



Legislative Council Staff

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Fiscal Note

Drafting Number: LLS 22-0324
Prime Sponsors: Rep. Roberts; Bockenfeld

Date: February 22, 2022
Bill Status: House Judiciary
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Bill Topic: **SUNSET CONTINUE REGULATE PRENEED FUNERAL CONTRACTS**

Summary of Fiscal Impact:	<input checked="" type="checkbox"/> State Revenue	<input checked="" type="checkbox"/> TABOR Refund
	<input checked="" type="checkbox"/> State Expenditure	<input type="checkbox"/> Local Government
	<input type="checkbox"/> State Transfer	<input type="checkbox"/> Statutory Public Entity

Sunset Bill. This bill continues the regulation of preneed funeral contracts in the Department of Regulatory Agencies, which is scheduled to repeal on September 1, 2022. State fiscal impacts include a possible increase in revenue and expenditures from changes to the program under the bill, and the continuation of the program's current revenue and expenditures. The program is continued through September 1, 2029.

Appropriation Summary: No appropriation is required.

Fiscal Note Status: The fiscal note reflects the introduced bill.

Table 1
State Fiscal Impacts Under HB 22-1228¹

		Budget Year FY 2022-23	Out Year FY 2023-24
New Impacts			
Revenue	Cash Funds	-	-
Expenditures	Cash Funds	-	-
	New FTE	-	-
Other Budget Impacts		-	-
Continuing Impacts			
Revenue	Cash Funds	-	\$52,200
Expenditures	Cash Funds	-	\$19,732
	Continuing FTE	-	0.3 FTE

¹ Table 1 shows the new impacts resulting from changes to the program under the bill and the continuing impacts from extending the program beyond its current repeal date. The continuing program impacts will end if the bill is not passed and the program is allowed to repeal.

Summary of Legislation

The regulation of preneed funeral contracts by the Division of Insurance in the Department of Regulatory Agencies (DORA) is scheduled to repeal on September 1, 2022. This bill continues the regulation until September 1, 2029, and implements recommendations in the [2021 Sunset Review](#). The bill makes several changes to the program, including:

- directing the Commissioner of Insurance (commissioner) to set net worth and bond requirements in rule;
- allowing the commissioner to investigate records of the seller;
- requiring that fees be set by the commissioner based on the cost of regulating the industry;
- requiring that unused funds be transferred to the Unclaimed Property Trust Fund; and
- requiring that funeral establishments attest as to whether they sell preneed contracts.

Background

Preneed funeral contracts are agreements where individuals prepay for funeral goods and services. The contracts can be backed by a trust or a life insurance policy. Contracts are sold by funeral homes, brokers, or life insurance agents. Applicants for licensure pay a \$500 licensing fee, show proof of their net worth or post a surety bond, and complete a fingerprint-based criminal history background check. Renewal fees range from \$100 to \$2,000 based on the aggregate preneed contract price outstanding. As of December 31, 2020, there were 68 licensees representing a total amount of outstanding preneed contracts of \$246,535,326.

To review the 2021 Sunset Review, see:

<https://drive.google.com/file/d/1t55Rc1eUWaFHC-d1VLcW6sxXC-PaxvW/view>

Continuing Program Impacts

Based on the 2021 Sunset Review of Preneed Funeral Contracts, DORA is expected to have annual revenue of \$52,200 and expenditures of \$19,732 to administer the preneed funeral contracts program. If this bill is enacted, current revenue and expenditures will continue for the program starting in FY 2023-24. This continuing revenue is subject to the state TABOR limits. If this bill is not enacted, the program will end on September 1, 2023, following a wind-down period, and state revenue and expenditures will decrease starting in FY 2023-24 by the amounts shown in Table 1. The impact from the changes to the program are discussed in the State Revenue and Expenditures section below.

State Revenue and Expenditures

Although the bill allows the commissioner to set fees, no fee increase has been estimated. The bill may increase funds sent to the Unclaimed Property Trust Fund. The bill will increase workload in DORA related to rulemaking, investigations and administration, but this is not expected to require additional appropriations.

Effective Date

The bill takes effect 90 days following adjournment of the General Assembly sine die, assuming no referendum petition is filed.

State and Local Government Contacts

Information Technology

Regulatory Agencies

Treasury