

An Act

HOUSE BILL 22-1228

BY REPRESENTATIVE(S) Roberts and Bockenfeld, Duran, Lindsay, Lontine, Ricks, Snyder, Soper, Cutter, Herod, Kipp, McCluskie, Ortiz, Valdez D.;

also SENATOR(S) Coram, Donovan, Gonzales.

CONCERNING THE CONTINUATION OF THE REGULATION OF PRENEED FUNERAL CONTRACTS, AND, IN CONNECTION THEREWITH, IMPLEMENTING THE RECOMMENDATIONS CONTAINED IN THE 2021 SUNSET REPORT BY THE DEPARTMENT OF REGULATORY AGENCIES AND MAKING AN APPROPRIATION.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, 24-34-104, **repeal** (23)(a)(X); and **add** (30)(a)(VII) as follows:

24-34-104. General assembly review of regulatory agencies and functions for repeal, continuation, or reestablishment - legislative declaration - repeal. (23) (a) The following agencies, functions, or both, are scheduled for repeal on September 1, 2022:

(X) ~~The regulation of preneed funeral contracts in accordance with~~

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

~~article 15 of title 10;~~

(30) (a) The following agencies, functions, or both, are scheduled for repeal on September 1, 2029:

(VII) THE REGULATION OF PRENEED FUNERAL CONTRACTS IN ACCORDANCE WITH ARTICLE 15 OF TITLE 10.

SECTION 2. In Colorado Revised Statutes, **amend** 10-15-123 as follows:

10-15-123. Repeal of article. This article 15 is repealed, effective ~~September 1, 2022~~ SEPTEMBER 1, 2029. Before its THE repeal, the department of regulatory agencies shall review the regulation of preneed funeral contracts in accordance with section 24-34-104.

SECTION 3. In Colorado Revised Statutes, 10-15-103, **amend** (1)(a), (4)(a), and (5)(b) as follows:

10-15-103. License procedure - records - examination of records - definition - rules. (1) (a) A contract seller shall not enter into a preneed contract or accept any funds or other consideration without a license from the commissioner. To be valid, an application for an initial license must be in writing, signed by the applicant, and duly verified on forms furnished by the commissioner. Each application must be accompanied by payment of five hundred dollars and ~~either:~~ PROOF OF EITHER THE NET WORTH OR SURETY BOND REQUIREMENTS ESTABLISHED BY THE COMMISSIONER BY RULE.

~~(I) A current balance sheet, income statement, and statement of cash flow to demonstrate that the business has a net worth of at least ten thousand dollars, signed by a certified public accountant ("CPA"), or, if prepared by the applicant or public accountant, accompanied by a current tax return; or~~

~~(II) A surety bond of at least ten thousand dollars to honor preneed contract obligations.~~

(4) (a) The commissioner may investigate the books, records, and accounts of a contract seller to ensure that trust funds, preneed contracts,

and preneed insurance policies comply with this ~~article~~ ARTICLE 15. The commissioner, or a qualified person designated by the commissioner, may examine the books, records, and accounts of the contract seller as often as necessary ~~upon receiving a complaint or indication of noncompliance~~ and may require the attendance of and examine under oath all persons whose testimony the commissioner needs for this purpose.

~~(5) (b) THE COMMISSIONER SHALL ESTABLISH the annual renewal fee shall be based upon the aggregate preneed contract price of all preneed contracts outstanding at the end of each calendar year. If the aggregate preneed contract price is:~~ BY RULE BASED ON THE COST OF REGULATING THE INDUSTRY AND THE OUTSTANDING PRENEED CONTRACT OBLIGATIONS OF THE CONTRACT SELLERS.

~~(I) One hundred thousand dollars or less, the annual renewal fee shall be one hundred dollars;~~

~~(II) Greater than one hundred thousand dollars but not exceeding five hundred thousand dollars, the annual renewal fee shall be two hundred dollars;~~

~~(III) Greater than five hundred thousand dollars but not exceeding one million dollars, the annual renewal fee shall be five hundred dollars;~~

~~(IV) Greater than one million dollars but not exceeding five million dollars, the annual renewal fee shall be one thousand dollars;~~

~~(V) Greater than five million dollars but not exceeding ten million dollars, the annual renewal fee shall be one thousand five hundred dollars;~~

~~(VI) In excess of ten million dollars, the annual renewal fee shall be two thousand dollars.~~

SECTION 4. In Colorado Revised Statutes, **add** 10-15-111.7 as follows:

10-15-111.7. Disposition of unclaimed preneed funeral contracts - unclaimed property trust fund. (1) NOTWITHSTANDING THE FAILURE OF A PRENEED CONTRACT FOR FUNERAL SERVICES BENEFICIARY'S HEIRS, ASSIGNS, OR DULY AUTHORIZED REPRESENTATIVE TO CANCEL A PRENEED

CONTRACT FOR FUNERAL SERVICES WITHIN ONE HUNDRED SIXTY-EIGHT HOURS AFTER THE DEATH OF THE PRENEED CONTRACT BENEFICIARY, EACH CONTRACT SELLER SHALL REQUIRE A TRUSTEE WITH WHOM PRENEED CONTRACT FUNDS HAVE BEEN DEPOSITED FOR A PRENEED CONTRACT THAT IS UNCLAIMED TO REPORT TO THE STATE TREASURER AS PROVIDED IN SECTION 38-13-401. THE TRUSTEE SHALL COMPLY WITH THE REQUIREMENTS OF THE "REVISED UNIFORM UNCLAIMED PROPERTY ACT", ARTICLE 13 OF TITLE 38, FOR DEPOSIT OF THE UNCLAIMED PRENEED CONTRACT FUNDS INTO THE UNCLAIMED PROPERTY TRUST FUND CREATED IN SECTION 38-13-801 (1)(a).

(2) A PRENEED CONTRACT FOR FUNERAL SERVICES IS UNCLAIMED AT THE EARLIER OF THE FOLLOWING:

(a) THREE YEARS AFTER THE DATE ON WHICH THE CONTRACT SELLER HAS KNOWLEDGE OF THE DEATH OF THE PRENEED CONTRACT BENEFICIARY, OBTAINED THROUGH ANY SOURCE, INCLUDING A DECLARATION OF DEATH, A DEATH CERTIFICATE, A COMPARISON OF THE CONTRACT SELLER'S RECORDS AGAINST THE UNITED STATES SOCIAL SECURITY ADMINISTRATION'S DEATH MASTER FILE, OR OTHER EQUIVALENT RESOURCE;

(b) THE DATE THE PRENEED CONTRACT BENEFICIARY, IF LIVING, WOULD HAVE ATTAINED ONE HUNDRED FIFTEEN YEARS OF AGE; OR

(c) SIXTY-FIVE YEARS FROM THE DATE THAT THE PRENEED CONTRACT WAS EXECUTED.

(3) FOR PURPOSES OF THIS SECTION, THE AMOUNT REPORTABLE FOR AN UNCLAIMED PRENEED CONTRACT IS THE AMOUNT PAID BY THE PURCHASER TO THE CONTRACT SELLER, LESS SELLING COSTS NOT TO EXCEED FIFTEEN PERCENT OF THE TOTAL PRENEED CONTRACT PRICE, LIQUIDATED DAMAGES, AND CONTRACTUAL OFFSETS, AS AUTHORIZED BY LAW.

(4) SUBSECTION (2)(a) OF THIS SECTION DOES NOT REQUIRE A CONTRACT SELLER TO COMPARE THE CONTRACT SELLER'S RECORDS TO THE UNITED STATES SOCIAL SECURITY ADMINISTRATION'S DEATH MASTER FILE.

SECTION 5. In Colorado Revised Statutes, 12-135-110, **amend** (2)(b) as follows:

12-135-110. Registration required. (2) (b) Each funeral establishment registration shall be renewed, according to a schedule established by the director in accordance with section 12-20-202 (1), in a form as determined by the director. AT THE TIME OF RENEWAL, EACH FUNERAL ESTABLISHMENT SHALL ATTEST TO WHETHER THE FUNERAL ESTABLISHMENT SELLS PRENEED CONTRACTS. THE DIRECTOR SHALL ENTER INTO A MEMORANDUM OF UNDERSTANDING WITH THE COMMISSIONER OF INSURANCE TO SHARE INFORMATION REGARDING FUNERAL ESTABLISHMENTS THAT SELL PRENEED CONTRACTS.

SECTION 6. Appropriation. (1) For the 2022-23 state fiscal year, \$81,958 is appropriated to the department of regulatory agencies for use by the division of insurance. This appropriation is from the division of insurance cash fund created in section 10-1-103 (3), C.R.S. To implement this act, the division may use this appropriation as follows:

(a) \$74,543 for personal services, which amount is based on an assumption that the division will require an additional 0.9 FTE; and

(b) \$7,415 for operating expenses.

SECTION 7. Act subject to petition - effective date. This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly; except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in

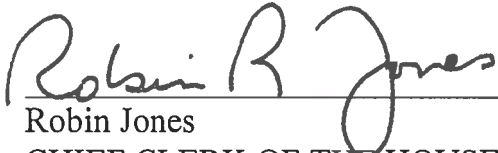
November 2022 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.



Alec Garnett
SPEAKER OF THE HOUSE
OF REPRESENTATIVES



Steve Fenberg
PRESIDENT OF
THE SENATE

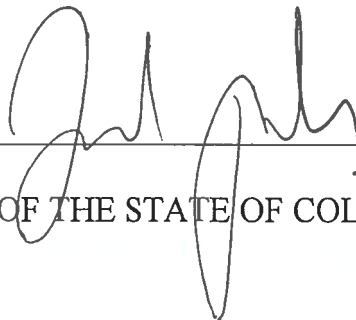


Robin Jones
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES



Cindi L. Markwell
SECRETARY OF
THE SENATE

APPROVED June 2, 2022 at 3:00pm
(Date and Time)



Jared S. Polis
GOVERNOR OF THE STATE OF COLORADO