

SENATE COMMITTEE OF REFERENCE REPORT

Chairman of Committee

April 3, 2013
Date

Committee on Business, Labor, & Technology.

After consideration on the merits, the Committee recommends the following:

SB13-125 be amended as follows, and as so amended, be referred to the Committee on Appropriations with favorable recommendation:

- 1 Amend page 2, strike lines 8 and 9 and substitute "contract."
- 2 Page 3, line 2, strike "~~written~~ contract, ORAL" and substitute "written
3 contract,".
- 4 Page 3, line 5, strike "ORAL".
- 5 Page 3, strike lines 11 and 12 and substitute "benefits."
- 6 Page 4, strike line 2 and substitute "(1) (a) and (4) as follows:".
- 7 Page 4, line 12, strike "IS SOUND AND".
- 8 Page 5, strike line 27.
- 9 Strike page 6.
- 10 Page 8, strike line 9 and substitute "(9); and **add** (10) as follows:".
- 11 Page 8, strike lines 11 through 27.
- 12 Page 9, strike lines 1 through 4.
- 13 Page 9, strike lines 15 through 18 and substitute "CONTRACT BUYER, MAY

1 TRANSFER THE TRUST FUNDS TO ANOTHER FUNERAL PROVIDER. THE
2 ORIGINAL PRENEED SELLER MAY RETAIN UP TO FIFTEEN PERCENT OF THE
3 ORIGINAL PRENEED".

4 Page 9, strike lines 20 through 24 and substitute:

5 (10) (a) THE CONTRACT SELLER SHALL:
6 (I) DISCLOSE THE NAME AND ADDRESS OF THE TRUSTEE WHO
7 HOLDS THE PRENEED CONTRACT FUNDS; AND
8 (II) NOTIFY THE BUYER WHEN THE PRENEED CONTRACT FUNDS ARE
9 DEPOSITED INTO TRUST.
10 (b) TO COMPLY WITH THIS SUBSECTION".

11 Page 9, strike line 27.

12 Page 10, strike lines 1 through 11.

13 Renumber succeeding sections accordingly.

14 Page 10, strike lines 14 through 27 and substitute:

15 **"10-15-111.5. Change of ownership - rules.** (1) (a) A SALE OF
16 AN EXISTING PRENEED CONTRACT THAT CHANGES WHO PROVIDES FUNERAL
17 GOODS AND SERVICES IS VOID UNLESS APPROVED BY THE COMMISSIONER
18 UNDER THIS SECTION. TO TRANSFER OWNERSHIP, THE CONTRACT SELLER
19 MUST REPORT A PENDING SALE OF THE PRENEED CONTRACT TO THE
20 COMMISSIONER IN WRITING AT LEAST FOURTEEN DAYS BEFORE THE SALE
21 CLOSING. THE NOTICE MUST INCLUDE:

22 (I) THE NAME AND ADDRESS OF THE CONTRACT SELLER;
23 (II) THE NAME AND ADDRESS OF THE ORGANIZATION PROPOSING
24 TO ACQUIRE OWNERSHIP OF THE PRENEED CONTRACT, REFERRED TO IN THIS
25 SECTION AS THE "TRANSFeree";
26 (III) THE NAME AND ADDRESS OF THE OWNERS, OPERATORS,
27 CORPORATE OFFICERS, PARTNERS, OR MEMBERS OF THE TRANSFeree;
28 (IV) THE NAME AND ADDRESS OF THE FINANCIAL INSTITUTION
29 WHERE PRENEED FUNDS ARE HELD;
30 (V) THE NAME UNDER WHICH PRENEED FUNDS ARE HELD;
31 (VI) A DESCRIPTION OF EACH PRENEED CONTRACT,
32 ARRANGEMENT, OR AGREEMENT INCLUDED IN THE SALE;
33 (VII) AN ACCOUNTING OF THE TRUST FUND AND ALL TRANSFERRED
34 AND OUTSTANDING PRENEED CONTRACTS, INCLUDING THE NUMBER OF

1 PENDING CONTRACTS, THE FULL CONTRACT VALUE, THE CURRENT VALUE
2 FOR EACH CONTRACT, A RECORD OF ALL DISBURSEMENTS FROM PRENEED
3 TRUST ACCOUNTS WITHIN THE LAST TWENTY-FOUR MONTHS, AND THE
4 INFORMATION REQUIRED IN THE ANNUAL REPORT;
5 (VIII) ANY DOCUMENTS OR AMENDMENTS THERETO CONCERNING
6 THE TRUST OR INSURANCE FUNDS, OR ANY OTHER PREPLANNING OR
7 PREFUNDING AGREEMENTS;
8 (IX) A COPY OF THE NOTICE PROPOSED TO BE SENT TO THE
9 CONTRACT BUYERS AFTER THE TRANSFER; AND
10 (X) ANY OTHER INFORMATION THAT IS REASONABLY REQUIRED BY
11 THE COMMISSIONER BY RULE.
12 (b) THE COMMISSIONER MAY, BY RULE OR ORDER, WAIVE OR
13 REDUCE ANY OR ALL OF THE REQUIREMENTS IN SUBPARAGRAPHS (I) TO (X)
14 OF PARAGRAPH (a) OF THIS SUBSECTION (1) AS UNNECESSARY OR
15 INAPPROPRIATE IN THE PUBLIC INTEREST OR FOR THE PROTECTION OF THE
16 CONTRACT BUYERS.
17 (2) THE COMMISSIONER SHALL APPROVE THE CONTRACT SELLER'S
18 APPLICATION FOR CHANGE OF OWNERSHIP BY WRITTEN AUTHORIZATION IF:
19 (a) THE ACCOUNTING IS COMPLETE, ACCURATE, AND SHOWS THE
20 TRUST FUND IS WHOLE AND INTACT;
21 (b) ALL REQUIRED INFORMATION AND DOCUMENTS ARE FILED WITH
22 THE COMMISSIONER; AND
23 (c) THE TRANSFEREE HOLDS A VALID CONTRACT SELLER'S LICENSE,
24 OR IS QUALIFIED UNDER SECTION 10-15-103 FOR A CONTRACT SELLER'S
25 LICENSE, AND IS ABLE TO PERFORM ALL TRANSFERRED PRENEED
26 CONTRACTS IN ACCORDANCE WITH THIS ARTICLE.
27 (3) (a) THE CONTRACT SELLER, OR PERSON WITH AN INTEREST IN
28 THE CONTRACT, REMAINS LIABLE FOR ALL FUNDS AND TRANSACTIONS
29 UNTIL THE EFFECTIVE DATE OF THE TRANSFER.
30 (b) ANY DISCREPANCIES, MALFEASANCE, OR FRAUD PRIOR TO THE
31 SALE OF THE PRENEED CONTRACT IS THE RESPONSIBILITY OF THE SELLER,
32 FOR WHICH THE SELLER IS LIABLE.
33 (4) WITHIN THIRTY DAYS AFTER APPROVAL BY THE
34 COMMISSIONER, THE TRANSFEREE OF A PRENEED CONTRACT SHALL SEND
35 A NOTICE TO THE LAST-KNOWN ADDRESS OF EACH CONTRACT BUYER
36 INFORMING THE BUYER OF THE CHANGE IN OWNERSHIP AND THE
37 ASSUMPTION OF THE OBLIGATION TO PERFORM THE PRENEED CONTRACT."

38 Strike pages 11 and 12.

39 Page 13, strike lines 1 through 4.

1 Page 14, after line 16 insert:

2 "SECTION 9. In Colorado Revised Statutes, 12-54-110, **amend**
3 (2) (a) introductory portion, (2) (a) (IV) (C), and (2) (a) (IV) (D); and **add**
4 (2) (a) (IV) (E) as follows:

5 **12-54-110. Registration required.** (2) (a) Each funeral
6 establishment shall register with the director using forms as determined
7 by the director. The registration shall include ~~without limitation~~, the
8 following:

9 (IV) A list of each of the following services provided at each
10 funeral establishment location:

11 (C) Transporting human remains to or from the funeral
12 establishment or the place of final disposition; ~~and~~

13 (D) Providing funeral goods or services to the public; AND

14 (E) SELLING PRENEED CONTRACTS.

15 **SECTION 10.** In Colorado Revised Statutes, 12-54-303, **amend**
16 (2) (a) introductory portion, (2) (a) (IV) (C), and (2) (a) (IV) (D); and **add**
17 (2) (a) (IV) (E) as follows:

18 **12-54-303. Registration required.** (2) (a) Each crematory shall
19 register with the director using forms as determined by the director. The
20 registration shall include ~~without limitation~~, the following:

21 (IV) A list of each of the following services provided at each
22 crematory location:

23 (C) Providing funeral goods or services to the public; ~~and~~

24 (D) Cremating human remains; AND

25 (E) SELLING PRENEED CONTRACTS."

26 Renumber succeeding section accordingly.

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