

FIRST REGULAR SESSION

HOUSE BILL NO. 336

101ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE MOSLEY.

1145H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal section 436.425, RSMo, and to enact in lieu thereof one new section relating to required disclosures of preneed contracts.

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

Section A. Section 436.425, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 436.425, to read as follows:

436.425. 1. All preneed contracts shall be sequentially numbered and in writing and in a font type and size that are easily read, and shall clearly and conspicuously:

(1) Include the name, address and phone number of the purchaser, beneficiary, provider and seller;

(2) Identify the name, address, phone and license number of the provider and the seller;

(3) Set out in detail the disposition, funeral and burial services and facilities, and merchandise requested;

(4) Identify whether the contract is trust funded, insurance funded, or joint account funded;

(5) Include notice that the cancellation of the contract shall not cancel any life insurance funding the contract, and that insurance cancellation is required to be made in writing to the insurer;

(6) Include notice that the purchaser will only receive the cash surrender value of any insurance policy funding the contract if cancelled after a designated time, which may be less than the amount paid into the policy;

(7) Include notice that the board provides by rule that the purchaser has the right to transfer the provider designation to another provider;

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.

- 18 (8) Prominently identify whether the contract is revocable or irrevocable;
- 19 (9) Set forth the terms for cancellation by the purchaser or by the seller;
- 20 (10) Identify any preneed trust or joint account into which contract payments shall be
21 deposited, including the name and address of the corresponding trustee or financial institution;
- 22 (11) Include the name, address and phone number of any insurance company issuing an
23 insurance policy used to fund the preneed contract;
- 24 (12) Include the name and signature of the purchaser, the provider or its authorized
25 representative, the preneed agent responsible for the sale of the contract, and the seller or its
26 authorized representative;
- 27 (13) Prominently identify whether the contract is a guaranteed or nonguaranteed contract;
- 28 (14) Include any applicable consumer disclosures required by the board by rule; ~~and~~
- 29 (15) Include a disclosure on all guaranteed installment payment contracts informing the
30 purchaser what will take place in the event the beneficiary dies before all installments have been
31 paid, including an explanation of what will be owed by the purchaser for the funeral services in
32 such an event;
- 33 (16) Comply with the provisions of sections 436.400 to 436.520 or any rule promulgated
34 thereunder; **and**
- 35 **(17) Include a disclosure as to whether the preneed contract covers all costs for the**
36 **funeral including, but not limited to, casket opening and closing costs, and, if all the costs**
37 **are not covered, the additional costs that might be charged at the time of the funeral.**
- 38 2. A preneed contract shall be voidable and unenforceable at the option of the purchaser,
39 or the purchaser's legal representative, if it is determined in a court of competent jurisdiction that
40 the contract is not in compliance with this section or not issued by a seller licensed under chapter
41 333, or if the provider has not consented to serve as provider at the time the contract was
42 executed. Upon exercising the option by written notice to the seller and provider, all payments
43 made under such contract shall be recoverable by the purchaser, or the purchaser's legal
44 representative, from the contract seller, trustee, or other payee thereof.
- 45 3. A beneficiary who seeks to become eligible to receive public assistance under chapter
46 208 or any other applicable state or federal law may irrevocably waive ~~their~~ **the beneficiary's**
47 rights to receive any refund or payment of any moneys from the funds or insurance used to fund
48 ~~their~~ **the beneficiary's** preneed contract. Such irrevocable waiver may be executed at any time
49 and shall be in writing, signed and dated by the beneficiary and shall be delivered to the seller
50 and any applicable trustee, financial institution or insurance company.
- 51 4. All purchasers shall have the right as provided in this chapter to cancel or rescind a
52 revocable preneed contract and transfer any preneed contract with or without cause.

53 5. A preneed contract, shall not be changed from a trust-funded, insurance-funded, or
54 joint account-funded preneed contract without the written consent of the purchaser.

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