

FIRST REGULAR SESSION

HOUSE BILL NO. 853

95TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE WASSON.

2021L.021

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 333.011, 333.101, 333.121, 333.221, 333.241, 333.251, 436.005, 436.007, 436.011, 436.015, 436.021, 436.027, 436.031, 436.035, 436.038, 436.041, 436.045, 436.048, 436.051, 436.053, 436.055, 436.061, 436.063, 436.065, 436.067, 436.069, and 436.071, RSMo, and to enact in lieu thereof thirty-eight new sections relating to preneed funeral contracts, with penalty provisions.

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

Section A. Sections 333.011, 333.101, 333.121, 333.221, 333.241, 333.251, 436.005, 2 436.007, 436.011, 436.015, 436.021, 436.027, 436.031, 436.035, 436.038, 436.041, 436.045, 3 436.048, 436.051, 436.053, 436.055, 436.061, 436.063, 436.065, 436.067, 436.069, and 436.071, 4 RSMo, are repealed and thirty-eight new sections enacted in lieu thereof, to be known as sections 5 333.011, 333.101, 333.221, 333.251, 333.310, 333.315, 333.320, 333.325, 333.330, 333.335, 6 333.340, 436.400, 436.405, 436.410, 436.412, 436.415, 436.420, 436.425, 436.430, 436.435, 7 436.440, 436.445, 436.450, 436.455, 436.456, 436.457, 436.458, 436.460, 436.465, 436.470, 8 436.480, 436.485, 436.490, 436.500, 436.505, 436.510, 436.520, and 1, to read as follows:

333.011. **1.** As used in this chapter, unless the context requires otherwise, the following 2 terms have the meanings indicated:

3 (1) "Board", the state board of embalmers and funeral directors created by this chapter;

4 (2) "Embalmer", any individual licensed to engage in the practice of embalming;

5 (3) "Funeral director", any individual licensed to engage in the practice of funeral 6 directing;

7 (4) "Funeral establishment", a building, place, crematory, or premises devoted to or used 8 in the care and preparation for burial or transportation of the human dead and includes every

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.

32 (15) Comply with the provisions of sections 436.400 to 436.520 or any rule
33 promulgated thereunder.

34 2. A preneed contract shall be voidable and unenforceable at the option of the
35 purchaser, or the purchaser's legal representative, if the contract is not in compliance with
36 this section or not issued by a seller licensed under chapter 333, RSMo, or if the provider
37 has not consented to serve as provider at the time the contract was executed. Upon
38 exercising the option, all payments made under such contract shall be recoverable by the
39 purchaser, or the purchaser's legal representative, from the contract seller, trustee, or
40 other payee thereof.

41 3. Payment made to fund a preneed contract shall only be designated as irrevocable
42 if the purchaser is eligible, becomes eligible, or desires to become eligible to receive public
43 assistance under chapter 208, RSMo, or any other applicable state or federal law.

44 4. The purchaser may irrevocably waive his or her right to cancel such agreement.
45 The waiver or renunciation shall be in writing and shall be delivered to the seller and the
46 financial institution.

47 5. All purchasers shall have the right to cancel or rescind a revocable preneed
48 contract and transfer any preneed contract with or without cause.

49 6. A preneed contract, including contracts entered into before August 28, 2009,
50 shall not be changed from a trust-funded, insurance-funded, or joint account-funded
51 preneed contract without the written consent of the purchaser.

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

3 2. In a trust-funded preneed contract, a seller shall deposit **one hundred percent**
4 of the payments received on a trust-funded preneed contract into a trust designated by this
5 section within sixty days of receipt of such funds by the seller or its designee.

6 3. The trustee of a preneed trust shall be a state- or federally-chartered financial
7 institution authorized to exercise trust powers in Missouri. The trustee shall accept all
8 deposits made to it for a preneed contract and shall hold, administer, and distribute such
9 deposits, in trust, as trust principal, under sections 436.400 to 436.520.

10 4. The financial institution referenced herein may neither control, be controlled by,
11 nor be under common control with the seller or preneed agent. The terms "control",
12 "controlled by" and "under common control with" means, the direct or indirect possession
13 of the power to direct or cause the direction of the management and policies of a person,
14 whether through the ownership of voting securities, by contract other than a commercial
15 contract for goods or nonmanagement services, or otherwise, unless the power is the result
16 of an official position with or corporate office held by the person. Control shall be