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State of Minnesota  
HOUSE OF REPRESENTATIVES  
NINETIETH SESSION

H. F. No. 2685

05/18/2017 Authored by Ward, Sandstede, Slocum and Kunesh-Podein  
The bill was read for the first time and referred to the Committee on Health and Human Services Reform

1.1 A bill for an act  
1.2 relating to funeral and burial goods and services preneed providers; requiring  
1.3 annual notice to persons who have contracted to receive funeral and burial goods  
1.4 and services in the future; amending Minnesota Statutes 2016, sections 149A.97,  
1.5 subdivision 3a; 306.762.

1.6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.7 Section 1. Minnesota Statutes 2016, section 149A.97, subdivision 3a, is amended to read:

1.8 Subd. 3a. **Requirements for preneed funeral agreements.** (a) It is unlawful for any  
1.9 person residing or doing business in this state to enter a preneed funeral agreement unless  
1.10 the agreement:

1.11 (1) is written in clear, understandable language and printed in a type that is easy to read  
1.12 in size and style;

1.13 (2) contains a complete, itemized description of the funeral goods, funeral services,  
1.14 burial site goods, or burial site services selected or purchased, including, when appropriate,  
1.15 manufacturer's name, model numbers, style numbers, and description of the type of material  
1.16 used in construction;

1.17 (3) discloses clearly and conspicuously whether the prices of the goods and services  
1.18 selected are guaranteed;

1.19 (4) discloses that funding options for a preneed funeral agreement consist of either  
1.20 prepayment to the funeral provider or the purchase of an insurance policy;

1.21 (5) discloses whether the funds received from the purchaser are required to be placed  
1.22 in a trust and, if the funds are required to be placed in a trust, provides the following  
1.23 information:

2.1 (i) lists the location of the trust account, including the name, address, and telephone  
2.2 number of the institution where the money will be held and any identifying account numbers,  
2.3 the amount of money to be trusted, and the names of the trustees; and

2.4 (ii) advises the purchaser as to the disposition of the interest from the trust and as to  
2.5 responsibility for taxes owed on the interest;

2.6 (6) contains the names, addresses, and telephone numbers of the Minnesota Department  
2.7 of Health as the regulatory agency for preneed trust accounts and the Minnesota Attorney  
2.8 General's Office as the regulatory agency that handles consumer complaints;

2.9 (7) discloses clearly and conspicuously that any person who makes payment under a  
2.10 preneed funeral agreement may cancel the agreement subject to the procedures for  
2.11 cancellation specified in subdivision 6a;

2.12 (8) contains the following statement, in boldfaced type and a minimum size of ten points:

2.13 "Within 15 calendar days after receipt of any money required to be held in trust, all such  
2.14 money must be deposited in a banking institution, savings association, or credit union,  
2.15 organized under state or federal laws, the accounts of which are insured by an instrumentality  
2.16 of the federal government. The person for whose benefit the money was paid according to  
2.17 this agreement shall be known as the beneficiary; the person or persons who paid the money  
2.18 shall be known as the purchaser; and the funeral provider shall be known as the depositor.  
2.19 The money must be carried in a separate account with the names of the depositor and the  
2.20 purchaser as trustees for the beneficiary.

2.21 The preneed arrangement trust shall be considered an asset of the purchaser until the  
2.22 death of the beneficiary. At the death of the beneficiary, the money in the trust shall be  
2.23 considered an asset of the beneficiary's estate, to the extent that the value of the trust exceeds  
2.24 the actual value for the goods and services provided at-need. This does not alter any asset  
2.25 exclusion requirements that exist under federal law. The depositor as trustee must disclose  
2.26 in writing the location of the trust account, including the name and address of the institution  
2.27 where the money is being held and any identifying account numbers, to the beneficiary  
2.28 when the money is deposited and when there are any subsequent changes to the location of  
2.29 the trust account.";

2.30 (9) for agreements with revocable trusts, contains the following statement, in boldfaced  
2.31 type and a minimum size of ten points:

2.32 "REVOCABLE TRUST:

3.1 The preneed arrangement trust being created by the purchaser is revocable. These trust  
3.2 funds, including all principal and accrued interest, are the purchaser's assets. The purchaser  
3.3 may withdraw the principal and accrued interest at any time prior to the death of the  
3.4 beneficiary. At the death of the beneficiary, the funds shall be distributed in their entirety,  
3.5 principal plus accrued interest, with no fees retained by the trustees as administrative fees.  
3.6 The funds shall be distributed for the payment of the at-need funeral goods, funeral services,  
3.7 burial site goods, or burial site services selected, with any excess funds distributed to the  
3.8 beneficiary's estate. At any time before or at the time of the beneficiary's death, the purchaser  
3.9 may transfer the preneed arrangements and related trust funds for use in the payment of  
3.10 funeral goods, funeral services, burial site goods, or burial site services. The purchaser may  
3.11 not be charged any fee in connection with the transfer of a preneed arrangement and trust  
3.12 funds.";

3.13 (10) for agreements with irrevocable trusts, contains the following statement, in boldfaced  
3.14 type and a minimum size of ten points:

3.15 **"IRREVOCABLE TRUST:**

3.16 A trust created to hold preneed arrangement funds is revocable in its entirety unless  
3.17 specifically limited by the purchaser. The purchaser has chosen to create an irrevocable  
3.18 trust in the amount of \$ (insert the dollar amount of the purchaser's irrevocable trust). The  
3.19 revocable portion of this trust fund is limited to that amount that exceeds the allowable  
3.20 Supplemental Security Income asset exclusion used for determining eligibility for public  
3.21 assistance at the time the trust is created. The principal and accrued interest may not be  
3.22 withdrawn from the trust prior to the beneficiary's death, except to the extent that the trust  
3.23 funds exceed the irrevocable trust limitation. At the time of the beneficiary's death, the funds  
3.24 shall be distributed in their entirety, principal plus accrued interest, with no fees retained  
3.25 by the trustees as administrative fees. The funds shall be distributed for the payment of the  
3.26 at-need funeral goods, funeral services, burial site goods, or burial site services selected,  
3.27 with any excess funds distributed to the beneficiary's estate. At any time prior to or at the  
3.28 time of the beneficiary's death, the purchaser may transfer the preneed arrangements and  
3.29 trust funds for use in the payment of funeral goods, funeral services, burial site goods, or  
3.30 burial site services. The purchaser may not be charged any fee in connection with the transfer  
3.31 of a preneed arrangement and trust funds.";

3.32 (11) provides that if the particular funeral goods, funeral services, burial site goods, or  
3.33 burial site services specified in the agreement are unavailable at the time of delivery, the  
3.34 funeral provider must furnish goods and services similar in style and at least equal in quality

4.1 to the material and workmanship of the goods or services specified and that the representative  
 4.2 of the beneficiary has the right to choose the goods or services to be substituted; ~~and~~

4.3 (12) contains an itemization of the sale of grave lots, spaces, lawn crypts, niches, or  
 4.4 mausoleum crypts separate from all other goods and services selected; and

4.5 (13) includes a requirement that the funeral provider, as defined in section 149A.02,  
 4.6 subdivision 22, annually provide a written notice to the preneed consumer, as defined in  
 4.7 section 149A.02, subdivision 33a, reminding the preneed consumer of the existence of the  
 4.8 preneed arrangement and providing the then-current name, mailing address, and telephone  
 4.9 number of the funeral provider, as defined in section 149A.02, subdivision 22. If the original  
 4.10 funeral provider has assigned or otherwise transferred the funeral provider's obligations  
 4.11 under the preneed arrangement to a successor funeral provider, the successor funeral provider  
 4.12 shall provide the written notice required under this paragraph, together with proof of the  
 4.13 assignment or other transfer of obligation under the preneed arrangement.

4.14 (b) The annual written notice required under paragraph (a), clause (13), to be provided  
 4.15 to the preneed consumer by the funeral provider must be accompanied by a reply card or  
 4.16 reply sheet which the preneed consumer may use to provide the funeral provider with updated  
 4.17 information that is relevant to the preneed arrangement. The updated information may  
 4.18 include:

4.19 (1) information about the status and contact information of the preneed consumer;

4.20 (2) the status and contact information of any individual or entity that represents the  
 4.21 preneed consumer; and

4.22 (3) information about changes in the preneed consumer's familial status; living  
 4.23 arrangements; or funeral, burial, or estate planning.

4.24 **EFFECTIVE DATE.** This section is effective August 1, 2018, and applies to preneed  
 4.25 arrangements existing on or after that date.

4.26 Sec. 2. Minnesota Statutes 2016, section 306.762, is amended to read:

4.27 **306.762 PERMANENT RETENTION OF RECORDS.**

4.28 Subdivision 1. **Required records.** (a) Any cemetery association and any person, firm,  
 4.29 partnership, association, and corporation owning or operating a mausoleum or columbarium,  
 4.30 or constructing or selling space in a mausoleum or columbarium to be built, required to  
 4.31 deposit trust money in a permanent care and improvement fund must, in Minnesota,  
 4.32 permanently retain records of the trust account.

5.1 (b) The records of the trust account must include the name and most recently known  
5.2 mailing address of the person purchasing the cemetery lot or burial space, the name and  
5.3 most recently known mailing address of the living representative of that person if one was  
5.4 designated, and the location of the money including any identifying numbers and the name  
5.5 and the most recently known mailing address of the institution in which the money is held.

5.6 (c) The cemetery association or other person or entity referenced in paragraph (a) shall  
5.7 annually provide a written notice to the purchaser, or living representative of the purchaser,  
5.8 stating the information listed in paragraph (b). The written notice must be accompanied by  
5.9 a reply card or reply sheet which the purchaser or living representative may use to provide  
5.10 updated information or to ask a question. The reply card or sheet must contain the current  
5.11 mailing address of the cemetery association or other person or entity referenced in paragraph  
5.12 (a).

5.13 Subd. 2. **Penalty.** Any person, firm, partnership, association, or corporation knowingly  
5.14 violating the provisions of this section shall be guilty of a misdemeanor and for a second  
5.15 offense shall be guilty of a gross misdemeanor.

5.16 Subd. 3. **Exception.** This section shall not apply to cemeteries, mausoleums, or  
5.17 columbariums owned and operated by a municipality, church, religious corporation, or  
5.18 religious association.

5.19 **EFFECTIVE DATE.** This section is effective August 1, 2018, and applies to trust  
5.20 accounts existing on or after that date.