Housing, to which was referred H.B. No. 1337, H.D. 1,
entitled:

"A BILL FOR AN ACT RELATING TO THE DEATH CARE INDUSTRY,"

begs leave to report as follows:

The purpose of this measure is to provide additional
protections to consumers who purchase pre-paid cemetery or funeral
services.

Specifically, this measure:

- (1) Creates a new section in chapter 441, Hawaii Revised Statutes (HRS), to establish procedures for the cancellation, termination, and refund of pre-need funeral and interment services contracts;
- (2) Requires a cemetery authority to file with the Department of Commerce and Consumer Affairs and maintain a map of every plot, crypt, or niche, and maintain an accurate record of the identity of each person buried or interred in the cemetery;
- (3) Ensures that contracts for pre-need interment or funeral services retain priority over liens and mortgages of a pre-need interment or funeral services authority if the authority's pre-need trusts are not fully funded;



- (4) Requires disclosures of the terms of a pre-need funeral or interment services contract;
- (5) Clarifies the Director of Commerce and Consumer Affairs' authority to inspect the books, records, and papers of a cemetery or pre-need funeral or interment services authority; and
- (6) Increases the maximum possible fine from \$1,000 to \$5,000 for violations of the chapter of law regulating cemetery or pre-need funeral or interment services authorities.

Your Committee received testimony in support of this measure from the Department of Commerce and Consumer Affairs, the Hawaii Allied Memorial Council, and the Kokua Council. Ballard Mortuary, Inc. and Hawaiian Memorial Life Plan, Ltd. submitted comments on this measure.

Your Committee finds that this measure will materially advance and improve the level of consumer protection afforded Hawaii's cemetery and funeral services consumers by establishing procedures for the cancellation, termination, and refund of pre-funeral and pre-interment needs, as well as implementing other requirements related to the death care industry.

Your Committee notes that the Department of Commerce and Consumer Affairs has been working with the interested parties to reach a consensus on the scope and specific language that would be acceptable to all parties. Based upon their agreement, your Committee has amended this measure by:

- (1) Inserting additional requirements as to notice and timing for the termination of a contract due to the default of the purchaser and as to methods in which a purchaser may effectuate continuance of the contract;
- (2) Specifying that a cemetery or pre-need funeral authority is under no obligation to validate continuance of a contract when a purchaser becomes delinquent after the period in which the purchaser was first allowed to effectuate continuance of the contract;



- (3) Specifying that a cemetery or pre-need funeral authority is under no obligation to carry out its services unless a contract is paid in full;
- (4) Requiring that contracts shall include a disclosure that contains a statement as to:
 - (A) The percentage of the contract price for trustable items to be placed in trust; provided that the percentage is no less than seventy per cent;
 - (B) The percentage of the contract price for trustable items that the cemetery or pre-paid funeral authority will retain and not deposit into the trust; provided that the percentage is no more than thirty per cent;
 - (C) When a portion of the contract price relates to property, services, or related commodities that are not trustable items, providing a clear description as to what the items are; and
 - (D) The cancellation, default and termination, and refund requirements of section 1 of this measure and a specific statement in twelve point bold type that makes the purchaser aware of the purchaser's refund, cancellation, and default rights and asking the purchaser to carefully read the contract for an explanation of those rights;
- (5) Requiring that any records held by a cemetery or pre-need funeral authority contain:
 - (A) The identity of each person whose remains are located at the cemetery, along with the corresponding unique identifier, as required in section 441-3(b), HRS;
 - (B) A record of any and all notifications from purchasers or representatives of purchasers regarding any change in address or notice of cancellation; and
 - (C) All written notices of termination sent to the purchaser;



- (6) Changing the effective date to July 1, 2007; provided that sections 1 and 5 shall take effect on July 1, 2008, to allow the industry more time to comply with the requirements of this measure; and
- (7) Making technical, nonsubstantive changes for the purposes of clarity and style.

As affirmed by the record of votes of the members of your Committee on Commerce, Consumer Protection, and Affordable Housing that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1337, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1337, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Respectfully submitted on
behalf of the members of the
Committee on Commerce, Consumer
Protection, and Affordable
Housing,


BRIAN T. TANIGUCHI, Chair



The Senate
 Twenty-Fourth Legislature
 State of Hawaii

Record of Votes
Committee on Commerce, Consumer Protection and Affordable Housing
CPH

Bill / Resolution No.:* <i>HB 1337 HDI</i>	Committee Referral: <i>CPH</i>	Date: <i>3/28/07</i>
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The committee is reconsidering its previous decision on this measure.
 If so, then the previous decision was to: _____

The Recommendation is:

Pass, unamended 2312 Pass, with amendments 2311 Hold 2310 Recommit 2313

Members	Aye	Aye (WR)	Nay	Excused
TANIGUCHI, Brian T. (C)	✓			
IGE, David Y. (VC)				✓
ESPERO, Will	✓			
IHARA, Jr., Les	✓			
SAKAMOTO, Norman	✓			
SLOM, Sam	✓			
TOTAL	5			1

Recommendation: Adopted Not Adopted

Chair's or Designee's Signature: *Will Espo*

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