

FIRST REGULAR SESSION
[P E R F E C T E D]
SENATE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 1
95TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR SCOTT.

Offered February 10, 2009.

Senate Substitute adopted, February 12, 2009.

Taken up for Perfection February 12, 2009. Bill declared Perfected and Ordered Printed, as amended.

TERRY L. SPIELER, Secretary.

0404S.05P

AN ACT

To repeal sections 208.010, 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-five 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 208.010, 436.005, 436.007, 436.011, 436.015, 436.021, 2 436.027, 436.031, 436.035, 436.038, 436.041, 436.045, 436.048, 436.051, 436.053, 3 436.055, 436.061, 436.063, 436.065, 436.067, 436.069, and 436.071, RSMo, are 4 repealed and thirty-five new sections enacted in lieu thereof, to be known as 5 sections 208.010, 333.300, 333.310, 333.315, 333.320, 333.325, 333.330, 333.335,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, 7 436.435, 436.440, 436.445, 436.450, 436.455, 436.456, 436.457, 436.458, 436.460, 8 436.465, 436.470, 436.480, 436.485, 436.490, 436.500, 436.505, 436.510, and 9 436.520, to read as follows:

208.010. 1. In determining the eligibility of a claimant for public 2 assistance pursuant to this law, it shall be the duty of the division of family 3 services to consider and take into account all facts and circumstances

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

184 Section 1396p.

185 [8.] 9. The hearings required by 42 U.S.C. Section 1396r-5 shall be
186 conducted pursuant to the provisions of section 208.080.

187 [9.] 10. Beginning October 1, 1989, when determining eligibility for
188 assistance pursuant to this chapter there shall be disregarded unless otherwise
189 provided by federal or state statutes, the home of the applicant or recipient when
190 the home is providing shelter to the applicant or recipient, or his or her spouse
191 or dependent child. The division of family services shall establish by rule or
192 regulation in conformance with applicable federal statutes and regulations a
193 definition of the home and when the home shall be considered a resource that
194 shall be considered in determining eligibility.

195 [10.] 11. Reimbursement for services provided by an enrolled Medicaid
196 provider to a recipient who is duly entitled to Title XIX Medicaid and Title XVIII
197 Medicare Part B, Supplementary Medical Insurance (SMI) shall include payment
198 in full of deductible and coinsurance amounts as determined due pursuant to the
199 applicable provisions of federal regulations pertaining to Title XVIII Medicare
200 Part B, except the applicable Title XIX cost sharing.

201 [11.] 12. A "community spouse" is defined as being the
202 noninstitutionalized spouse.

203 [12.] 13. An institutionalized spouse applying for Medicaid and having
204 a spouse living in the community shall be required, to the maximum extent
205 permitted by law, to divert income to such community spouse to raise the
206 community spouse's income to the level of the minimum monthly needs allowance,
207 as described in 42 U.S.C. Section 1396r-5. Such diversion of income shall occur
208 before the community spouse is allowed to retain assets in excess of the
209 community spouse protected amount described in 42 U.S.C. Section 1396r-5.

**333.300. As used in sections 333.300 to 333.340, unless the context
2 otherwise requires, the following terms shall mean:**

3 (1) "Board", the Missouri state board of embalmers and funeral
4 directors;

5 (2) "Funeral merchandise", caskets, grave vaults, receptacles, and
6 other personal property incidental to the final disposition of a dead
7 human body including grave lots, grave spaces, grave markers,
8 monuments, tombstones, crypts, niches, mausoleums, and urns;

9 (3) "Person", any individual, partnership, corporation,
10 cooperative, association, or other entity;

11 (4) "Preneed agent", any person authorized to sell a preneed
12 contract for or on behalf of a seller;

13 (5) "Preneed contract", any contract or other arrangement which
14 provides for the final disposition of a dead human body, funeral or
15 burial services or facilities, or funeral merchandise, where such
16 disposition, services, facilities, or merchandise are not immediately
17 required. Such contracts include, but are not limited to, agreements
18 providing for a membership fee or any other fee for the purpose of
19 furnishing final disposition, funeral or burial services or facilities, or
20 funeral merchandise at a discount or at a future date;

21 (6) "Preneed trust", a trust established to receive deposits of,
22 administer, and disburse payments received under preneed contracts,
23 together with income thereon;

24 (7) "Provider", the person designated to provide the final
25 disposition, funeral or burial services or facilities, or funeral
26 merchandise described in a preneed contract;

27 (8) "Purchaser", the person who is obligated to pay under a
28 preneed contract;

29 (9) "Seller", the person who executes a preneed contract with a
30 purchaser and who is obligated under such preneed contract to remit
31 payment to the provider;

32 (10) "Trustee", the trustee of a preneed trust, including successor
33 trustees.

333.310. The provisions of sections 333.300 to 333.340 shall not
2 apply to a cemetery operator who sells contracts or arrangements for
3 services for which payments received by, or on behalf of, the purchaser
4 are required to be placed in an endowed care fund or for which a
5 deposit into a segregated account is required under chapter 214, RSMo,
6 provided that a cemetery operator shall comply with sections 333.300
7 to 333.340 if the contract or arrangement sold by the operator includes
8 services that may only be provided by a licensed funeral director or
9 embalmer.

333.315. 1. No person shall be designated as a provider, or agree
2 to perform the obligations of a provider under a preneed contract
3 unless, at the time of such agreement or designation, such person is
4 licensed as a preneed provider by the board. Nothing in this section
5 shall exempt any person from meeting the licensure requirements for

6 a funeral establishment as provided in this chapter.

7 2. An applicant for a preneed provider license shall:

8 (1) File an application on a form established by the board and
9 pay a licensing fee in an amount established by the board by rule;

10 (2) Be authorized and registered with the Missouri secretary of
11 state to conduct business in Missouri;

12 (3) Identify the name and address of a custodian of records
13 responsible for maintaining the books and records of the provider
14 relating to preneed contracts;

15 (4) Identify the name and address of each seller authorized by
16 the provider to sell preneed contracts in which the provider is
17 designated or obligated as the provider;

18 (5) File with the state board, a written consent authorizing the
19 state board to inspect or order an investigation, examination, or audit
20 of the provider's books and records which contain information
21 concerning preneed contracts sold for or on behalf of a seller or in
22 which the applicant is named as a provider; and

23 (6) Be of good moral character. If the applicant is a corporation,
24 each officer, director, manager, or controlling shareholder, shall be of
25 good moral character.

26 3. Each preneed provider shall apply to renew his or her license
27 on or before October thirty-first of each year or a date established by
28 the board by rule. A license which has not been renewed prior to the
29 renewal date shall expire. Applicants for renewal shall:

30 (1) File an application for renewal on a form established by the
31 board by rule;

32 (2) Pay a renewal fee in an amount established by the board by
33 rule;

34 (3) Be authorized and registered with the Missouri secretary of
35 state to conduct business in Missouri;

36 (4) File an annual report with the state board which shall
37 contain:

38 (a) The name and address of a custodian of records responsible
39 for maintaining the books and records of the provider relating to
40 preneed contracts;

41 (b) The business name or names used by the provider and all
42 addresses from which it engages in the practice of its business;