

First Regular Session
Sixty-ninth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 13-0524.01 Jery Payne x2157

SENATE BILL 13-125

SENATE SPONSORSHIP

Todd,

HOUSE SPONSORSHIP

(None),

Senate Committees
Business, Labor, & Technology

House Committees

A BILL FOR AN ACT

101 CONCERNING PRENEED FUNERAL CONTRACTS.

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://www.leg.state.co.us/billsummaries>.)

The bill amends the statutes regulating preneed funeral contracts. Currently, preneed contract sellers are licensed by the commissioner of insurance. An audit of a seller is no longer required every 5 years. The commissioner may designate a qualified person, preferably a division employee, to conduct the audit. The current fee structure for licensing a seller is replaced with authority to set the fee to cover the cost of regulation.

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

Currently, selling unsold lots in an undeveloped cemetery is exempt from regulation. For the exemption to apply, the bill requires the sales contract to provide for a comparable resting place or a full refund if the original becomes unavailable.

Notwithstanding a contract, the preneed buyer or the person directing final disposition is authorized to transfer the contract to another provider, but the original provider may retain up to 25% of the original preneed contract price.

The bill requires the person holding a trust fund or providing insurance for a preneed contract to notify the buyer when the funds are deposited or when they are applied towards the purchase of an insurance policy. The contract seller or insurance producer must advise the buyer that this notice is required by law.

If a preneed contract does not guarantee the prices charged, it must be clearly identified as a "nonguaranteed contract".

A preneed contract business cannot be sold without the commissioner's approval. Procedures are set for approval of the sale. If the commissioner determines that the finances of the buyer will support performing the contracts, then the sale is approved. The new owner is required to send a notice to the preneed contract buyer of the sale. When a contract seller surrenders a license, the commissioner must approve the financial ability of the contract seller to perform the contracts. The commissioner retains jurisdiction over the contracts of an inactive contract seller until all contracts are fulfilled. In an emergency, the commissioner may administer the preneed contracts and accounts if a seller goes out of business due to financial insolvency, criminal activity, or a license suspension.

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

2 **SECTION 1.** In Colorado Revised Statutes, 10-15-102, **amend**
3 (6) and (13); and **add** (8.5) as follows:

4 **10-15-102. Definitions.** As used in this article, unless the context
5 otherwise requires:

6 (6) "Contract seller" means a person who sells OR OFFERS TO SELL
7 FUNERAL GOODS, merchandise, ~~and~~ OR services through a preneed
8 contract. THIS INCLUDES A FUNERAL ESTABLISHMENT, CREMATORY, OR
9 INSURANCE PRODUCER.

10 (8.5) "FUNERAL GOODS" HAS THE SAME MEANING AS IN SECTION

1 12-54-102, C.R.S.

2 (13) (a) "Preneed contract" means any ~~written~~ contract, ORAL
3 agreement, or mutual understanding, ~~any series or combination of~~
4 ~~contracts, agreements, or mutual understandings~~, or any security or other
5 instrument ~~which~~ THAT is convertible into a contract, ORAL agreement, or
6 mutual understanding whereby, ~~it is agreed that~~, upon the death of the
7 preneed contract beneficiary, a final resting place, merchandise, or
8 services ~~shall be~~ ARE provided or performed in connection with the final
9 disposition of the ~~preneed contract~~ beneficiary's body. Consideration for
10 a preneed contract is funds, DEPOSITS, or the assignment of life insurance
11 benefits. THIS INCLUDES PREARRANGING, PREPLANNING, OR PREFUNDING
12 CONTRACTS FOR DEATH CARE ARRANGEMENTS.

13 (b) "PRENEED CONTRACT" DOES NOT INCLUDE a contract for
14 merchandise whereby the buyer takes physical possession of the
15 merchandise at the time of entering into the contract. ~~shall not be included~~
16 ~~in the definition of a preneed contract.~~

17 (c) ~~Providing a developed final resting place within a designated~~
18 ~~cemetery approved for the interment, entombment, or inurnment of~~
19 ~~human remains is not subject to the provisions of this article. Providing~~
20 ~~an undeveloped final resting place shall be exempt from the provisions of~~
21 ~~this article only if the cemetery contains unsold developed final resting~~
22 ~~places representing at least twenty-five percent of the outstanding~~
23 ~~paid-in-full contracts for undeveloped final resting places. In the event~~
24 ~~such specific and identifiable final resting place is not developed for use~~
25 ~~at the time of need and full payment has been made, then the contract~~
26 ~~must provide the purchaser with an immediate alternate and comparable~~
27 ~~final resting place at the same cemetery or a full refund of moneys paid.~~

1 **SECTION 2.** In Colorado Revised Statutes, 10-15-103, **amend**
2 (1) (a), (4), and (5) (b); and **repeal** (6) as follows:

3 **10-15-103. License procedure - records - examination of**
4 **records.** (1) (a) ~~No~~ A contract seller shall NOT enter into a preneed
5 contract or accept any funds or other consideration without ~~first securing~~
6 a license from the commissioner. ~~TO BE VALID, AN~~ application for an
7 initial license ~~shall~~ MUST be in writing, signed by the applicant, and duly
8 verified on forms furnished by the commissioner. Each application ~~shall~~
9 MUST be accompanied by payment of ~~five hundred dollars~~ THE LICENSE
10 FEE and EITHER:

11 (I) A current balance sheet, income statement, and statement of
12 cash flow to demonstrate THAT THE BUSINESS IS SOUND AND HAS a net
13 worth of at least ten thousand dollars, ~~as evidenced by the signature of~~
14 SIGNED BY a certified public accountant ("CPA"), ~~or public accountant~~
15 ("~~PA~~"); or, if prepared by the applicant OR PUBLIC ACCOUNTANT,
16 accompanied by a current tax return; or

17 (II) ~~in the alternative, the applicant shall furnish the commissioner~~
18 A surety bond ~~in the amount~~ of AT LEAST ten thousand dollars to honor
19 preneed contract obligations.

20 (4) (a) ~~The contract seller shall make all books and records~~
21 ~~available to the commissioner for examination. The commissioner, or a~~
22 ~~qualified person designated by the commissioner, during ordinary~~
23 ~~business hours, shall examine the books, records, and accounts of the~~
24 ~~contract seller at least once every five years, and more often as necessary~~
25 ~~to ensure compliance with this article, and for that purpose may require~~
26 ~~the attendance of and examine under oath all persons whose testimony the~~
27 ~~commissioner may require.~~ THE COMMISSIONER MAY INVESTIGATE THE

1 BOOKS, RECORDS, AND ACCOUNTS OF A CONTRACT SELLER TO ENSURE
2 THAT TRUST FUNDS, PRENEED CONTRACTS, AND PRENEED INSURANCE
3 POLICIES COMPLY WITH THIS ARTICLE. THE COMMISSIONER, OR A
4 QUALIFIED PERSON DESIGNATED BY THE COMMISSIONER, MAY EXAMINE
5 THE BOOKS, RECORDS, AND ACCOUNTS OF THE CONTRACT SELLER AS
6 OFTEN AS NECESSARY UPON RECEIVING A COMPLAINT OR INDICATION OF
7 NONCOMPLIANCE AND MAY REQUIRE THE ATTENDANCE OF AND EXAMINE
8 UNDER OATH ALL PERSONS WHOSE TESTIMONY THE COMMISSIONER NEEDS
9 FOR THIS PURPOSE.

10 (b) THE COMMISSIONER SHALL MAKE EVERY REASONABLE EFFORT
11 TO UTILIZE EXAMINERS EMPLOYED BY THE DIVISION OF INSURANCE IN
12 PREFERENCE TO DESIGNATING PERSONS WHO ARE NOT EMPLOYEES OF THE
13 DIVISION OF INSURANCE TO PERFORM EXAMINATIONS. IF EVIDENCE OF A
14 VIOLATION OF THIS ARTICLE IS KNOWN, the commissioner may designate
15 a qualified person who is not an employee of the division of insurance to
16 examine ~~any~~ A contract seller, and the CONTRACT SELLER SHALL DIRECTLY
17 PAY THE reasonable expenses and charges of ~~such~~ THE examiner. ~~shall be~~
18 ~~paid directly by the contract seller to any such authorized examiner.~~ The
19 examinee may contest the amount of fees, costs, and expenses charged to
20 it by ~~such person~~ THE EXAMINER by filing an objection with the
21 commissioner that sets forth the charges the examinee considers to be
22 unreasonable, together with the basis for ~~such claim of unreasonable~~
23 ~~DISPUTING THE charges.~~ ~~No~~ Amounts that are ~~so~~ disputed ~~will be~~ ARE NOT
24 due to the examiner ~~unless and~~ until the commissioner has reviewed the
25 objection and made a written finding that the disputed charges were
26 reasonable ~~in relation to~~ FOR the examination performed.

27 (5) (b) ~~The annual renewal fee shall be based upon the aggregate~~

1 ~~preneed contract price of all preneed contracts outstanding at the end of~~
2 ~~each calendar year. If the aggregate preneed contract price is:~~ THE
3 COMMISSIONER SHALL SET THE LICENSE RENEWAL FEE TO COVER THE
4 DIRECT COST OF IMPLEMENTING THIS ARTICLE.

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

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

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

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

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

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

19 ~~(6) Notwithstanding the amount specified for any fee in this~~
20 ~~section, the commissioner by rule or as otherwise provided by law may~~
21 ~~reduce the amount of one or more of the fees if necessary pursuant to~~
22 ~~section 24-75-402 (3), C.R.S., to reduce the uncommitted reserves of the~~
23 ~~fund to which all or any portion of one or more of the fees is credited.~~
24 ~~After the uncommitted reserves of the fund are sufficiently reduced, the~~
25 ~~commissioner by rule or as otherwise provided by law may increase the~~
26 ~~amount of one or more of the fees as provided in section 24-75-402 (4);~~
27 ~~C.R.S.~~

1 **SECTION 3.** In Colorado Revised Statutes, **add** 10-15-103.5 as
2 follows:

3 **10-15-103.5. Scope of article - exemptions.** (1) THIS ARTICLE
4 DOES NOT APPLY TO A PERSON PROVIDING A DEVELOPED FINAL RESTING
5 PLACE WITHIN A DESIGNATED CEMETERY APPROVED FOR THE INTERMENT,
6 ENTOMBMENT, OR INUREMENT OF HUMAN REMAINS.

7 (2) (a) A PERSON PROVIDING AN UNDEVELOPED FINAL RESTING
8 PLACE IS EXEMPT FROM THIS ARTICLE IF THE CEMETERY WHERE THE
9 UNDEVELOPED FINAL RESTING PLACE IS LOCATED CONTAINS UNSOLD
10 DEVELOPED FINAL RESTING PLACES REPRESENTING AT LEAST TWENTY-FIVE
11 PERCENT OF THE OUTSTANDING PAID-IN-FULL CONTRACTS FOR
12 UNDEVELOPED FINAL RESTING PLACES.

13 (b) IF THE SPECIFIC AND IDENTIFIABLE FINAL RESTING PLACE IS NOT
14 DEVELOPED FOR USE AT THE TIME OF NEED AND FULL PAYMENT HAS BEEN
15 MADE, THEN THE CONTRACT MUST PROVIDE THE PURCHASER WITH AN
16 IMMEDIATE ALTERNATE AND COMPARABLE FINAL RESTING PLACE AT THE
17 SAME CEMETERY OR WITH A FULL REFUND OF MONEYS PAID TO QUALIFY
18 FOR THE EXEMPTION UNDER THIS SUBSECTION (2).

19 **SECTION 4.** In Colorado Revised Statutes, **amend** 10-15-104 as
20 follows:

21 **10-15-104. Annual report.** Each contract seller shall file ~~an~~
22 ~~annual~~ WITH THE COMMISSIONER A report, on a calendar year basis, ~~with~~
23 ~~the commissioner~~ on a form as provided by the commissioner. In the
24 ~~annual~~ report, each contract seller ~~who~~ THAT is required to deposit funds
25 with a trustee shall state the name of each trustee ~~with which it has~~
26 WHERE trust funds ARE on deposit and the amount remaining on deposit
27 in the trust fund on December 31. ~~Each contract seller shall report~~

1 ~~annually the amount of all annual preneed aggregate merchandise sales~~
2 ~~and the disposition of such merchandise.~~ Any contract seller ~~which~~ THAT
3 has voluntarily or involuntarily discontinued the sale of preneed contracts
4 ~~shall not be required to~~ NEED NOT obtain a renewal of its license but it
5 shall continue to make annual reports to the commissioner until all ~~such~~
6 THE contracts have been fully performed. ~~by it and shall pay fifty percent~~
7 ~~of the fee structure prescribed by section 10-15-103 (5) (b).~~

8 **SECTION 5.** In Colorado Revised Statutes, 10-15-105, **amend**
9 (4) introductory portion, (4) (j), and (9); and **add** (10) and (11) as follows:

10 **10-15-105. Contract requirements - refund - full performance.**

11 (4) Each preneed contract ~~shall~~ MUST:

12 (j) Contain a provision stating that the contract seller is
13 responsible for furnishing the merchandise and services expressed in the
14 preneed contract unless the contract buyer is in default, the contract is
15 canceled, or the assignment funding the contract is void, canceled, or
16 otherwise reduced in value by action of the contract buyer. The preneed
17 contract ~~shall provide that in the case of the death of the preneed contract~~
18 ~~beneficiary, the contract buyer or, if the contract buyer is deceased, such~~
19 ~~buyer's heirs, assigns, or duly authorized representatives are entitled to a~~
20 ~~full return of consideration instead of performance by the contract seller.~~
21 It shall further MUST provide ~~whether or not a preneed contract,~~ in case
22 of default or cancellation, a preneed contract ~~which~~ THAT has not been
23 performed, or promissory note executed in connection therewith, may
24 allow the contract seller to retain liquidated damages. ~~In no event shall~~
25 ~~such liquidated damages exceed the lesser of the funds received or fifteen~~
26 ~~percent of the total preneed contract price.~~ EXCEPT AS PROVIDED IN
27 SUBSECTION (9) OF THIS SECTION, LIQUIDATED DAMAGES THAT EXCEED

1 THE LESSER OF FUNDS RECEIVED OR FIFTEEN PERCENT OF THE TOTAL
2 PRENEED CONTRACT PRICE ARE VOID. ~~Such~~ THIS LEVEL OF liquidated
3 damages ~~are~~ IS deemed to be the reasonable value of administrative and
4 sales costs incurred.

5 (9) (a) Notwithstanding any other provision of this section to the
6 contrary, upon the request and consent of the contract buyer, a preneed
7 contract, related trust, or assignment of the ownership or the benefits of
8 a life insurance policy may be made irrevocable. However, the contract
9 buyer, or ~~his or her heirs, assigns, or duly authorized representatives~~ THE
10 PERSON WITH THE RIGHT OF FINAL DISPOSITION may, at any time before
11 performance, transfer the funds or the assignment to ~~any other~~ ANOTHER
12 contract seller or general provider as required by applicable laws.

13 (b) THE CONTRACT BUYER OR, IF THE CONTRACT BUYER HAS DIED,
14 THE PERSON AUTHORIZED TO DIRECT THE DISPOSITION OF THE DECEASED
15 CONTRACT BUYER, MAY TRANSFER THE TRUST FUNDS OR THE INSURANCE
16 POLICY THAT WILL BE USED TO PAY FOR THE PRENEED CONTRACT TO
17 ANOTHER FUNERAL PROVIDER. THE ORIGINAL PRENEED SELLER MAY
18 RETAIN UP TO TWENTY-FIVE PERCENT OF THE ORIGINAL PRENEED
19 CONTRACT PURCHASE PRICE.

20 (10) THE CONTRACT SELLER SHALL DISCLOSE TO THE CONTRACT
21 BUYER THAT THE TRUSTEE IS REQUIRED TO NOTIFY THE BUYER WHEN THE
22 PRENEED CONTRACT FUNDS ARE DEPOSITED INTO TRUST OR WHEN THEY
23 ARE APPLIED TOWARD THE PURCHASE OF THE INSURANCE POLICY THAT
24 WILL FUND THE PRENEED CONTRACT. TO COMPLY WITH THIS SUBSECTION
25 (10), THE DISCLOSURE MUST ADVISE THE CONSUMER TO CONTACT THE
26 COMMISSIONER IF CONFIRMATION IS NOT RECEIVED BY A SPECIFIED TIME.

27 (11) IF A PRENEED CONTRACT DOES NOT GUARANTEE THE PRICES

1 CHARGED, IT MUST BE CLEARLY IDENTIFIED AS A "NONGUARANTEED
2 PRICE". THE AMOUNT TO BE PAID BY THE PURCHASER IS DETERMINED
3 WHEN THE SERVICES OR THE MERCHANDISE ARE NEEDED.

4 **SECTION 6.** In Colorado Revised Statutes, 10-15-107, **add** (4)
5 as follows:

6 **10-15-107. Deposit of funds with trustee.** (4) A TRUSTEE
7 RECEIVING DEPOSITS FROM A PRENEED CONTRACT OR AN INSURANCE
8 COMPANY ISSUING AN INSURANCE POLICY TO FUND A PRENEED CONTRACT
9 SHALL ISSUE A NOTICE CONFIRMING THE DEPOSIT OR THE INSURANCE
10 POLICY PURCHASE TO THE CONTRACT BUYER BY A SPECIFIED TIME AFTER
11 RECEIVING THE FUNDS.

12 **SECTION 7.** In Colorado Revised Statutes, **add** 10-15-111.5 as
13 follows:

14 **10-15-111.5. Change of ownership - rules.** (1) (a) A CHANGE IN
15 OWNERSHIP OR CONTROL OF THE BUSINESS OF A CONTRACT SELLER IS VOID
16 UNLESS APPROVED BY THE COMMISSIONER UNDER THIS SECTION. TO
17 TRANSFER OWNERSHIP OR CONTROL, THE CONTRACT SELLER MUST REPORT
18 A PENDING SALE OF THE BUSINESS TO THE COMMISSIONER IN WRITING AT
19 LEAST FOURTEEN DAYS BEFORE THE SALE CLOSING. THE NOTICE MUST
20 INCLUDE:

- 21 (I) THE NAME AND ADDRESS OF THE CONTRACT SELLER;
- 22 (II) THE NAME AND ADDRESS OF THE ORGANIZATION PROPOSING
23 TO ACQUIRE OWNERSHIP OR CONTROL OF THE BUSINESS OR PROPERTY OF
24 THE CONTRACT SELLER, REFERRED TO IN THIS SECTION AS THE
25 "TRANSFeree";
- 26 (III) THE NAME AND ADDRESS OF THE OWNERS, OPERATORS,
27 CORPORATE OFFICERS, PARTNERS, OR MEMBERS OF THE TRANSFeree;

1 (IV) THE NAME AND ADDRESS OF THE FINANCIAL INSTITUTION
2 WHERE PRENEED FUNDS ARE HELD;

3 (V) THE NAME UNDER WHICH PRENEED FUNDS ARE HELD;

4 (VI) A DESCRIPTION OF EACH PRENEED CONTRACT,
5 ARRANGEMENT, OR AGREEMENT INCLUDED IN THE SALE OF THE BUSINESS;

6 (VII) AN ACCOUNTING OF THE TRUST FUND AND ALL TRANSFERRED
7 AND OUTSTANDING PRENEED CONTRACTS, INCLUDING THE NUMBER OF
8 PENDING CONTRACTS, THE FULL CONTRACT VALUE, THE CURRENT VALUE
9 FOR EACH CONTRACT, A RECORD OF ALL DISBURSEMENTS FROM PRENEED
10 TRUST ACCOUNTS WITHIN THE LAST TWENTY-FOUR MONTHS, AND THE
11 INFORMATION REQUIRED IN THE ANNUAL REPORT;

12 (VIII) ANY DOCUMENTS OR AMENDMENTS THERETO CONCERNING
13 THE TRUST OR INSURANCE FUNDS, OR ANY OTHER PREPLANNING OR
14 PREFUNDING AGREEMENTS;

15 (IX) A COPY OF THE NOTICE PROPOSED TO BE SENT TO THE
16 CONTRACT BUYERS AFTER THE TRANSFER; AND

17 (X) ANY OTHER INFORMATION THAT IS REASONABLY REQUIRED BY
18 THE COMMISSIONER BY RULE.

19 (b) THE COMMISSIONER MAY, BY RULE OR ORDER, WAIVE OR
20 REDUCE ANY OR ALL OF THE REQUIREMENTS IN SUBPARAGRAPHS (I) TO (X)
21 OF PARAGRAPH (a) OF THIS SUBSECTION (1) AS UNNECESSARY OR
22 INAPPROPRIATE IN THE PUBLIC INTEREST OR FOR THE PROTECTION OF THE
23 CONTRACT BUYERS.

24 (2) A CHANGE IN OWNERSHIP OR CONTROL OF THE BUSINESS OF A
25 CONTRACT SELLER OCCURS WHEN:

26 (a) THE CONTRACT SELLER TRANSFERS ALL OR A PORTION OF THE
27 INTEREST IN A PRENEED CONTRACT;

1 (b) THE CONTRACT SELLER TRANSFERS AN ESTABLISHMENT FOR
2 PROVIDING MERCHANDISE OR SERVICES;

3 (c) THE CONTRACT SELLER TRANSFERS ALL OF ITS BUSINESS
4 ASSETS THAT ARE USED TO PROVIDE MERCHANDISE OR SERVICES;

5 (d) A PORTION OF THE EQUITY OWNERSHIP OF A CONTRACT SELLER
6 IS TRANSFERRED RESULTING IN A CHANGE OF:

7 (I) THE CONTROLLING INTEREST OF A CONTRACT SELLER IF THE
8 CONTRACT SELLER IS A CORPORATION; OR

9 (II) OWNERSHIP OF A CONTRACT SELLER IF THE CONTRACT SELLER
10 IS NOT A CORPORATION.

11 (3) THE COMMISSIONER SHALL APPROVE THE CONTRACT SELLER'S
12 APPLICATION FOR CHANGE OF OWNERSHIP BY WRITTEN AUTHORIZATION IF:

13 (a) THE ACCOUNTING IS COMPLETE, ACCURATE, AND SHOWS THE
14 TRUST FUND IS WHOLE AND INTACT;

15 (b) ALL REQUIRED INFORMATION AND DOCUMENTS ARE FILED WITH
16 THE COMMISSIONER; AND

17 (c) THE TRANSFEREE HOLDS A VALID CONTRACT SELLER'S LICENSE,
18 OR IS QUALIFIED UNDER SECTION 10-15-103 FOR A CONTRACT SELLER'S
19 LICENSE, AND IS ABLE TO PERFORM ALL TRANSFERRED PRENEED
20 CONTRACTS IN ACCORDANCE WITH THIS ARTICLE.

21 (4) (a) THE CONTRACT SELLER, OR PERSON WITH AN INTEREST
22 THEREIN, REMAINS LIABLE FOR ALL FUNDS AND TRANSACTIONS UNTIL THE
23 EFFECTIVE DATE OF THE TRANSFER.

24 (b) ANY DISCREPANCIES, MALFEASANCE, OR FRAUD PRIOR TO THE
25 SALE OF THE BUSINESS IS THE RESPONSIBILITY OF THE SELLER, FOR WHICH
26 THE SELLER IS LIABLE.

27 (5) WITHIN THIRTY DAYS AFTER APPROVAL BY THE

1 COMMISSIONER, THE TRANSFEREE OF A PRENEED CONTRACT SHALL SEND
2 A NOTICE TO THE LAST-KNOWN ADDRESS OF EACH CONTRACT BUYER
3 INFORMING THE BUYER OF THE CHANGE IN OWNERSHIP AND THE
4 ASSUMPTION OF THE OBLIGATION TO PERFORM THE PRENEED CONTRACT.

5 **SECTION 8.** In Colorado Revised Statutes, **amend** 10-15-116 as
6 follows:

7 **10-15-116. Surrender of license.** (1) ~~Any contract seller may~~
8 ~~surrender such contract seller's license by delivering it to the~~
9 ~~commissioner with written notice of its surrender, but such surrender~~
10 ~~shall not affect the contract seller's civil or criminal liability for acts~~
11 ~~committed prior thereto.~~ A CONTRACT SELLER MAY SURRENDER A LICENSE

12 BY:

13 (a) FILING WRITTEN NOTICE WITH THE COMMISSIONER;

14 (b) SUBMITTING A LIST OF ALL OUTSTANDING PRENEED
15 CONTRACTS, INCLUDING THE NAME OF THE CONTRACT BUYER, THE
16 METHOD OF FUNDING FOR THE PRENEED CONTRACT, THE PRENEED
17 CONTRACT PRICE, THE AMOUNT OF FUNDS RECEIVED, AND THE AMOUNT OF
18 FUNDS HELD IN TRUST;

19 (c) PAYING ALL OUTSTANDING FINES AND INVOICES DUE TO THE
20 STATE OF COLORADO; AND

21 (d) SUBMITTING THE CURRENT CERTIFICATE OF AUTHORITY.

22 (2) UPON RECEIPT OF THE NOTICE, THE COMMISSIONER SHALL
23 REVIEW THE PRENEED CONTRACT SELLER'S TRUST FUNDS AND EVIDENCE
24 OF ALL OUTSTANDING PRENEED CONTRACTS.

25 (3) UPON DETERMINING THAT THE AVAILABLE ASSETS ARE
26 SUFFICIENT TO MEET ANY REMAINING PRENEED CONTRACT LIABILITIES,
27 THE COMMISSIONER SHALL DEACTIVATE THE LICENSE.

1 (4) THE CONTRACT SELLER SHALL CONTINUE TO KEEP THE TRUST
2 FUND INTACT AND IN TRUST AFTER THE LICENSE IS INACTIVE, AND THE
3 TRUSTEE SHALL DISBURSE THE FUNDS IN TRUST IN ACCORDANCE WITH
4 PRENEED CONTRACTS UNTIL THE FUNDS ARE EXHAUSTED.

5 (5) THE COMMISSIONER HAS JURISDICTION OVER THE INACTIVE
6 CONTRACT SELLER AND TO REQUIRE THE REPORTS REQUIRED BY SECTION
7 10-15-104 AND INSPECT THE RECORDS REQUIRED BY THIS ARTICLE SO
8 LONG AS THERE ARE FUNDS IN TRUST OR PRENEED CONTRACTS THAT ARE
9 NOT FULFILLED. WHEN THE FUNDS IN TRUST ARE EXHAUSTED OR EACH
10 PRENEED CONTRACT IS FULFILLED, THE COMMISSIONER SHALL FINALLY
11 CANCEL THE LICENSE OF THE CONTRACT SELLER.

12 (6) UPON A FINDING THAT AN EMERGENCY EXISTS THAT WILL
13 HARM CONSUMERS, THE COMMISSIONER MAY BY ORDER ADMINISTER
14 PRENEED CONTRACTS AND ACCOUNTS IF THE BUSINESS OF THE CONTRACT
15 SELLER CLOSES DUE TO FINANCIAL INSOLVENCY, CRIMINAL ACTIVITY, OR
16 LICENSE SUSPENSION.

17 **SECTION 9. Act subject to petition - effective date -**
18 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following
19 the expiration of the ninety-day period after final adjournment of the
20 general assembly (August 7, 2013, if adjournment sine die is on May 8,
21 2013); except that, if a referendum petition is filed pursuant to section 1
22 (3) of article V of the state constitution against this act or an item, section,
23 or part of this act within the period, then the act, item, section, or part will
24 not take effect unless approved by the people at the general election to be
25 held in November 2014 and, in such case, will take effect on the date of
26 the official declaration of the vote thereon by the governor.

- 1 (2) This act applies to preneed contracts created on or after the
- 2 applicable effective date of this act.