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2. Regulation of Cemetery Operators: Chapter 436 should be clarified to exempt cemetery operators from the provisions of Chapter 436 if the contract includes the sale of any service or funeral merchandise for which payments must be deposited in an endowed care fund pursuant to Chapter 214 or in a segregated account pursuant to 214.387, RSMo. However, cemetery operators should be subject to Chapter 436 if the contract includes any additional service or merchandise or includes any funeral/disposition service that may only be provided by a licensed Missouri funeral director or embalmer.

! Comments:

- *Currently, both Chapter 214 and Chapter 436 contain provisions governing the sale of funeral merchandise. Under Chapter 214, proceeds from the sale of certain funeral merchandise are required to be placed in an endowed care fund or a segregated account regulated by the Office of Endowed Care Cemeteries. If the recommendation is adopted, Chapter 436 should retain language that would prevent a seller from artificially pricing funeral services and merchandise to avoid the provisions of Chapter 436.*
- *However, the Working Group strongly recommended that the proposed changes to Chapter **436 must coincide with any proposed changes to Chapter 214.** To protect consumers, the Working Group urges the Joint Committee to ensure that the provisions of Chapter 214 are likewise amended to ensure that cemetery operators exempted from 436 by the recommendation are adequately regulated by Chapter 214 and are subject to adequate regulatory requirements. Specifically, the Working group cautioned against creating an unintended loophole that would allow a licensee/entity to avoid regulation or proper trusting requirements.*