

FIRST REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 340
96TH GENERAL ASSEMBLY

Reported from the Committee on Financial and Governmental Organizations and Elections, April 14, 2011, with recommendation that the Senate Committee Substitute do pass.

1674S.03C

TERRY L. SPIELER, Secretary.

AN ACT

To repeal sections 333.041, 333.042, 333.051, 333.061, 333.091, 333.151, 333.171, 436.405, 436.412, 436.445, 436.450, 436.455, and 436.456, RSMo, and to enact in lieu thereof thirteen new sections relating to the board of embalmers and funeral directors.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 333.041, 333.042, 333.051, 333.061, 333.091, 333.151, 333.171, 436.405, 436.412, 436.445, 436.450, 436.455, and 436.456, RSMo, are repealed and thirteen new sections enacted in lieu thereof, to be known as sections 333.041, 333.042, 333.051, 333.061, 333.091, 333.151, 333.171, 436.405, 436.412, 436.445, 436.450, 436.455, and 436.456, to read as follows:

333.041. 1. Each applicant for a license to practice funeral directing shall furnish evidence to establish to the satisfaction of the board that he or she is:

(1) At least eighteen years of age, and possesses a high school diploma, **a general equivalency diploma**, or equivalent thereof, **as determined, at its discretion, by the board; and**

(2) [Either a citizen or a bona fide resident of the state of Missouri or entitled to a license pursuant to section 333.051, or a resident in a county contiguous and adjacent to the state of Missouri who is employed by a funeral establishment located within the state of Missouri, to practice funeral directing upon the grant of a license to do so; and

(3)] A person of good moral character.

2. Every person desiring to enter the profession of embalming dead human bodies within the state of Missouri and who is enrolled in [an] **a program**

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

14 accredited [institution of mortuary science education] **by the American Board**
15 **of Funeral Service Education, any successor organization, or other**
16 **accrediting entity as approved by the board**, shall register with the board
17 as a practicum student upon the form provided by the board. After such
18 registration, a student may assist, under the direct supervision of Missouri
19 licensed embalmers and funeral directors, in Missouri licensed funeral
20 establishments, while serving his or her practicum [for the accredited institution
21 of mortuary science education]. The form for registration as a practicum student
22 shall be accompanied by a fee in an amount established by the board.

23 3. Each applicant for a license to practice embalming shall furnish
24 evidence to establish to the satisfaction of the board that he or she:

25 (1) Is at least eighteen years of age, and possesses a high school diploma,
26 **a general equivalency diploma**, or equivalent thereof, **as determined, at its**
27 **discretion, by the board**;

28 (2) [Is either a citizen or bona fide resident of the state of Missouri or
29 entitled to a license pursuant to section 333.051, or a resident in a county
30 contiguous and adjacent to the state of Missouri who is employed by a funeral
31 establishment located within the state of Missouri, to practice embalming upon
32 the grant of a license to do so;

33 (3)] Is a person of good moral character;

34 [(4)] (3) Has [graduated from an institute of mortuary science education]
35 **completed a funeral service education program** accredited by the American
36 Board of Funeral Service Education, [or] any successor organization [recognized
37 by the United States Department of Education, for funeral service education], **or**
38 **other accrediting entity as approved by the board**. If an applicant does
39 not [appear for the final examination before the board] **complete all**
40 **requirements for licensure** within five years from the date of his or her
41 [graduation from] **completion of** an accredited [institution of mortuary science
42 education] **program**, his or her registration as [a student] **an apprentice**
43 embalmer shall be automatically canceled. **The applicant shall be required**
44 **to file a new application and pay applicable fees. No previous**
45 **apprenticeship shall be considered for the new application**;

46 [(5)] (4) Upon due examination administered by the board, is possessed
47 of a knowledge of the subjects of embalming, anatomy, pathology, bacteriology,
48 mortuary administration, chemistry, restorative art, together with statutes, rules
49 and regulations governing the care, custody, shelter and disposition of dead

50 human bodies and the transportation thereof or has passed the national board
51 examination of the Conference of Funeral Service Examining Boards. If any
52 applicant fails to pass the state examination, he or she may retake the
53 examination at the next regular examination meeting. The applicant shall notify
54 the board office of his or her desire to retake the examination at least thirty days
55 prior to the date of the examination. Each time the examination is retaken, the
56 applicant shall pay a new examination fee in an amount established by the board;

57 [(6)] (5) Has been employed full time in funeral service in a licensed
58 funeral establishment and has personally embalmed at least twenty-five dead
59 human bodies under the personal supervision of an embalmer who holds a
60 current and valid Missouri embalmer's license or an embalmer who holds a
61 current and valid embalmer's license in a state with which the Missouri board
62 has entered into a reciprocity agreement during an apprenticeship of not less
63 than twelve consecutive months. "Personal supervision" means that the licensed
64 embalmer shall be physically present during the entire embalming process in the
65 first six months of the apprenticeship period and physically present at the
66 beginning of the embalming process and available for consultation and personal
67 inspection within a period of not more than one hour in the remaining six months
68 of the apprenticeship period. All transcripts and other records filed with the
69 board shall become a part of the board files.

70 4. If the applicant does not [appear for oral examination] **complete the**
71 **application process** within the five years after his or her [graduation from an
72 accredited institution of mortuary science education] **completion of an**
73 **approved program**, then he or she must file a new application and no fees paid
74 previously shall apply toward the license fee.

75 5. Examinations required by this section and section 333.042 shall be held
76 at least twice a year at times and places fixed by the board. The board shall by
77 rule and regulation prescribe the standard for successful completion of the
78 examinations.

79 6. Upon establishment of his or her qualifications as specified by this
80 section or section 333.042, the board shall issue to the applicant a license to
81 practice funeral directing or embalming, as the case may require, and shall
82 register the applicant as a duly licensed funeral director or a duly licensed
83 embalmer. Any person having the qualifications required by this section and
84 section 333.042 may be granted both a license to practice funeral directing and
85 to practice embalming.

86 7. The board shall, upon request, waive any requirement of this chapter
87 and issue a temporary funeral director's license, valid for six months, to the
88 surviving spouse or next of kin or the personal representative of a licensed
89 funeral director, or to the spouse, next of kin, employee or conservator of a
90 licensed funeral director disabled because of sickness, mental incapacity or injury.

333.042. 1. Every person desiring to enter the profession of funeral
2 directing in this state shall make application with the state board of embalmers
3 and funeral directors and pay the current application and examination
4 fees. **Except as otherwise provided in section 41.950**, applicants not
5 entitled to a license pursuant to section 333.051 shall serve an apprenticeship for
6 at least twelve **consecutive** months in a funeral establishment licensed for the
7 care and preparation for burial and transportation of the human dead in this
8 state or in another state which has established standards for admission to
9 practice funeral directing equal to, or more stringent than, the requirements for
10 admission to practice funeral directing in this state. The applicant shall devote
11 at least fifteen hours per week to his or her duties as an apprentice under the
12 supervision of a Missouri licensed funeral director. Such applicant shall submit
13 proof to the board, on forms provided by the board, that the applicant has
14 arranged and conducted ten funeral services during the applicant's
15 apprenticeship under the supervision of a Missouri licensed funeral
16 director. Upon completion of the apprenticeship, the applicant shall appear
17 before the board to be tested on the applicant's legal and practical knowledge of
18 funeral directing, funeral home licensing, preneed funeral contracts and the care,
19 custody, shelter, disposition and transportation of dead human bodies. Upon
20 acceptance of the application and fees by the board, an applicant shall have
21 twenty-four months to successfully complete the requirements for licensure found
22 in this section or the application for licensure shall be canceled.

23 2. If a person applies for a limited license to work only in a funeral
24 establishment which is licensed only for cremation, including transportation of
25 dead human bodies to and from the funeral establishment, he or she shall make
26 application, pay the current application and examination fee and successfully
27 complete the Missouri law examination. He or she shall be exempt from the
28 twelve-month apprenticeship **required by subsection 1 of this section** and
29 the practical examination before the board. If a person has a limited license
30 issued pursuant to this subsection, he or she may obtain a full funeral director's
31 license if he or she fulfills the apprenticeship and successfully completes the

32 funeral director practical examination.

33 3. If an individual is a Missouri licensed embalmer or has [graduated
34 from an institute of mortuary science education] **completed a program**
35 accredited by the American Board of Funeral Service Education [or], any
36 successor organization [recognized by the United States Department of Education
37 for funeral service education], **or other accrediting entity as approved by**
38 **the board** or has successfully completed a course of study in funeral directing
39 offered by [a college] **an institution** accredited by a recognized national, regional
40 or state accrediting body and approved by the state board of embalmers and
41 funeral directors, and desires to enter the profession of funeral directing in this
42 state, the individual shall comply with all the requirements for licensure as a
43 funeral director pursuant to subsection 1 of section 333.041 and subsection 1 of
44 this section; however, the individual is exempt from the twelve-month
45 apprenticeship required by subsection 1 of this section.

 333.051. 1. Any [nonresident] individual holding a valid, unrevoked and
2 unexpired license as a funeral director or embalmer in the state of his **or her**
3 residence may be granted a license to practice funeral directing or embalming in
4 this state on application to the board and on providing the board with such
5 evidence as to his **or her** qualifications as is required by the board. [No license
6 shall be granted to a nonresident applicant except one who resides in a county
7 contiguous and adjacent to the state of Missouri and who is regularly engaged in
8 the practice of funeral directing or embalming, as defined by this chapter, at
9 funeral establishments within this state or in an establishment located in a
10 county contiguous and adjacent to the state of Missouri, unless the law of the
11 state of the applicant's residence authorizes the granting of licenses to practice
12 funeral directing in such state to persons licensed as funeral directors under the
13 law of the state of Missouri.]

14 2. Any individual holding a valid, unrevoked and unexpired license as an
15 embalmer or funeral director in another state having requirements substantially
16 similar to those existing in this state [who is or intends to become a resident of
17 this state] may apply for a license to practice in this state by filing with the board
18 a certified statement from the examining board of the state or territory in which
19 the applicant holds his **or her** license showing the grade rating upon which [his]
20 **the** license was granted, together with a recommendation, and the board shall
21 grant the applicant a license upon his **or her** successful completion of an
22 examination over Missouri laws as required in section 333.041 or section 333.042

23 if the board finds that the applicant's qualifications meet the requirements for
24 funeral directors or embalmers in this state at the time the applicant was
25 originally licensed in the other state.

26 3. A person holding a valid, unrevoked and unexpired license to practice
27 funeral directing or embalming in another state or territory with requirements
28 less than those of this state may, after five consecutive years of active experience
29 as a licensed funeral director or embalmer in that state, apply for a license to
30 practice in this state after passing a test to prove his **or her** proficiency,
31 including but not limited to a knowledge of the laws and regulations of this state
32 as to funeral directing and embalming.

333.061. 1. No funeral establishment shall be operated in this state
2 unless the owner or operator thereof has a license issued by the board.

3 2. A license for the operation of a funeral establishment shall be issued
4 by the board, if the board finds:

5 (1) That the establishment is under the general management and the
6 supervision of a duly licensed funeral director;

7 (2) That all embalming performed therein is performed by or under the
8 direct supervision of a duly licensed embalmer;

9 (3) That any place in the funeral establishment where embalming is
10 conducted contains a preparation room with a sanitary floor, walls and ceiling,
11 and adequate sanitary drainage and disposal facilities including running water,
12 and complies with the sanitary standard prescribed by the department of health
13 and senior services for the prevention of the spread of contagious, infectious or
14 communicable diseases;

15 (4) Each funeral establishment shall have [available in the preparation
16 or embalming room] a register book or log which shall be available at all times
17 [in full view] for the board's inspector and [the name of each body embalmed,
18 place, if other than at the establishment, the date and time that the embalming
19 took place, the name and signature of the embalmer and the embalmer's license
20 number shall be noted in the book] **that shall contain:**

21 (a) **The name of each body that has been in the establishment;**

22 (b) **The date the body arrived at the establishment;**

23 (c) **If applicable, the place of embalming, if known; and**

24 (d) **If the body was embalmed at the establishment, the date and**
25 **time that the embalming took place, and the name, signature, and**
26 **license number of the embalmer; and**

27 (5) The establishment complies with all applicable state, county or
28 municipal zoning ordinances and regulations.

29 3. The board shall grant or deny each application for a license pursuant
30 to this section within thirty days after it is filed. The applicant may request in
31 writing up to two thirty-day extensions of the application, provided the request
32 for an extension is received by the board prior to the expiration of the thirty-day
33 application or extension period.

34 4. Licenses shall be issued pursuant to this section upon application and
35 the payment of a funeral establishment fee and shall be renewed at the end of the
36 licensing period on the establishment's renewal date.

37 5. The board may refuse to renew or may suspend or revoke any license
38 issued pursuant to this section if it finds, after hearing, that the funeral
39 establishment does not meet any of the requirements set forth in this section as
40 conditions for the issuance of a license, or for the violation by the owner of the
41 funeral establishment of any of the provisions of section 333.121. No new license
42 shall be issued to the owner of a funeral establishment or to any corporation
43 controlled by such owner for three years after the revocation of the license of the
44 owner or of a corporation controlled by the owner. Before any action is taken
45 pursuant to this subsection the procedure for notice and hearing as prescribed by
46 section 333.121 shall be followed.

 333.091. [Each establishment, funeral director or embalmer receiving a
2 license under this chapter shall have recorded in the office of the local registrar
3 of vital statistics of the registration district in which the licensee practices.] All
4 licenses or registrations, or duplicates thereof, issued pursuant to this chapter
5 shall be displayed at each place of business.

 333.151. 1. The state board of embalmers and funeral directors shall
2 consist of ten members, including one voting public member appointed by the
3 governor with the advice and consent of the senate. Each member, other than the
4 public member, appointed shall possess either a license to practice embalming or
5 a license to practice funeral directing in this state or both said licenses and shall
6 have been actively engaged in the practice of embalming or funeral directing for
7 a period of five years next before his or her appointment. Each member shall be
8 a United States citizen, a resident of this state for a period of at least one year,
9 a qualified voter of this state and shall be of good moral character. Not more
10 than five members of the board shall be of the same political party. The
11 nonpublic members shall be appointed by the governor, with the advice and

12 consent of the senate[, one from each of the state's congressional districts be of
13 good moral character and submit an audited financial statement of their funeral
14 establishment by an independent auditor for the previous five years. This
15 audited financial statement must include all at-need and preneed business]. **A
16 majority of the members shall constitute a quorum. Members shall be
17 appointed to represent diversity in gender, race, ethnicity, and the
18 various geographic regions of the state.**

19 2. Each member of the board shall serve for a term of five years. Any
20 vacancy on the board shall be filled by the governor and the person appointed to
21 fill the vacancy shall possess the qualifications required by this chapter and shall
22 serve until the end of the unexpired term of his or her predecessor, if any.

23 3. The public member shall be at the time of his or her appointment a
24 person who is not and never was a member of any profession licensed or regulated
25 pursuant to this chapter or the spouse of such person; and a person who does not
26 have and never has had a material, financial interest in either the providing of
27 the professional services regulated by this chapter, or an activity or organization
28 directly related to any profession licensed or regulated pursuant to this chapter.
29 All members, including public members, shall be chosen from lists submitted by
30 the director of the division of professional registration. The duties of the public
31 member shall not include the determination of the technical requirements to be
32 met for licensure or whether any person meets such technical requirements or of
33 the technical competence or technical judgment of a licensee or a candidate for
34 licensure.

333.171. The board shall hold at least two regular meetings each year for
2 the purpose of administering examinations at times and places fixed by the
3 board. Other meetings shall be held at the times fixed by regulations of the
4 board or on the call of the chairman of the board. Notice of the time and place
5 of each regular or special meeting shall be mailed by the executive secretary to
6 each member of the board at least five days before the date of the meeting. [At
7 all meetings of the board three members constitute a quorum.] The board may
8 adopt and use a common seal.

436.405. 1. As used in sections 436.400 to 436.520, unless the context
2 otherwise requires, the following terms shall mean:

3 (1) "Beneficiary", the individual who is to be the subject of the disposition
4 or who will receive funeral services, facilities, or merchandise described in a
5 preneed contract;

6 (2) **"Board", the board of embalmers and funeral directors;**

7 (3) "Guaranteed contract", a preneed contract in which the seller
8 promises, assures, or guarantees to the purchaser that all or any portion of the
9 costs for the disposition, services, facilities, or merchandise identified in a
10 preneed contract will be no greater than the amount designated in the contract
11 upon the preneed beneficiary's death or that such costs will be otherwise limited
12 or restricted;

13 [(3)] (4) "Insurance-funded preneed contract", a preneed contract which
14 is designated to be funded by payments or proceeds from an insurance policy or
15 [single premium] **a deferred annuity contract that is not classified as a**
16 **variable annuity and has death benefit proceeds that are never less**
17 **than the sum of premiums paid;**

18 [(4)] (5) "Joint account-funded preneed contract", a preneed contract
19 which designates that payments for the preneed contract made by or on behalf of
20 the purchaser will be deposited and maintained in a joint account in the names
21 of the purchaser and seller, as provided in this chapter;

22 [(5)] (6) "Market value", a fair market value:

23 (a) As to cash, the amount thereof;

24 (b) As to a security as of any date, the price for the security as of that
25 date obtained from a generally recognized source, or to the extent no generally
26 recognized source exists, the price to sell the security in an orderly transaction
27 between unrelated market participants at the measurement date; and

28 (c) As to any other asset, the price to sell the asset in an orderly
29 transaction between unrelated market participants at the measurement date
30 consistent with statements of financial accounting standards;

31 [(6)] (7) "Nonguaranteed contract", a preneed contract in which the seller
32 does not promise, assure, or guarantee that all or any portion of the costs for the
33 disposition, facilities, service, or merchandise identified in a preneed contract will
34 be limited to the amount designated in the contract upon the preneed
35 beneficiary's death or that such costs will be otherwise limited or restricted;

36 [(7)] (8) "Preneed contract", any contract or other arrangement which
37 provides for the final disposition in Missouri of a dead human body, funeral or
38 burial services or facilities, or funeral merchandise, where such disposition,
39 services, facilities, or merchandise are not immediately required. Such contracts
40 include, but are not limited to, agreements providing for a membership fee or any
41 other fee for the purpose of furnishing final disposition, funeral or burial services

42 or facilities, or funeral merchandise at a discount or at a future date;

43 [(8)] (9) "Preneed trust", a trust to receive deposits of, administer, and
44 disburse payments received under preneed contracts, together with income
45 thereon;

46 [(9)] (10) "Purchaser", the person who is obligated to pay under a
47 preneed contract;

48 [(10)] (11) "Trustee", the trustee of a preneed trust, including successor
49 trustees;

50 [(11)] (12) "Trust-funded preneed contract", a preneed contract which
51 provides that payments for the preneed contract shall be deposited and
52 maintained in trust.

53 2. All terms defined in chapter 333 shall be deemed to have the same
54 meaning when used in sections 436.400 to 436.520.

 436.412. Each preneed contract made before August 28, 2009, and all
2 payments and disbursements under such contract shall continue to be governed
3 by this chapter as the chapter existed at the time the contract was made. Any
4 licensee or registrant of the board may be disciplined for violation of any
5 provision of sections 436.005 to 436.071 within the applicable statute of
6 limitations. [In addition, the provisions of section 436.031, as it existed on
7 August 27, 2009, shall continue to govern disbursements to the seller from the
8 trust and payment of trust expenses.] Joint accounts in existence as of August
9 27, 2009, shall continue to be governed by the provisions of section 436.053, as
10 that section existed on August 27, 2009.

 436.445. A trustee of any preneed trust, including trusts established
2 before August 28, 2009, shall not after August 28, 2009, make any decisions to
3 invest any trust fund with:

- 4 (1) The spouse of the trustee;
- 5 (2) The descendants, siblings, parents, or spouses of a seller or an officer,
6 manager, director or employee of a seller, provider, or preneed agent;
- 7 (3) Agents, **other than authorized external investment advisors as**
8 **authorized by section 436.440**, or attorneys of a trustee, seller, or provider;
9 or

10 (4) A corporation or other person or enterprise in which the trustee, seller,
11 or provider owns a controlling interest or has an interest that might affect the
12 trustee's judgment.

 436.450. 1. An insurance-funded preneed contract shall comply with

2 sections 436.400 to 436.520 and the specific requirements of this section.

3 2. A seller, provider, or any preneed agent shall not receive or collect from
4 the purchaser of an insurance-funded preneed contract any amount in excess of
5 what is required to pay the premiums on the insurance policy as assessed or
6 required by the insurer as premium payments for the insurance policy except for
7 any amount required or authorized by this chapter or by rule. A seller shall not
8 receive or collect any administrative or other fee from the purchaser for or in
9 connection with an insurance-funded preneed contract, other than those fees or
10 amounts assessed by the insurer. As of August 29, 2009, no preneed seller,
11 provider, or agent shall use any existing preneed contract as collateral or security
12 pledged for a loan or take preneed funds of any existing preneed contract as a
13 loan for any purpose other than as authorized by this chapter.

14 3. Payments collected by or on behalf of a seller for an insurance-funded
15 preneed contract shall be promptly remitted to the insurer or the insurer's
16 designee as required by the insurer; provided that payments shall not be retained
17 or held by the seller or preneed agent for more than thirty days from the date of
18 receipt.

19 4. It is unlawful for a seller, provider, or preneed agent to procure or
20 accept a loan against any insurance contract used to fund a preneed contract.

21 5. Laws regulating insurance shall not apply to preneed contracts, but
22 shall apply to any insurance or [single premium] annuity sold with a preneed
23 contract; provided, however, the provisions of [this act] **sections 436.400 to**
24 **436.520** shall not apply to [single premium] annuities or insurance policies
25 regulated by chapters 374, 375, and 376 used to fund preneed funeral
26 agreements, contracts, or programs.

27 6. This section shall apply to all preneed contracts including those entered
28 into before August 28, 2009.

29 7. For any insurance-funded preneed contract sold after August 28, 2009,
30 the following shall apply:

31 (1) The purchaser or beneficiary shall be the owner of the insurance policy
32 purchased to fund a preneed contract; and

33 (2) An insurance-funded preneed contract shall be valid and enforceable
34 only if the seller or provider is named as the beneficiary or assignee of the life
35 insurance policy funding the contract.

36 8. If the proceeds of the life insurance policy exceed the actual cost of the
37 goods and services provided pursuant to the nonguaranteed preneed contract, any

38 overage shall be paid to the estate of the beneficiary, or, if the beneficiary
39 received public assistance, to the state of Missouri.

436.455. 1. A joint account-funded preneed contract shall comply with
2 sections 436.400 to 436.520 and the specific requirements of this section.

3 2. In lieu of a trust-funded or insurance-funded preneed contract, the
4 seller and the purchaser may agree in writing that all funds paid by the
5 purchaser or beneficiary for the preneed contract shall be deposited with a
6 financial institution chartered and regulated by the federal or state government
7 authorized to do business in Missouri in an account in the joint names and under
8 the joint control of the seller and purchaser, beneficiary or party holding power
9 of attorney over the beneficiary's estate, **or in an account titled in the**
10 **beneficiary's name and payable on the beneficiary's death to the**
11 **seller.** There shall be a separate joint account established for each preneed
12 contract sold or arranged under this section. Funds shall only be withdrawn or
13 paid from the account upon the signatures of both the seller and the purchaser
14 or under a pay-on-death designation or as required to pay reasonable expenses
15 of administering the account.

16 3. All consideration paid by the purchaser under a joint account-funded
17 contract shall be deposited into a joint account as authorized by this section
18 within ten days of receipt of payment by the seller.

19 4. The financial institution shall hold, invest, and reinvest funds
20 deposited under this section in other accounts offered to depositors by the
21 financial institutions as provided in the written agreement of the purchaser and
22 the seller, provided the financial institution shall not invest or reinvest any funds
23 deposited under this section in term life insurance or any investment that does
24 not reasonably have the potential to gain income or increase in value.

25 5. Income generated by preneed funds deposited under this section shall
26 be used to pay the reasonable expenses of administering the account as charged
27 by the financial institution and the balance of the income shall be distributed or
28 reinvested upon fulfillment of the contract, cancellation or transfer pursuant to
29 the provisions of this chapter.

30 6. Within fifteen days after a provider [and a witness certify to the
31 financial institution in writing] **delivers a copy of a certificate of**
32 **performance to the seller, signed by the provider and the person**
33 **authorized to make arrangements on behalf of the beneficiary,**
34 **certifying** that the provider has furnished the final disposition, funeral, and

35 burial services and facilities, and merchandise as required by the preneed
36 contract, or has provided alternative funeral benefits for the beneficiary under
37 special arrangements made with the purchaser, the [financial institution shall
38 distribute the deposited funds to the seller if the certification has been approved
39 by the purchaser] **seller shall take whatever steps are required by the**
40 **financial institution to secure payment of the funds from the financial**
41 **institution.** The seller shall pay the provider within ten days of receipt of funds.

42 7. Any seller, provider, or preneed agent shall not procure or accept a loan
43 against any investment, or asset of, or belonging to a joint account. As of August
44 28, 2009, it shall be prohibited to use any existing preneed contract as collateral
45 or security pledged for a loan, or take preneed funds of any existing preneed
46 contract as a loan or for any purpose other than as authorized by this chapter.

436.456. At any time before final disposition, or before the funeral or
2 burial services, facilities, or merchandise described in a preneed contract are
3 furnished, the purchaser may cancel the contract, if designated as revocable,
4 without cause. In order to cancel the contract the purchaser shall:

5 (1) In the case of a joint account-funded preneed contract, deliver written
6 notice of the cancellation to the seller [and the financial institution]. Within
7 fifteen days of receipt of notice of the cancellation, the [financial institution shall
8 distribute all deposited funds to the purchaser] **seller shall take whatever**
9 **steps may be required by the financial institution to obtain the funds**
10 **from the financial institution. Upon receipt of the funds from the**
11 **financial institution, the seller shall distribute the principal to the**
12 **purchaser.** Interest shall be distributed as provided in the agreement with the
13 seller and purchaser;

14 (2) In the case of an insurance-funded preneed contract, deliver written
15 notice of the cancellation to the seller. Within fifteen days of receipt of notice of
16 the cancellation, the seller shall notify the purchaser that the cancellation of the
17 contract shall not cancel any life insurance funding the contract and that
18 insurance cancellation is required to be made in writing to the insurer;

19 (3) In the case of a trust-funded preneed contract, deliver written notice
20 of the cancellation to the seller and trustee. Within fifteen days of receipt of
21 notice of the cancellation, the trustee shall distribute one hundred percent of the
22 trust property including any percentage of the total payments received on the
23 trust-funded contract that have been withdrawn from the account under
24 subsection 4 of section 436.430 but excluding the income, to the purchaser of the

25 contract;

26 (4) In the case of a guaranteed installment payment contract where the
27 beneficiary dies before all installments have been paid, the purchaser shall pay
28 the seller the amount remaining due under the contract in order to receive the
29 goods and services set out in the contract, otherwise the purchaser or their estate
30 will receive full credit for all payments the purchaser has made towards the cost
31 of the beneficiary's funeral at the provider current prices.

✓
Unofficial

Bill

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