

House \_\_\_\_\_ Amendment NO. \_\_\_\_\_

Offered By

AMEND House Committee Substitute for Senate Bill No. 125, Page 1, Section 324.003, Line 15,  
by inserting after all of said line the following:

"436.415. 1. Except as otherwise provided in sections 436.400 to 436.520, the provider designated in a preneed contract shall be obligated to provide final disposition, funeral or burial services and facilities, and funeral merchandise as described in the preneed contract.

2. The seller designated in a preneed contract shall be obligated to collect and properly deposit and disburse all payments made by, or on behalf of, a purchaser of a preneed contract and ensure that ~~[is statutorily]~~ its statutory and contractual duties are met, in compliance with sections 436.400 to 436.520.

3. Notwithstanding any other provision in this chapter or chapter 333, the contractual obligations of a provider and seller toward any seller, purchaser, provider, or beneficiary under a preneed contract or provider-seller contractual agreement shall not cease due to any failure to renew a provider or seller license, or the revocation or suspension of a seller or provider license; provided that, the preneed contract or provider-seller contractual agreement was entered into while the seller and provider held valid licenses. Nothing in this subsection relieves any provider from having a valid and current funeral establishment license at the time of providing the final disposition, funeral or burial services and facilities, and funeral merchandise as described in the preneed contract.

436.460. 1. Each seller shall file an annual report with the board which shall contain the following information:

(1) The contract number of each preneed contract sold since the filing of the last report with an indication of, and whether it is funded by a trust, insurance or joint account;

(2) The total number and total face value of preneed contracts sold since the filing of the last report;

(3) The contract amount of each preneed contract sold since the filing of the last report, identified by contract;

(4) The name, address, and license number of all preneed agents authorized to sell preneed contracts on behalf of the seller;

(5) The date the report is submitted and the date of the last report;

(6) The list including the name, address, contract number and whether it is funded by a trust, insurance or joint account of all Missouri preneed contracts fulfilled, cancelled or transferred by the seller during the preceding calendar year;

(7) The name and address of each provider with whom it is under contract;

(8) The name and address of the person designated by the seller as custodian of the seller's books and records relating to the sale of preneed contracts;

(9) Written consent authorizing the board to order an investigation, examination and, if

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1 necessary, an audit of any joint or trust account established under sections 436.400 to 436.520,  
2 designated by depository or account number;

3 (10) Written consent authorizing the board to order an investigation, examination and if  
4 necessary an audit of its books and records relating to the sale of preneed contracts; and

5 (11) Certification under oath that the report is complete and correct attested to by an officer  
6 of the seller. The seller or officer shall be subject to the penalty of making a false affidavit or  
7 declaration.

8 2. A seller that sells or has sold trust-funded preneed contracts shall also include in the  
9 annual report required by subsection 1 of this section:

10 (1) The name and address of the financial institution in which it maintains a preneed trust  
11 account and the account numbers of such trust accounts;

12 (2) The trust fund balance as reported in the previous year's report;

13 (3) The current face value of the trust fund;

14 (4) Principal contributions received by the trustee since the previous report;

15 (5) Total trust earnings and total distributions to the seller since the previous report;

16 (6) Authorization of the board to request from the trustee a copy of any trust statement, as  
17 part of an investigation, examination or audit of the preneed seller;

18 (7) Total expenses, excluding distributions to the seller, since the previous report; and

19 (8) Certification under oath that the information required by subdivisions (1) to (7) of this  
20 subsection is complete and correct and attested to by a corporate officer of the trustee. The trustee  
21 shall be subject to the penalty of making a false affidavit or declaration.

22 3. A seller that sells or who has sold joint account-funded preneed contracts shall also  
23 include in the annual report required by subsection 1 of this section:

24 (1) The name and address of the financial institution in Missouri in which it maintains the  
25 joint account and the account numbers for each joint account;

26 (2) The amount on deposit in each joint account;

27 (3) The joint account balance as reported in the previous year's report;

28 (4) Principal contributions placed into each joint account since the filing of the previous  
29 report;

30 (5) Total earnings since the previous report;

31 (6) Total distributions to the seller from each joint account since the previous report;

32 (7) Total expenses deducted from the joint account, excluding distributions to the seller,  
33 since the previous report; and

34 (8) Certification under oath that the information required by subdivisions (1) to (7) of this  
35 subsection is complete and correct and attested to by an authorized representative of the financial  
36 institution. The affiant shall be subject to the penalty of making a false affidavit or declaration.

37 4. A seller that sells or who has sold any insurance-funded preneed contracts shall also  
38 include in the annual report required by subsection 1 of this section:

39 (1) The name and address of each insurance company issuing insurance to fund a preneed  
40 contract sold by the seller during the preceding year;

41 (2) The status and total face value of each policy;

42 (3) The amount of funds the seller directly received on each contract and the date the  
43 amount was forwarded to any insurance company; and

44 (4) Certification under oath that the information required by subsections 1 to 3 of this  
45 section is complete and correct attested to by an authorized representative of the insurer. The affiant  
46 shall be subject to the penalty of making a false affidavit or declaration.

47 5. Each seller shall remit an annual reporting fee in an amount established by the board by  
48 rule for each preneed contract sold in the year since the date the seller filed its last annual report

1 with the board. This reporting fee shall be paid annually and may be collected from the purchaser  
2 of the preneed contract as an additional charge or remitted to the board from the funds of the seller.  
3 The reporting fee shall be in addition to any other fees authorized under sections 436.400 to  
4 436.520.

5 6. All reports required by this section shall be filed by the thirty-first day of October of each  
6 year or by the date established by the board by rule. Annual reports filed after the date provided  
7 herein shall be subject to a late fee in an amount established by rule of the board.

8 7. If a seller fails to file the annual report on or before its due date, his or her preneed seller  
9 license shall automatically be suspended until such time as the annual report is filed and all  
10 applicable fees have been paid, at which time the license shall be reinstated from the due date;  
11 provided that, all other requirements of the license have been met. Any preneed contracts entered  
12 into while a license was suspended under this section are void and shall either be rewritten after  
13 license reinstatement or all moneys paid by the purchaser refunded. A license suspended by this  
14 subsection shall not relieve the seller of the obligation to meet its contractual and statutory  
15 requirements toward providers, purchasers, or beneficiaries of any preneed contract entered into  
16 while the seller held a valid license. Nothing in this subsection relieves any provider from having a  
17 valid and current funeral establishment license at the time of providing the final disposition, funeral  
18 or burial services and facilities, and funeral merchandise as described in the preneed contract.

19 8. This section shall apply to contracts entered into before August 28, 2009."; and  
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21 Further amend said bill by amending the title, enacting clause, and intersectional references  
22 accordingly.