

SENATE SUBSTITUTE

FOR

SENATE COMMITTEE SUBSTITUTE

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HOUSE COMMITTEE SUBSTITUTE

FOR

HOUSE BILL NO. 265

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 fourteen new sections relating to professional registration.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF MISSOURI, AS FOLLOWS:

1 Section A. Sections 333.041, 333.042, 333.051, 333.061,
2 333.091, 333.151, 333.171, 436.405, 436.412, 436.445, 436.450,
3 436.455, and 436.456, RSMo, are repealed and fourteen new
4 sections enacted in lieu thereof, to be known as sections
5 324.014, 333.041, 333.042, 333.051, 333.061, 333.091, 333.151,
6 333.171, 436.405, 436.412, 436.445, 436.450, 436.455, and
7 436.456, to read as follows:

8 324.014. Any board, commission, committee, council, or
9 office within the division of professional registration shall
10 notify any known current employer of a change in a licensee's
11 license and discipline status. An employer may provide a list of
12 current licensed employees and make a request in writing to the
13 board, commission, committee, council, or office within the

1 division of professional registration responsible for the
2 licensee's license, to be notified upon a change in the licensing
3 status of any such licensed employee. Nothing in this section
4 shall be construed as requiring the board, commission, committee,
5 council, or office within the division of professional
6 registration to determine the current employer of any person
7 whose license is sanctioned.

8 333.041. 1. Each applicant for a license to practice
9 funeral directing shall furnish evidence to establish to the
10 satisfaction of the board that he or she is:

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

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

20 (3)] A person of good moral character.

21 2. Every person desiring to enter the profession of
22 embalming dead human bodies within the state of Missouri and who
23 is enrolled in [an] a program accredited [institution of mortuary
24 science education] by the American Board of Funeral Service
25 Education, any successor organization, or other accrediting
26 entity as approved by the board, shall register with the board as
27 a practicum student upon the form provided by the board. After
28 such registration, a student may assist, under the direct

1 supervision of Missouri licensed embalmers and funeral directors,
2 in Missouri licensed funeral establishments, while serving his or
3 her practicum [for the accredited institution of mortuary science
4 education]. The form for registration as a practicum student
5 shall be accompanied by a fee in an amount established by the
6 board.

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

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

13 (2) [Is either a citizen or bona fide resident of the state
14 of Missouri or entitled to a license pursuant to section 333.051,
15 or a resident in a county contiguous and adjacent to the state of
16 Missouri who is employed by a funeral establishment located
17 within the state of Missouri, to practice embalming upon the
18 grant of a license to do so;

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

20 [(4)] (3) Has [graduated from an institute of mortuary
21 science education] completed a funeral service education program
22 accredited by the American Board of Funeral Service Education,
23 [or] any successor organization [recognized by the United States
24 Department of Education, for funeral service education], or other
25 accrediting entity as approved by the board. If an applicant
26 does not [appear for the final examination before the board]
27 complete all requirements for licensure within five years from
28 the date of his or her [graduation from] completion of an

1 accredited [institution of mortuary science education] program,
2 his or her registration as [a student] an apprentice embalmer
3 shall be automatically canceled. The applicant shall be required
4 to file a new application and pay applicable fees. No previous
5 apprenticeship shall be considered for the new application;

6 [(5)] (4) Upon due examination administered by the board,
7 is possessed of a knowledge of the subjects of embalming,
8 anatomy, pathology, bacteriology, mortuary administration,
9 chemistry, restorative art, together with statutes, rules and
10 regulations governing the care, custody, shelter and disposition
11 of dead human bodies and the transportation thereof or has passed
12 the national board examination of the Conference of Funeral
13 Service Examining Boards. If any applicant fails to pass the
14 state examination, he or she may retake the examination at the
15 next regular examination meeting. The applicant shall notify the
16 board office of his or her desire to retake the examination at
17 least thirty days prior to the date of the examination. Each
18 time the examination is retaken, the applicant shall pay a new
19 examination fee in an amount established by the board;

20 [(6)] (5) Has been employed full time in funeral service in
21 a licensed funeral establishment and has personally embalmed at
22 least twenty-five dead human bodies under the personal
23 supervision of an embalmer who holds a current and valid Missouri
24 embalmer's license or an embalmer who holds a current and valid
25 embalmer's license in a state with which the Missouri board has
26 entered into a reciprocity agreement during an apprenticeship of
27 not less than twelve consecutive months. "Personal supervision"
28 means that the licensed embalmer shall be physically present

1 during the entire embalming process in the first six months of
2 the apprenticeship period and physically present at the beginning
3 of the embalming process and available for consultation and
4 personal inspection within a period of not more than one hour in
5 the remaining six months of the apprenticeship period. All
6 transcripts and other records filed with the board shall become a
7 part of the board files.

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

14 5. Examinations required by this section and section
15 333.042 shall be held at least twice a year at times and places
16 fixed by the board. The board shall by rule and regulation
17 prescribe the standard for successful completion of the
18 examinations.

19 6. Upon establishment of his or her qualifications as
20 specified by this section or section 333.042, the board shall
21 issue to the applicant a license to practice funeral directing or
22 embalming, as the case may require, and shall register the
23 applicant as a duly licensed funeral director or a duly licensed
24 embalmer. Any person having the qualifications required by this
25 section and section 333.042 may be granted both a license to
26 practice funeral directing and to practice embalming.

27 7. The board shall, upon request, waive any requirement of
28 this chapter and issue a temporary funeral director's license,

1 valid for six months, to the surviving spouse or next of kin or
2 the personal representative of a licensed funeral director, or to
3 the spouse, next of kin, employee or conservator of a licensed
4 funeral director disabled because of sickness, mental incapacity
5 or injury.

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

1 transportation of dead human bodies. Upon acceptance of the
2 application and fees by the board, an applicant shall have
3 twenty-four months to successfully complete the requirements for
4 licensure found in this section or the application for licensure
5 shall be canceled.

6 2. If a person applies for a limited license to work only
7 in a funeral establishment which is licensed only for cremation,
8 including transportation of dead human bodies to and from the
9 funeral establishment, he or she shall make application, pay the
10 current application and examination fee and successfully complete
11 the Missouri law examination. He or she shall be exempt from the
12 twelve-month apprenticeship required by subsection 1 of this
13 section and the practical examination before the board. If a
14 person has a limited license issued pursuant to this subsection,
15 he or she may obtain a full funeral director's license if he or
16 she fulfills the apprenticeship and successfully completes the
17 funeral director practical examination.

18 3. If an individual is a Missouri licensed embalmer or has
19 **[graduated from an institute of mortuary science education]**
20 completed a program accredited by the American Board of Funeral
21 Service Education **[or]**, any successor organization [recognized by
22 the United States Department of Education for funeral service
23 education], or other accrediting entity as approved by the board
24 or has successfully completed a course of study in funeral
25 directing offered by **[a college]** an institution accredited by a
26 recognized national, regional or state accrediting body and
27 approved by the state board of embalmers and funeral directors,
28 and desires to enter the profession of funeral directing in this

1 state, the individual shall comply with all the requirements for
2 licensure as a funeral director pursuant to subsection 1 of
3 section 333.041 and subsection 1 of this section; however, the
4 individual is exempt from the twelve-month apprenticeship
5 required by subsection 1 of this section.

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

22 2. Any individual holding a valid, unrevoked and unexpired
23 license as an embalmer or funeral director in another state
24 having requirements substantially similar to those existing in
25 this state **[who is or intends to become a resident of this state]**
26 may apply for a license to practice in this state by filing with
27 the board a certified statement from the examining board of the
28 state or territory in which the applicant holds his or her

1 license showing the grade rating upon which [his] the license was
2 granted, together with a recommendation, and the board shall
3 grant the applicant a license upon his or her successful
4 completion of an examination over Missouri laws as required in
5 section 333.041 or section 333.042 if the board finds that the
6 applicant's qualifications meet the requirements for funeral
7 directors or embalmers in this state at the time the applicant
8 was originally licensed in the other state.

9 3. A person holding a valid, unrevoked and unexpired
10 license to practice funeral directing or embalming in another
11 state or territory with requirements less than those of this
12 state may, after five consecutive years of active experience as a
13 licensed funeral director or embalmer in that state, apply for a
14 license to practice in this state after passing a test to prove
15 his or her proficiency, including but not limited to a knowledge
16 of the laws and regulations of this state as to funeral directing
17 and embalming.

18 333.061. 1. No funeral establishment shall be operated in
19 this state unless the owner or operator thereof has a license
20 issued by the board.

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

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

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

27 (3) That any place in the funeral establishment where
28 embalming is conducted contains a preparation room with a

1 sanitary floor, walls and ceiling, and adequate sanitary drainage
2 and disposal facilities including running water, and complies
3 with the sanitary standard prescribed by the department of health
4 and senior services for the prevention of the spread of
5 contagious, infectious or communicable diseases;

6 (4) Each funeral establishment shall have [available in the
7 preparation or embalming room] a register book or log which shall
8 be available at all times [in full view] for the board's
9 inspector and [the name of each body embalmed, place, if other
10 than at the establishment, the date and time that the embalming
11 took place, the name and signature of the embalmer and the
12 embalmer's license number shall be noted in the book] that shall
13 contain:

14 (a) The name of each body that has been in the
15 establishment;

16 (b) The date the body arrived at the establishment;

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

18 (d) If the body was embalmed at the establishment, the date
19 and time that the embalming took place, and the name, signature,
20 and license number of the embalmer; and

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

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

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

5 5. The board may refuse to renew or may suspend or revoke
6 any license issued pursuant to this section if it finds, after
7 hearing, that the funeral establishment does not meet any of the
8 requirements set forth in this section as conditions for the
9 issuance of a license, or for the violation by the owner of the
10 funeral establishment of any of the provisions of section
11 333.121. No new license shall be issued to the owner of a
12 funeral establishment or to any corporation controlled by such
13 owner for three years after the revocation of the license of the
14 owner or of a corporation controlled by the owner. Before any
15 action is taken pursuant to this subsection the procedure for
16 notice and hearing as prescribed by section 333.121 shall be
17 followed.

18 333.091. [Each establishment, funeral director or embalmer
19 receiving a license under this chapter shall have recorded in the
20 office of the local registrar of vital statistics of the
21 registration district in which the licensee practices.] All
22 licenses or registrations, or duplicates thereof, issued pursuant
23 to this chapter shall be displayed at each place of business.

24 333.151. 1. The state board of embalmers and funeral
25 directors shall consist of [ten] six members, including one
26 voting public member appointed by the governor with the advice
27 and consent of the senate. Each member, other than the public
28 member, appointed shall possess either a license to practice

1 embalming or a license to practice funeral directing in this
2 state or both said licenses and shall have been actively engaged
3 in the practice of embalming or funeral directing for a period of
4 five years next before his or her appointment. Each member shall
5 be a United States citizen, a resident of this state for a period
6 of at least one year, a qualified voter of this state and shall
7 be of good moral character. Not more than ~~[five]~~ three members
8 of the board shall be of the same political party. The nonpublic
9 members shall be appointed by the governor, with the advice and
10 consent of the senate[, one from each of the state's
11 congressional districts be of good moral character and submit an
12 audited financial statement of their funeral establishment by an
13 independent auditor for the previous five years. This audited
14 financial statement must include all at-need and preneed
15 business]. A majority of the members shall constitute a quorum.
16 Members shall be appointed to represent diversity in gender,
17 race, ethnicity, and the various geographic regions of the state.

18 2. Each member of the board shall serve for a term of five
19 years. Any vacancy on the board shall be filled by the governor
20 and the person appointed to fill the vacancy shall possess the
21 qualifications required by this chapter and shall serve until the
22 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
24 appointment a person who is not and never was a member of any
25 profession licensed or regulated pursuant to this chapter or the
26 spouse of such person; and a person who does not have and never
27 has had a material, financial interest in either the providing of
28 the professional services regulated by this chapter, or an

1 activity or organization directly related to any profession
2 licensed or regulated pursuant to this chapter. All members,
3 including public members, shall be chosen from lists submitted by
4 the director of the division of professional registration. The
5 duties of the public member shall not include the determination
6 of the technical requirements to be met for licensure or whether
7 any person meets such technical requirements or of the technical
8 competence or technical judgment of a licensee or a candidate for
9 licensure.

10 333.171. The board shall hold at least two regular meetings
11 each year for the purpose of administering examinations at times
12 and places fixed by the board. Other meetings shall be held at
13 the times fixed by regulations of the board or on the call of the
14 chairman of the board. Notice of the time and place of each
15 regular or special meeting shall be mailed by the executive
16 secretary to each member of the board at least five days before
17 the date of the meeting. [At all meetings of the board three
18 members constitute a quorum.] The board may adopt and use a
19 common seal.

20 436.405. 1. As used in sections 436.400 to 436.520, unless
21 the context otherwise requires, the following terms shall mean:

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

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

26 (3) "Guaranteed contract", a preneed contract in which the
27 seller promises, assures, or guarantees to the purchaser that all
28 or any portion of the costs for the disposition, services,

1 facilities, or merchandise identified in a preneed contract will
2 be no greater than the amount designated in the contract upon the
3 preneed beneficiary's death or that such costs will be otherwise
4 limited or restricted;

5 [(3)] (4) "Insurance-funded preneed contract", a preneed
6 contract which is designated to be funded by payments or proceeds
7 from an insurance policy or [single premium] a deferred annuity
8 contract that is not classified as a variable annuity and has
9 death benefit proceeds that are never less than the sum of
10 premiums paid;

11 [(4)] (5) "Joint account-funded preneed contract", a
12 preneed contract which designates that payments for the preneed
13 contract made by or on behalf of the purchaser will be deposited
14 and maintained in a joint account in the names of the purchaser
15 and seller, as provided in this chapter;

16 [(5)] (6) "Market value", a fair market value:

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

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

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

27 [(6)] (7) "Nonguaranteed contract", a preneed contract in
28 which the seller does not promise, assure, or guarantee that all

1 or any portion of the costs for the disposition, facilities,
2 service, or merchandise identified in a preneed contract will be
3 limited to the amount designated in the contract upon the preneed
4 beneficiary's death or that such costs will be otherwise limited
5 or restricted;

6 [(7)] (8) "Preneed contract", any contract or other
7 arrangement which provides for the final disposition in Missouri
8 of a dead human body, funeral or burial services or facilities,
9 or funeral merchandise, where such disposition, services,
10 facilities, or merchandise are not immediately required. Such
11 contracts include, but are not limited to, agreements providing
12 for a membership fee or any other fee for the purpose of
13 furnishing final disposition, funeral or burial services or
14 facilities, or funeral merchandise at a discount or at a future
15 date;

16 [(8)] (9) "Preneed trust", a trust to receive deposits of,
17 administer, and disburse payments received under preneed
18 contracts, together with income thereon;

19 [(9)] (10) "Purchaser", the person who is obligated to pay
20 under a preneed contract;

21 [(10)] (11) "Trustee", the trustee of a preneed trust,
22 including successor trustees;

23 [(11)] (12) "Trust-funded preneed contract", a preneed
24 contract which provides that payments for the preneed contract
25 shall be deposited and maintained in trust.

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

28 436.412. Each preneed contract made before August 28, 2009,

1 and all payments and disbursements under such contract shall
2 continue to be governed by this chapter as the chapter existed at
3 the time the contract was made. Any licensee or registrant of
4 the board may be disciplined for violation of any provision of
5 sections 436.005 to 436.071 within the applicable statute of
6 limitations. [In addition, the provisions of section 436.031, as
7 it existed on August 27, 2009, shall continue to govern
8 disbursements to the seller from the trust and payment of trust
9 expenses.] Joint accounts in existence as of August 27, 2009,
10 shall continue to be governed by the provisions of section
11 436.053, as that section existed on August 27, 2009.

12 436.445. A trustee of any preneed trust, including trusts
13 established before August 28, 2009, shall not after August 28,
14 2009, make any decisions to invest any trust fund with:

15 (1) The spouse of the trustee;

16 (2) The descendants, siblings, parents, or spouses of a
17 seller or an officer, manager, director or employee of a seller,
18 provider, or preneed agent;

19 (3) Agents, other than authorized external investment
20 advisors as authorized by section 436.440, or attorneys of a
21 trustee, seller, or provider; or

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

25 436.450. 1. An insurance-funded preneed contract shall
26 comply with sections 436.400 to 436.520 and the specific
27 requirements of this section.

28 2. A seller, provider, or any preneed agent shall not

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

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

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

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

1 funeral agreements, contracts, or programs.

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

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

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

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

12 8. If the proceeds of the life insurance policy exceed the
13 actual cost of the goods and services provided pursuant to the
14 nonguaranteed preneed contract, any overage shall be paid to the
15 estate of the beneficiary, or, if the beneficiary received public
16 assistance, to the state of Missouri.

17 436.455. 1. A joint account-funded preneed contract shall
18 comply with sections 436.400 to 436.520 and the specific
19 requirements of this section.

20 2. In lieu of a trust-funded or insurance-funded preneed
21 contract, the seller and the purchaser may agree in writing that
22 all funds paid by the purchaser or beneficiary for the preneed
23 contract shall be deposited with a financial institution
24 chartered and regulated by the federal or state government
25 authorized to do business in Missouri in an account in the joint
26 names and under the joint control of the seller and purchaser,
27 beneficiary or party holding power of attorney over the
28 beneficiary's estate, or in an account titled in the

1 beneficiary's name and payable on the beneficiary's death to the
2 seller. There shall be a separate joint account established for
3 each preneed contract sold or arranged under this section. Funds
4 shall only be withdrawn or paid from the account upon the
5 signatures of both the seller and the purchaser or under a
6 pay-on-death designation or as required to pay reasonable
7 expenses of administering the account.

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

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

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

26 6. Within fifteen days after a provider [and a witness
27 certify to the financial institution in writing] delivers a copy
28 of a certificate of performance to the seller, signed by the

1 provider and the person authorized to make arrangements on behalf
2 of the beneficiary, certifying that the provider has furnished
3 the final disposition, funeral, and burial services and
4 facilities, and merchandise as required by the preneed contract,
5 or has provided alternative funeral benefits for the beneficiary
6 under special arrangements made with the purchaser, the
7 [financial institution shall distribute the deposited funds to
8 the seller if the certification has been approved by the
9 purchaser] seller shall take whatever steps are required by the
10 financial institution to secure payment of the funds from the
11 financial institution. The seller shall pay the provider within
12 ten days of receipt of funds.

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

20 436.456. At any time before final disposition, or before
21 the funeral or burial services, facilities, or merchandise
22 described in a preneed contract are furnished, the purchaser may
23 cancel the contract, if designated as revocable, without cause.
24 In order to cancel the contract the purchaser shall:

25 (1) In the case of a joint account-funded preneed contract,
26 deliver written notice of the cancellation to the seller [and the
27 financial institution]. Within fifteen days of receipt of notice
28 of the cancellation, the [financial institution shall distribute

1 all deposited funds to the purchaser] seller shall take whatever
2 steps may be required by the financial institution to obtain the
3 funds from the financial institution. Upon receipt of the funds
4 from the financial institution, the seller shall distribute the
5 principal to the purchaser. Interest shall be distributed as
6 provided in the agreement with the seller and purchaser;

7 (2) In the case of an insurance-funded preneed contract,
8 deliver written notice of the cancellation to the seller. Within
9 fifteen days of receipt of notice of the cancellation, the seller
10 shall notify the purchaser that the cancellation of the contract
11 shall not cancel any life insurance funding the contract and that
12 insurance cancellation is required to be made in writing to the
13 insurer;

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

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

1 at the provider current prices.