

FIRST REGULAR SESSION

HOUSE BILL NO. 1062

99TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE HELMS.

2197H.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To amend chapter 436, RSMo, by adding thereto one new section relating to funeral contracts.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Chapter 436, RSMo, is amended by adding thereto one new section, to be
2 known as section 436.375, to read as follows:

**436.375. 1. The director of the division of finance, in consultation with the affected
2 contract providers and the appointed trustee, shall establish a preneed funeral contracts
3 trust for the payment of benefits due to providers for the failure in performance of
4 contractual obligations resulting from the insolvency of National Prearranged Services,
5 Inc. or Lincoln Memorial Life. The corpus of the trust shall consist of:**

6 **(1) All preneed funeral contract moneys collected or held by contract providers and
7 transferred to the trust;**

8 **(2) Any contracts and future contracts held by providers at the provider's
9 discretion;**

10 **(3) Any moneys received by investors;**

11 **(4) Any moneys received in settlement under a receivership;**

12 **(5) Any state appropriations; and**

13 **(6) Any proceeds due to the providers arising from litigation regarding contracts
14 with National Prearranged Services, Inc. or from request for proposals to the National
15 Guarantee Fund.**

16

17 **The trust shall be authorized to accept gifts, bequests, or donations from any source.**

18 **Contract providers who go forward shall be responsible for the payment of all expenses**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

19 and operational costs and shall report annually to the division of finance regarding any
20 payment of benefits under this section.

21 **2. The division of finance shall appoint a trustee for the preneed funeral contracts**
22 **trust. This trustee shall be located in Missouri and shall have surplus and capital of seven**
23 **billion dollars. The trustee shall be responsible for all operations of the trust including, but**
24 **not limited to, paying claims, securing investors, negotiating settlements under**
25 **receiverships due the providers, submitting requests for proposals to the National**
26 **Guarantee Fund, and submitting an annual accounting of trust activities to the directors**
27 **of the division of finance and department of insurance, financial institutions and**
28 **professional registration.**

29 **3. The trust shall have full power and authority for its own use and benefit to ask,**
30 **demand, collect, prosecute, dismiss, or settle any suit or proceedings at law or in equity in**
31 **its prosecution of any suits or proceedings against any insurer, persons, or entities related**
32 **in any way to such contracts on behalf of the providers.**

33 **4. All new preneed funeral contracts placed in the preneed funeral contracts trust**
34 **shall be nonguaranteed contracts with an annual return of four percent at the discretion**
35 **of the providers.**

36 **5. The trust shall issue a promise to pay:**

37 **(1) To the state of Missouri on all state tax credits paid by the state; and**

38 **(2) To all providers for all death claims, contracts, orphan contracts, interest on all**
39 **provider contracts held by participating providers under subsection 4 of this section, and**
40 **claims not fully paid to date on such contracts.**

41

42 **Such repayments shall be made to the contract providers until all obligations under**
43 **subdivision (2) of this subsection are satisfied. Contract providers shall not be obligated**
44 **to perform services on the contracts deposited by providers who participate in the state**
45 **trust until paid in full by the state trustee. The trust, after satisfying its obligations under**
46 **subdivision (2) of this subsection, shall create a cash reserve to indemnify the trust**
47 **indefinitely and then satisfy all state tax credits under subdivision (1) of this subsection.**

48 **6. The director of the division of finance may promulgate rules to implement the**
49 **provisions of this section. Any rule or portion of a rule, as that term is defined in section**
50 **536.010, that is created under the authority delegated in this section shall become effective**
51 **only if it complies with and is subject to all of the provisions of chapter 536 and, if**
52 **applicable, section 536.028. This section and chapter 536 are nonseverable, and if any of**
53 **the powers vested with the general assembly pursuant to chapter 536 to review, to delay**
54 **the effective date, or to disapprove and annul a rule are subsequently held**

55 **unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted**
56 **after August 28, 2017, shall be invalid and void.**

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