

Second Regular Session
Seventy-third General Assembly
STATE OF COLORADO

ENGROSSED

*This Version Includes All Amendments Adopted
on Second Reading in the House of Introduction*

LLS NO. 22-0324.01 Yelana Love x2295

HOUSE BILL 22-1228

HOUSE SPONSORSHIP

Roberts and Bockenfeld,

SENATE SPONSORSHIP

(None),

House Committees
Judiciary

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE CONTINUATION OF THE REGULATION OF PRENEED**
102 **FUNERAL CONTRACTS, AND, IN CONNECTION THEREWITH,**
103 **IMPLEMENTING THE RECOMMENDATIONS CONTAINED IN THE**
104 **2021 SUNSET REPORT BY THE DEPARTMENT OF REGULATORY**
105 **AGENCIES.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov/>.)

Sunset Process - House Judiciary Committee. The bill implements the recommendations of the department of regulatory

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

HOUSE
Amended 2nd Reading
March 3, 2022

agencies, as contained in the department's sunset review of preneed funeral contracts, as follows:

- Continues the regulation of preneed funeral contracts for 7 years, to September 1, 2029;
- Removes from statute the surety bond or net worth requirements for an applicant for a license to sell preneed funeral contracts and requires the commissioner of insurance (commissioner) to establish the requirements in rule;
- Allows the commissioner to investigate the books, records, and accounts of a contract seller without the requirement that the commissioner receive a complaint or indication of noncompliance;
- Removes the fees for license renewal from statute and requires the commissioner to establish the fees in rule based on the cost of regulating the industry and the outstanding preneed contract obligations of the contract sellers;
- Requires money held in trust for a preneed contract that is unclaimed after a reasonable amount of time to be reported to the state treasurer for deposit into the unclaimed property trust fund; and
- Requires each funeral establishment, at the time of registration renewal, to attest to whether the funeral establishment sells preneed contracts and requires the director of the division of professions and occupations to enter into a memorandum of understanding with the commissioner to share information on funeral establishments that sell preneed contracts.

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

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

4 **24-34-104. General assembly review of regulatory agencies**
5 **and functions for repeal, continuation, or reestablishment - legislative**
6 **declaration - repeal.** (23) (a) The following agencies, functions, or both,
7 are scheduled for repeal on September 1, 2022:

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

1 ~~with article 15 of title 10;~~

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

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

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

8 **10-15-123. Repeal of article.** This article 15 is repealed, effective
9 ~~September 1, 2022~~ SEPTEMBER 1, 2029. Before ~~its~~ THE repeal, the
10 department of regulatory agencies shall review the regulation of preneed
11 funeral contracts in accordance with section 24-34-104.

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

14 **10-15-103. License procedure - records - examination of**
15 **records - definition - rules.** (1) (a) A contract seller shall not enter into
16 a preneed contract or accept any funds or other consideration without a
17 license from the commissioner. To be valid, an application for an initial
18 license must be in writing, signed by the applicant, and duly verified on
19 forms furnished by the commissioner. Each application must be
20 accompanied by payment of five hundred dollars and ~~either:~~ PROOF OF
21 EITHER THE NET WORTH OR SURETY BOND REQUIREMENTS ESTABLISHED
22 BY THE COMMISSIONER BY RULE.

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

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

3 (4) (a) The commissioner may investigate the books, records, and
4 accounts of a contract seller to ensure that trust funds, preneed contracts,
5 and preneed insurance policies comply with this ~~article~~ ARTICLE 15. The
6 commissioner, or a qualified person designated by the commissioner, may
7 examine the books, records, and accounts of the contract seller as often
8 as necessary ~~upon receiving a complaint or indication of noncompliance~~
9 and may require the attendance of and examine under oath all persons
10 whose testimony the commissioner needs for this purpose.

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

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

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

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

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

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

1 dollars;

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

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

6 **10-15-111.7. Disposition of unclaimed preneed funeral**
7 **contracts - unclaimed property trust fund.** (1) NOTWITHSTANDING THE
8 FAILURE OF A PRENEED CONTRACT FOR FUNERAL SERVICES BENEFICIARY'S
9 HEIRS, ASSIGNS, OR DULY AUTHORIZED REPRESENTATIVE TO CANCEL A
10 PRENEED CONTRACT FOR FUNERAL SERVICES WITHIN ONE HUNDRED
11 SIXTY-EIGHT HOURS AFTER THE DEATH OF THE PRENEED CONTRACT
12 BENEFICIARY, EACH CONTRACT SELLER SHALL REQUIRE A TRUSTEE WITH
13 WHOM PRENEED CONTRACT FUNDS HAVE BEEN DEPOSITED FOR A PRENEED
14 CONTRACT THAT IS UNCLAIMED TO REPORT TO THE STATE TREASURER AS
15 PROVIDED IN SECTION 38-13-401. THE TRUSTEE SHALL COMPLY WITH THE
16 REQUIREMENTS OF THE "REVISED UNIFORM UNCLAIMED PROPERTY ACT",
17 ARTICLE 13 OF TITLE 38, FOR DEPOSIT OF THE UNCLAIMED PRENEED
18 CONTRACT FUNDS INTO THE UNCLAIMED PROPERTY TRUST FUND CREATED
19 IN SECTION 38-13-801 (1)(a).

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

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

1 RESOURCE;

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

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

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

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

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

17 **12-135-110. Registration required.** (2) (b) Each funeral
18 establishment registration shall be renewed, according to a schedule
19 established by the director in accordance with section 12-20-202 (1), in
20 a form as determined by the director. AT THE TIME OF RENEWAL, EACH
21 FUNERAL ESTABLISHMENT SHALL ATTEST TO WHETHER THE FUNERAL
22 ESTABLISHMENT SELLS PRENEED CONTRACTS. THE DIRECTOR SHALL ENTER
23 INTO A MEMORANDUM OF UNDERSTANDING WITH THE COMMISSIONER OF
24 INSURANCE TO SHARE INFORMATION REGARDING FUNERAL
25 ESTABLISHMENTS THAT SELL PRENEED CONTRACTS.

26 **SECTION 6. Act subject to petition - effective date.** This act
27 takes effect at 12:01 a.m. on the day following the expiration of the

1 ninety-day period after final adjournment of the general assembly; except
2 that, if a referendum petition is filed pursuant to section 1 (3) of article V
3 of the state constitution against this act or an item, section, or part of this
4 act within such period, then the act, item, section, or part will not take
5 effect unless approved by the people at the general election to be held in
6 November 2022 and, in such case, will take effect on the date of the
7 official declaration of the vote thereon by the governor.