

BEREAVED CONSUMER'S BILL OF RIGHTS ACT OF 2010

DECEMBER 7, 2010.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. WAXMAN, from the Committee on Energy and Commerce,  
submitted the following

R E P O R T

together with

DISSENTING VIEWS

[To accompany H.R. 3655]

[Including cost estimate of the Congressional Budget Office]

The Committee on Energy and Commerce, to whom was referred the bill (H.R. 3655) to direct the Federal Trade Commission to establish rules to prohibit unfair or deceptive acts or practices related to the provision of funeral services, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

CONTENTS

	Page
Amendment .....	2
Purpose and Summary .....	4
Background and Need for Legislation .....	4
Legislative History .....	5
Committee Consideration .....	5
Committee Votes .....	5
Statement of Committee Oversight Findings and Recommendations .....	5
Statement of General Performance Goals and Objectives .....	6
Constitutional Authority Statement .....	6
Earmarks and Tax and Tariff Benefits .....	6
Federal Advisory Committee Statement .....	6
Applicability of Law to Legislative Branch .....	6
Federal Mandates Statement .....	6
Committee Cost Estimate .....	6
Budget Authority and Congressional Budget Office Cost Estimate .....	7
Section-by-Section Analysis of the Legislation .....	8
Explanation of Amendment .....	10

Changes in Existing Law Made by the Bill, as Reported .....	10
Dissenting Views .....	11

#### AMENDMENT

The amendment is as follows:

Strike all after the enacting clause and insert the following:

##### SECTION 1. SHORT TITLE.

This Act may be cited as the “Bereaved Consumer’s Bill of Rights Act of 2010”.

##### SEC. 2. FINDINGS.

Congress finds that—

(1) there have been shocking consumer abuses in the funeral industry, including scandals at Burr Oak Cemetery in Alsip, Illinois, Menorah Gardens Cemetery in Palm Beach, Florida, and the Tri State Crematory in Noble, Georgia;

(2) funeral arrangements are a major expense for most American households and families;

(3) some consumers seek to ease the burdens on their families by arranging and paying for pre-need funeral and cemetery arrangements;

(4) most funerals are planned by grieving family members at a time when they are especially vulnerable and unlikely to focus on cost comparison;

(5) the Federal Trade Commission’s Funeral Industry Practices Trade Regulation Rule (known as the Funeral Rule) dictates consumer protections in the funeral home, but does not cover the practices of cemeteries, crematoria, or sellers of monuments, urns, or caskets;

(6) State laws are inconsistent and frequently too weak to provide adequate consumer protections, creating a need for minimum federal standards in this area;

(7) consumers have the right to receive clear and accurate information about all funeral goods and services offered for sale;

(8) consumers need effective protection from fraud and abusive practices by all providers of funeral goods and services and at all stages of the funeral planning process; and

(9) a new Federal law that provides adequate protections to grieving families is warranted.

##### SEC. 3. FTC RULEMAKING RELATING TO UNFAIR OR DECEPTIVE ACTS OR PRACTICES IN THE PROVISION OF FUNERAL GOODS OR SERVICES.

(a) IN GENERAL.—The Federal Trade Commission shall prescribe rules prohibiting unfair or deceptive acts or practices in the provision of funeral goods or services. Such rules shall include the following:

(1) A requirement that providers of funeral goods or funeral services furnish accurate price information disclosing clearly and conspicuously the cost to the purchaser for each of the specific funeral goods or funeral services provided or offered for sale.

(2) A prohibition on misrepresentations by such providers, including misrepresentations of the requirements of Federal, State, or local law.

(3) A prohibition on conditioning the provision of any funeral good or funeral service upon the purchase of any other funeral good or funeral service from that provider, except as required by law.

(4) A requirement that any presale disclosures and contracts for funeral services or funeral goods be written clearly, stating the merchandise and services that purchasers are buying and their prices.

(5) In the case of contracts for funeral services or funeral goods that are prepaid in whole or in part, a requirement for clear and conspicuous presale and contractual disclosure regarding any penalties incurred if the consumer decides to cancel or transfer the contract to another provider of funeral services or funeral goods.

(6) A requirement that contracts for funeral services or funeral goods disclose clearly and conspicuously all fees and costs to be incurred in the future or at the time that the funeral services or funeral goods are provided.

(7) A requirement that cemeteries provide to consumers, in a timely manner, all written rules and regulations of the cemetery, and a clear explanation in writing of the interment, inurnment, or entombment right that has been purchased, and any material terms and conditions of that purchase, including any repurchase option by the cemetery or resale rights available to the consumer.

(8) A requirement that cemeteries—

(A) retain all records in existence on the date of enactment of this Act, including maps or other systems indicating the location and date of each interment, inurnment, or entombment;

(B) accurately record and retain records of all interments, inurnments, or entombments occurring, as well as any interment, inurnment, or entombment rights sold, after the effective date of the regulations issued under this subsection, in such manner and form as the Commission may prescribe in such regulations; and

(C) make such records available to Federal, State, and local governments, as appropriate.

(b) RULEMAKING.—The Commission shall prescribe the rules under subsection (a) within 1 year after the date of enactment of this Act. Such rules, and any future rules or revision of rules prescribed by the Commission prohibiting unfair or deceptive acts or practices in the provision of funeral goods or services, shall be prescribed in accordance with section 553 of title 5, United States Code.

(c) APPLICATION OF RULES TO TAX EXEMPT ORGANIZATIONS AND STATES.—Notwithstanding the definition of corporation in section 4 of the Federal Trade Commission Act (15 U.S.C. 44), the rules prescribed under subsection (a), and any future rules or revision of rules prescribed by the Commission prohibiting unfair or deceptive acts or practices in the provision of funeral goods or funeral services, shall also apply to cemeteries organized or operated by—

(1) organizations described in section 501(c) of the Internal Revenue Code of 1986 that are exempt from taxation under section 501(a) of such Code, except for cemeteries organized, operated, managed, and owned by a religious denomination, middle judicatory, house of worship, or similar religious organization, and that are not organized, operated, managed, or owned by contract or affiliation with a for-profit provider of funeral goods or services that offers those goods and services for sale to the public; and

(2) States or any political subdivision of a State.

(d) ENFORCEMENT.—Any violation of any rule prescribed under this section shall be treated as a violation of a regulation prescribed under section 18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B)) regarding unfair or deceptive acts or practices. The Federal Trade Commission shall enforce this Act in the same manner, by the same means, and with the same jurisdiction as though all applicable terms and provisions of the Federal Trade Commission Act were incorporated into and made a part of this Act. Any person who violates the regulations prescribed under this Act shall be subject to the penalties and entitled to the privileges and immunities provided in that Act.

#### SEC. 4. ENFORCEMENT BY STATES.

(a) IN GENERAL.—Whenever an attorney general of any State has reason to believe that the interests of the residents of that State have been or are being threatened or adversely affected because any person has engaged or is engaging in an act or practice which violates any rule of the Commission issued under section 3 of this Act or the Trade Regulation Rule on Funeral Industry Practices (16 C.F.R. 453.1 et seq.), the State, as *parens patriae*, may bring a civil action on behalf of its residents in an appropriate district court of the United States to enjoin such violative act or practice, to enforce compliance with such rule of the Commission, to obtain damages, restitution, or other compensation on behalf of residents of such State, or to obtain such further and other relief as the court may determine appropriate.

(b) NOTICE.—The State shall provide prior written notice of any civil action under subsection (a) or (f)(2) to the Commission and provide the Commission with a copy of its complaint, except that if it is not feasible for the State to provide such prior notice, the State shall provide such notice immediately upon instituting such action. Upon receiving a notice respecting a civil action, the Commission shall have the right—

(1) to intervene in such action;

(2) upon so intervening, to be heard on all matters arising therein;

(3) to remove the action to the appropriate United States district court; and

(4) to file petitions for appeal.

(c) CONSTRUCTION.—For purposes of bringing any civil action under subsection (a), nothing in this Act shall prevent an attorney general from exercising the powers conferred on the attorney general by the laws of such State to conduct investigations or to administer oaths or affirmations or to compel the attendance of witnesses or the production of documentary and other evidence.

(d) ACTIONS BY COMMISSION.—Whenever a civil action has been instituted by or on behalf of the Commission for violation of any rule prescribed under section 3 of this Act, no State may, during the pendency of such action instituted by or on behalf of the Commission, institute a civil action under subsection (a) or (f)(2) of this sec-

tion against any defendant named in the complaint in such action for violation of any rule as alleged in such complaint.

(e) VENUE; SERVICE OF PROCESS.—Any civil action brought under subsection (a) of this section in a district court of the United States may be brought in the district in which the defendant is found, is an inhabitant, or transacts business or wherever venue is proper under section 1391 of title 28, United States Code. Process in such an action may be served in any district in which the defendant is an inhabitant or in which the defendant may be found.

(f) ACTIONS BY OTHER STATE OFFICIALS.—

(1) CONSTRUCTION.—Nothing contained in this section shall prohibit an authorized State official from proceeding in State court on the basis of an alleged violation of any civil or criminal statute of such State.

(2) OTHER STATE ACTIONS.—In addition to actions brought by an attorney general of a State under subsection (a) of this section, such an action may be brought by officers of such State who are authorized by the State to bring actions in such State on behalf of its residents.

#### SEC. 5. EFFECT ON OTHER LAW.

Nothing in this Act or the rules prescribed under this Act shall be construed to preempt any provision of any law of a State or political subdivision of that State that provides protections to consumers of funeral services or funeral goods, except to the extent that the provision of law is inconsistent with any provision of this Act or a rule prescribed under this Act, and then only to the extent of the inconsistency.

#### SEC. 6. DEFINITIONS.

In this Act—

(1) the term “cemetery” means any organization, association or other business that offers for sale the interment, inurnment, or entombment of human remains, but does not include any cemetery that—

(A) performs fewer than 25 interments, inurnments, and entombments during any calendar year; or

(B) sells fewer than 25 interment, inurnment, or entombment rights during any calendar year;

(2) the term “funeral goods” are the goods which are sold or offered for sale directly to the public for use in connection with funeral services; and

(3) the term “funeral services” means—

(A) any services which are sold or offered for sale to the public in order to—

(i) care for and prepare deceased human bodies for burial, cremation, or other final disposition; or

(ii) arrange, supervise, or conduct the funeral ceremony or the final disposition of deceased human bodies; or

(B) services provided by funeral directors, morticians, cemeterians, cremationists, and retailers of caskets, urns, monuments, and markers.

#### PURPOSE AND SUMMARY

H.R. 3655, the “Bereaved Consumer’s Bill of Rights Act of 2009”, was introduced by Rep. Bobby L. Rush (D–IL) on September 25, 2009. H.R. 3655 would require the Federal Trade Commission (FTC) to prescribe rules prohibiting unfair or deceptive acts and practices in the provision of funeral goods and services.

#### BACKGROUND AND NEED FOR LEGISLATION

Burr Oak Cemetery in Alsip, Illinois, made national news in July 2009 when stories surfaced that cemetery employees had removed human remains from graves and resold some of the graves to unsuspecting consumers.<sup>1</sup> H.R. 3655 was introduced by Rep. Rush to address some of the deplorable conditions discovered at Burr Oak. The legislation would require, among other things, that all cemeteries record and retain records of burial, inurnment, and entombment locations; explain to consumers the nature of the burial,

<sup>1</sup> Bodies Unearthed at Alsip Cemetery, Chicago Tribune (July 9, 2009).

inurnment, or entombment rights they are purchasing; and provide consumers with all the cemetery's written rules and regulations.

Funeral arrangements are a major expense for most families and households. Each year consumers spend billions of dollars arranging more than two million funerals for families and friends.<sup>2</sup> Consumers are currently protected under the FTC's Funeral Rule against unfair and deceptive acts and practices committed by funeral homes.<sup>3</sup> The FTC's Funeral Rule further requires funeral homes to provide pricing disclosures for goods and services that they sell. Also, funeral homes may not force consumers to buy package deals but instead must allow consumers to pick and choose the goods and services they want.<sup>4</sup> Similar protections, however, are not afforded to consumers of funeral, burial, and cremation goods and services, when those goods and services are sold by cemeteries, crematoria, or third-party sellers. Because consumers of funeral goods and services are grieving, they can be easily exploited and financially harmed by deceitful salesmen. H.R. 3655 seeks to reconcile the differences in consumer protections that the same consumer would receive when shopping for funeral-related goods and services as compared to burial and cremation goods and services.

#### LEGISLATIVE HISTORY

H.R. 3655 was introduced on September 25, 2009, by Rep. Rush of Illinois. The bill was referred to the Subcommittee on Commerce, Trade, and Consumer Protection, and the Subcommittee held a legislative hearing on H.R. 3655 on January 25, 2010.

#### COMMITTEE CONSIDERATION

On March 24, 2010, the Subcommittee on Commerce, Trade, and Consumer Protection met in open markup session and forwarded H.R. 3655, amended, favorably to the full Committee by a voice vote.

On July 21, 2010, the Committee on Energy and Commerce met in open markup session and considered H.R. 3655 as approved by the Subcommittee. The Committee adopted an amendment to the bill by Rep. Rush, as amended by an amendment offered by Mr. Gingrey of Georgia. The full Committee subsequently ordered H.R. 3655 favorably reported to the House, amended, by a voice vote.

#### COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee to list the record votes on the motion to report legislation and amendments thereto. There were no recorded votes during consideration of H.R. 3655.

#### STATEMENT OF COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

In compliance with clause 3(c)(1) of rule XIII and clause (2)(b)(1) of rule X of the Rules of the House of Representatives, the over-

<sup>2</sup>Federal Trade Commission, Facts for Consumers: Funerals: A Consumer's Guide (online at <http://www.ftc.gov/bcp/edu/pubs/consumer/products/pro19.shtm>).

<sup>3</sup>16 C.F.R. part 453 (1982).

<sup>4</sup>*Id.*

sight findings and recommendations of the Committee are reflected in the descriptive portions of this report, including the finding that consumers have a different level of protection regarding funeral-related goods and services as compared to burial and cremation goods and services.

#### STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

In accordance with clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the performance goals and objectives of the Committee are reflected in the descriptive portions of this report, including the goal that equivalent consumer protections should apply to funeral-related goods and services and burial and cremation goods and services.

#### CONSTITUTIONAL AUTHORITY STATEMENT

Under clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee must include a statement citing the specific powers granted to Congress to enact the law proposed by H.R. 3655. Article I, section 8, clauses 3 and 18 of the Constitution of the United States grant the Congress the power to enact this law.

#### EARMARKS AND TAX AND TARIFF BENEFITS

H.R. 3655 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(d), 9(e), or 9(f) of rule XXI of the Rules of the House of Representatives.

#### FEDERAL ADVISORY COMMITTEE STATEMENT

The Committee finds that the legislation does not establish or authorize the establishment of an advisory committee within the definition of 5 U.S.C. App., section 5(b).

#### APPLICABILITY OF LAW TO THE LEGISLATIVE BRANCH

Section 102(b)(3) of Public Law 104–1 requires a description of the application of this bill to the legislative branch where the bill relates to terms and conditions of employment or access to public services and accommodations. This bill does not relate to employment or access to public services and accommodations.

#### FEDERAL MANDATES STATEMENT

Section 423 of the Congressional Budget and Impoundment Control Act (as amended by Section 101(a)(2) of the Unfunded Mandates Reform Act, P.L. 104–4) requires a statement whether the provisions of the reported bill include unfunded mandates. In compliance with this requirement the Committee has received a letter from the Congressional Budget Office included herein.

#### COMMITTEE COST ESTIMATE

Clause 3(d)(2) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs that would be incurred in carrying out H.R. 3655. The Committee adopts as its own the cost estimate on H.R. 3655 prepared by the Director of the Congressional Budget Office included herein.

BUDGET AUTHORITY AND CONGRESSIONAL BUDGET OFFICE COST  
ESTIMATE

With respect to the requirements of clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974 and with respect to requirements of clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for H.R. 3655 from the Director of the Congressional Budget Office:

SEPTEMBER 8, 2010.

Hon. HENRY A. WAXMAN,  
*Chairman, Committee on Energy and Commerce,  
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 3655, the Bereaved Consumer's Bill of Rights Act of 2009.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Susan Willie.

Sincerely,

DOUGLAS W. ELMENDORF.

Enclosure.

*H.R. 3655—Bereaved Consumer's Bill of Rights Act of 2009*

H.R. 3655 would broaden rules prohibiting unfair or deceptive acts or practices in the provision of funeral goods or services. Among other things, the bill would require cemeteries to disclose all fees and costs to be incurred in the future or at the time such goods or services are provided and to keep accurate burial records. The bill would require the Federal Trade Commission (FTC) to develop rules to enforce the new requirements within one year of enactment.

Based on information from the FTC, CBO assumes that the agency would require five additional staff positions at a cost of about \$1 million per year to develop and enforce the new requirements, train staff, and develop educational materials. CBO estimates that implementing H.R. 3655 would cost about \$5 million over the 2011–2015 period, assuming appropriation of the necessary amounts. Enacting H.R. 3655 could affect revenues from collections of civil penalties; therefore, pay-as-you-go procedures apply. However, CBO estimates that revenue collections from those penalties would not be significant in any year.

H.R. 3655 would impose intergovernmental and private-sector mandates, as defined in the Unfunded Mandates Reform Act (UMRA), because it would require public and private cemeteries to maintain records and respond to requests for information as well as issue disclosures to consumers. The bill also would impose mandates on providers of funeral goods or services. Based on information from the FTC and industry sources, CBO estimates that the aggregate cost of complying with the mandates would fall below the annual thresholds established in UMRA for intergovernmental and private-sector mandates (\$70 million and \$141 million, respectively, in 2010, adjusted annually for inflation).

The bill would require public and private cemeteries and other funeral service providers to document and retain records on the location and date of each internment, inurnment, or entombment. The bill also would require those entities to make records available to federal, state, and local governments upon request. In most cases, state laws and industry standards already require record-keeping of that kind; therefore, CBO estimates that the incremental cost of recording and reporting such information would be small.

The bill would require public and private cemeteries to provide consumers with written explanations of cemetery rules and the specific rights, terms, conditions, prices, fees, and penalties associated with the goods or services purchased. Industry experts indicate that those practices are already the standard among cemeteries and most other funeral service providers; therefore, CBO estimates that the additional cost of complying with this requirement would be small.

The bill also would require providers and retailers of funeral goods or services to provide clear and accurate pricing and fee information to purchasers. Current federal regulations for this industry extend only to entities that provide both funeral goods and services, not to those that provide one or the other. The bill also would prohibit conditioning the provision of any good or service on the purchase of any other. That requirement would prohibit the practice of bundling or packaging of certain funeral goods and services by providers and retailers previously not regulated by the FTC funeral rule.

Most providers and retailers of funeral goods or services are already in compliance with many of the mandates contained in the legislation through compliance with state law or current industry standards. Based on information from industry professionals and on data on the cost of compliance from the FTC, CBO estimates that the additional compliance costs of those mandates would be small relative to the annual threshold for private-sector mandates.

The CBO staff contacts for this estimate are Susan Willie (for federal costs), Elizabeth Cove Delisle (for the intergovernmental impact), and Marin Randall (for the private-sector impact). The estimate was approved by Theresa Gullo, Deputy Assistant Director for Budget Analysis.

#### SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

##### *Section 1. Short title*

This Act is entitled the “Bereaved Consumer’s Bill of Rights Act of 2010.”

##### *Section 2. Findings*

Section 2 contains findings about abuses in the funeral industry and the need for additional regulation.

##### *Section 3. FTC rulemaking relating to unfair or deceptive acts or practices in the provision of funeral goods or services*

Section 3(a) calls on the Federal Trade Commission to prescribe rules prohibiting unfair or deceptive acts or practices in the provision of funeral goods and services. The subsection lists eight re-

requirements that must be included in the rules. The rules must require that providers of funeral goods or services: (1) provide consumers with accurate, itemized price information for each specific funeral good or service offered for sale; (2) not misrepresent what federal, state, and local laws require in protecting consumers or permit, in the way of competition between providers; (3) prohibit conditioning the provision of any one funeral good or service on the purchase of another funeral good and service; (4) write contracts for funeral goods and services using clear language that consumers are likely to comprehend; (5) include disclosures in pre-paid contracts regarding fees or penalties to be assessed for cancellation or transfer, by the purchaser, of burial, cremation, or entombment rights to different facilities; (6) disclose in contracts all fees and costs to be incurred in the future or at the time those funeral goods or services are provided; (7) in the case of cemeteries, provide all written rules and regulations of the cemetery, as well as an explanation in writing of the interment, inurnment, or entombment right that has been purchased; and (8) in the case of cemeteries, retain records of the date and location of each interment, inurnment, and entombment as well as the corresponding rights of disposition (i.e., perpetual or term), and make those records available to federal, state, and local governments.

The Committee expects the FTC to encourage cemeteries and funeral homes to digitize their records and ensure backup copies are stored off site. It is the cemeteries' responsibility to ensure that each burial record can be tied to a grave space on a map, which in turn can be tied to a grave space on the ground, and digitizing these records is one of the best options to ensure that occurs.

Section 3(b) establishes a one year deadline for promulgating these rules and provides the FTC with authority to promulgate the rules using the procedures of the Administrative Procedure Act. Section 3(c) applies the rules, with one exception, to nonprofit organizations and states. If a cemetery is nonprofit, but is organized, operated, managed, and owned by a religious organization and has no contract for the organization, operation, or management with a for-profit company, it would be exempt from the rules. Section 3(d) provides the FTC with the authority to enforce the rules established under this Act.

#### *Section 4. Enforcement by States*

Section 4 provides states with the ability to enforce the Act, the rules issued under the Act, or other provisions of the Trade Regulation Rule on Funeral Industry Practices.

#### *Section 5. Effect on other law*

Section 5 provides that this Act should not be construed to preempt any state law except to the extent that there is inconsistency, and then only to the extent of the inconsistency.

#### *Section 6. Definitions*

Section 6 establishes definitions for the Act. The section defines "cemetery" to include any organization, association, or other business that offers for sale the interment, inurnment, or entombment of human remains except if that cemetery performs fewer than 25 interments, inurnments, or entombments per year or sells fewer

than 25 such rights during any calendar year. The term “funeral goods” is defined as it is by the FTC in the Trade Regulation Rule on Funeral Industry Practices. The term “funeral services” is defined to encompass those funeral services covered by the existing FTC rule as well as the services provided by funeral directors, morticians, cemeterians, cremationists, and retailers of caskets, urns, monuments, and markers.

#### EXPLANATION OF AMENDMENT

Rep. Rush of Illinois offered an amendment during full Committee markup to provide an exemption to the requirements of H.R. 3655 for cemeteries run by religious organizations with no contract for ownership, operation, or management of the cemeteries. Rep. Gingrey of Georgia offered an amendment to the Rush amendment that clarified and slightly expanded the exemption to exclude those cemeteries run by religious organizations with no contract for ownership, operation, or management with a for-profit company, thus allowing such contracts with nonprofit entities. The Rush amendment, as amended by the Gingrey amendment, was agreed to by a voice vote.

#### CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

H.R. 3655, as reported, does not make any change in existing law.

## DISSENTING VIEWS

We sympathize with the intent of H.R. 3655 to provide a federal response to the tragic events discovered at the Chicago Burr Oaks Cemetery (Burr Oaks) in Alsip, Illinois. We support meaningful and effective federal consumer protection when the evidence shows that States cannot effectively regulate. However, we believe the isolated events at Burr Oaks do not show any need for federal regulation. The record indicates that Illinois addressed these events aggressively and adequately, and that this type of misconduct does not occur frequently. Indeed, the Federal Trade Commission (FTC) reports only a fraction of one percent of the more than 1.3 million consumer complaints it received in 2009 related to funeral services.

Additionally, we do not believe this legislation is good policy nor do we believe it will effectively deter the types of actions that occurred at Burr Oaks. We see no evidence that requiring additional disclosures to consumers and recordkeeping would deter actions such as occurred in 2009. Criminal prosecution of these and similar acts provide a far more effective deterrent to illegal disinterment. Extending the current disclosure regulations under the FTC's "Funeral Rule" to cemeteries and requiring new disclosures by those currently subject to the Funeral Rule would increase regulatory and compliance costs with little or no associated consumer benefit.

During Committee consideration of H.R. 3655, an exemption for religious non-profit organizations was passed. The majority of cemeteries in the United States are run by municipalities and religious organizations. Republicans offered separate amendments to exempt the religious and municipally operated cemeteries and funeral homes and restore their statutory exemption from regulation by the FTC. Unfortunately, the Majority only accepted the amendment exempting religious organizations from H.R. 3655. This leaves all the municipalities that own or operate cemeteries subject to federal law and FTC enforcement for the first time, even though the record does not include any persuasive evidence that this would prevent the types of actions that occurred at Burr Oaks or otherwise benefit consumers.

There is also the issue of federalism to address. We find evidence demonstrating that the States can effectively regulate their cemeteries and funeral providers. When incidents suggesting the need for additional regulations do occur—as with Burr Oaks and a few others with similar but rare problems—States have responded quickly with investigations, prosecutions, and additional regulations as they felt appropriate to address their respective situations. We believe Congress should only consider the larger question of whether the FTC should have jurisdiction over any non-profit when it reauthorizes the FTC rather than on a piecemeal, ad hoc basis.

Finally, we note that the bill would impose an extremely broad obligation on cemeteries to keep *all* their records indefinitely. This

draconian recordkeeping provision would likely impose extensive costs with little or no benefit for consumers or law enforcement.

For these reasons, we, the undersigned, cannot support H.R. 3655.

JOE BARTON.  
MARSHA BLACKBURN.  
TIM MURPHY.  
PHIL GINGREY.  
JOSEPH R. PITTS.  
ROBERT E. LATTA.  
JOHN SHIMKUS.  
CLIFF STEARNS.  
LEE TERRY.

○