

FIRST REGULAR SESSION

HOUSE BILL NO. 1131

100TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE BLACK (7).

2328H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To amend chapter 436, RSMo, by adding thereto one new section relating to funeral contracts.

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

Section A. Chapter 436, RSMo, is amended by adding thereto one new section, to be
2 known as section 436.375, to read as follows:

**436.375. 1. The director of the division of finance, in consultation with the affected
2 contract providers and an appointed trustee who meets the requirement of section 436.430,
3 shall establish a preneed funeral contracts trust. The corpus of the trust shall consist of:**

4 **(1) All preneed funeral contract moneys collected or held by contract providers and
5 transferred to the trust;**

6 **(2) Any contracts and future contracts held by providers at the provider's
7 discretion;**

8 **(3) Any moneys received by investors;**

9 **(4) Any moneys received in settlement under a receivership;**

10 **(5) Any state appropriations; and**

11 **(6) Any proceeds due to the providers arising from litigation regarding contracts
12 with National Prearranged Services, Inc. or from request for proposals to the National
13 Guarantee Fund.**

14
15 **The trust shall be authorized to accept gifts, bequests, or donations from any source.
16 Contract providers who go forward shall be responsible for the payment of all expenses
17 and operational costs and shall report annually to the division of finance regarding any
18 payment of benefits under this section.**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

19 **2. The division of finance shall appoint a trustee for the preneed funeral contracts**
20 **trust. This trustee shall be located in Missouri and shall have surplus and capital of one**
21 **and a half billion dollars. The trustee shall be responsible for all operations of the trust**
22 **including, but not limited to, investing funds, paying claims, securing investors, negotiating**
23 **settlements under receiverships due the providers, and submitting an annual accounting**
24 **of trust activities to the directors of the division of finance and department of insurance,**
25 **financial institutions and professional registration.**

26 **3. The trustee shall have full power and authority to ask, demand, collect,**
27 **prosecute, dismiss, or settle any suit or proceedings at law or in equity in its prosecution**
28 **of any suits or proceedings against any insurer, persons, or entities related in any way to**
29 **such contracts on behalf of the providers.**

30 **4. All new preneed funeral contracts placed in the preneed funeral contracts trust**
31 **at the discretion of the providers shall be nonguaranteed contracts with an annual return**
32 **of four percent.**

33 **5. The trustee shall issue a promise to pay:**

34 **(1) To the state of Missouri on all state tax credits paid by the state; and**

35 **(2) To all providers for all death claims, contracts, orphan contracts, interest on all**
36 **provider contracts held by participating providers under subsection 4 of this section, and**
37 **claims not fully paid to date on such contracts.**

38
39 **Such repayments shall be made to the contract providers until all obligations under**
40 **subdivision (2) of this subsection are satisfied. Contract providers shall not be obligated**
41 **to perform services on the contracts deposited by providers who participate in the state**
42 **trust until paid in full by the state trustee. The trustee, after satisfying its obligations**
43 **under subdivision (2) of this subsection, shall create a cash reserve to indemnify the trust**
44 **indefinitely and then satisfy all state tax credits under subdivision (1) of this subsection.**

45 **6. The director of the division of finance may promulgate rules to implement the**
46 **provisions of this section. Any rule or portion of a rule, as that term is defined in section**
47 **536.010, that is created under the authority delegated in this section shall become effective**
48 **only if it complies with and is subject to all of the provisions of chapter 536 and, if**
49 **applicable, section 536.028. This section and chapter 536 are nonseverable, and if any of**
50 **the powers vested with the general assembly pursuant to chapter 536 to review, to delay**
51 **the effective date, or to disapprove and annul a rule are subsequently held**
52 **unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted**
53 **after August 28, 2019, shall be invalid and void.**

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