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SALUS POPULI SUPREMA LEX ESTO

“The welfare of the people shall be the supreme law.”



ROBIN CARNAHAN
SECRETARY OF STATE

MISSOURI
REGISTER

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Documents will be accepted for filing on all regular workdays from 8:00 a.m. until 5:00 p.m. We encourage early filings to facilitate the timely publication of the *Missouri Register*. Orders of Rulemaking appearing in the *Missouri Register* will be published in the *Code of State Regulations* and become effective as listed in the chart above. Advance notice of large volume filings will facilitate their timely publication. We reserve the right to change the schedule due to special circumstances. Please check the latest publication to verify that no changes have been made in this schedule. To review the entire year's schedule, please check out the website at <http://www.sos.mo.gov/adrules/pubsched.asp>

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HOW TO CITE RULES AND RSMo

RULES—Cite material in the *Missouri Register* by volume and page number, for example, Vol. 28, *Missouri Register*, page 27. The approved short form of citation is 28 MoReg 27.

The rules are codified in the *Code of State Regulations* in this system—

Title	Code of State Regulations	Division	Chapter	Rule
1	CSR	10-	1.	010
Department		Agency, Division	General area regulated	Specific area regulated

They are properly cited by using the full citation, i.e., 1 CSR 10-1.010.

Each department of state government is assigned a title. Each agency or division within the department is assigned a division number. The agency then groups its rules into general subject matter areas called chapters and specific areas called rules. Within a rule, the first breakdown is called a section and is designated as (1). Subsection is (A) with further breakdown into paragraph 1., subparagraph A., part (I), subpart (a), item I. and subitem a.

RSMo—The most recent version of the statute containing the section number and the date.

Rules appearing under this heading are filed under the authority granted by section 536.025, RSMo 2000. An emergency rule may be adopted by an agency if the agency finds that an immediate danger to the public health, safety, or welfare, or a compelling governmental interest requires emergency action; follows procedures best calculated to assure fairness to all interested persons and parties under the circumstances; follows procedures which comply with the protections extended by the *Missouri* and the *United States Constitutions*; limits the scope of such rule to the circumstances creating an emergency and requiring emergency procedure, and at the time of or prior to the adoption of such rule files with the secretary of state the text of the rule together with the specific facts, reasons, and findings which support its conclusion that there is an immediate danger to the public health, safety, or welfare which can be met only through the adoption of such rule and its reasons for concluding that the procedure employed is fair to all interested persons and parties under the circumstances.

Rules filed as emergency rules may be effective not less than ten (10) days after filing or at such later date as may be specified in the rule and may be terminated at any time by the state agency by filing an order with the secretary of state fixing the date of such termination, which order shall be published by the secretary of state in the *Missouri Register* as soon as practicable.

All emergency rules must state the period during which they are in effect, and in no case can they be in effect more than one hundred eighty (180) calendar days or thirty (30) legislative days, whichever period is longer. Emergency rules are not renewable, although an agency may at any time adopt an identical rule under the normal rulemaking procedures.

**Title 20—DEPARTMENT OF INSURANCE,
FINANCIAL INSTITUTIONS AND PROFESSIONAL
REGISTRATION
Division 2120—State Board of Embalmers and Funeral
Directors
Chapter 3—Preneed
EMERGENCY RULE**

20 CSR 2120-3.100 Notice of Intent to Apply

PURPOSE: This emergency rule describes the board's procedure for filing a notice of intent to apply for licensure/registration under the new requirements contained in Chapters 333 and 436, RSMo, which became effective on August 28, 2009.

EMERGENCY STATEMENT: During the First Regular Session of the 95th General Assembly, House Committee Substitute for Senate Substitute for Senate Committee substitute for Senate Bill 1 was passed. This legislation required for the first time that preneed sellers and preneed providers be licensed and for preneed agents to be registered. This legislation enhanced enforcement powers of both the board and the Office of the Attorney General. Additionally, this legislation strengthened consumer protection and preneed contracts funded through trust, insurance, and joint accounts. This legislation took effect August 28, 2009.

The impetus for this bill was the 2008 collapse of Missouri's largest preneed funeral plan seller, National PreArranged Services

(NPS), a St. Louis based preneed funeral plan seller. NPS sold preneed funeral plans in approximately forty-four (44) states and had estimated liabilities of one (1) billion dollars. NPS and its sister insurance companies are being liquidated by the District Court of Travis County, Texas. NPS was the largest third party preneed funeral plan seller in the state of Missouri and was the seller of approximately seven thousand (7,000) preneed funeral plans in Missouri at the time liquidation proceedings began. The repercussions of the liquidation of NPS will be felt throughout all of Missouri for years to come. Funeral homes will receive payment of much less than NPS promised to provide for funeral services, and some Missourians will be faced with the situation of having to pay twice for a funeral because there will be no funds available through the liquidation proceedings and there may be no funeral home in Missouri obligated to provide the funeral services. The ripple effects of this liquidation will also be felt in the economies of many Missouri communities. This matter has resulted in approximately two hundred (200) complaints to the board. Multiple lawsuits have been filed against NPS, and one of NPS's central figures was recently placed under federal indictment.

Now that this legislation has passed and was effective on August 28, 2009, this emergency rule is necessary to preserve a compelling governmental interest of establishing a process through which preneed sellers, providers, and agents can continue preneed business until their newly required applications for licensure or registration can be received, reviewed, and approved or denied by the board. In the absence of such a rule, any preneed business beginning August 28, 2009, would be unlicensed activity subject under this legislation to potential administrative discipline, injunctive action, or criminal prosecution.

Adoption of this rule only through the ordinary rulemaking process will leave no provision for the preneed industry to conduct any business in the state of Missouri until after individual licenses can be submitted to, reviewed by, and approved or denied by the board.

As a result, the Missouri State Board of Embalmers and Funeral Directors finds that there is a compelling governmental interest that requires this emergency action. The scope of this emergency rule is limited to the circumstances creating the emergency and complies with the protections extended in the *Missouri* and *United States Constitutions*. The Missouri State Board of Embalmers and Funeral Directors believes this emergency rule is fair to all interested persons and parties under the circumstances. This emergency rule was filed August 28, 2009, effective September 7, 2009, and expires March 5, 2010.

(1) Any person wishing to conduct business as a preneed seller or preneed provider or wishing to register as a preneed sales agent (the applicant) must fully complete and file with the state board a "Notice of Intent to Apply for Licensure/Registration" (notice of intent) prior to engaging in any conduct for which a preneed seller license, a preneed provider license, or a preneed sales agent registration is required. The board shall provide the notice of intent as an electronic document on its website. No fee shall be required to accompany the notice of intent. Only the official notice of intent form shall be accepted by the board.

(2) Applicants may file the notice of intent with the board by hand delivery, by mail, by fax, or by other electronic means such as email. If the notice of intent is filed by fax or other electronic means, the applicant shall also provide the original signed document to the board by mail or other delivery method.

(3) All applicants must meet the requirements for licensure as set forth in Chapter 333, RSMo, and must certify that, to the best of their knowledge, they are eligible for licensure/registration.

(4) If the board determines that the applicant lacks the statutory qualifications for licensure/registration, the board may terminate the temporary authorization to practice under the notice of intent by notifying the applicant in writing of the termination and the reason for the termination. An applicant may apply for full licensure or registration even if the board has terminated his/her authority to practice pursuant to the notice of intent.

(5) Any applicant who has filed a notice of intent must file their completed application for licensure or registration with the board no later than October 31, 2009.

(6) The applicant shall keep a copy of the notice of intent and shall prominently display this notice of intent as if it were a license or registration issued pursuant to Chapter 333, RSMo.

(7) Any person with a filed notice of intent shall be authorized to engage in the practice of preneed selling, providing, or as a sales agent, as so indicated on the notice of intent, provided that the applicant has timely filed his/her application for licensure and/or registration. This authorization to practice shall be effective from the date the board receives the notice of intent and shall end on the date the board either issues a license or registration or denies the application for licensure/registration or until midnight on December 31, 2009, whichever comes first. The board shall promptly notify the applicant of its decision to issue a license/registration or its denial of same.

(8) Any conduct that may be cause for discipline that occurs between August 28, 2009, and December 31, 2009, shall be considered by the board in its decision to issue or deny any application for licensure and/or registration. In addition, if the board issues a license or registration and later discovers conduct that would be cause for discipline occurred between August 28, 2009, and December 31, 2009, the board shall have authority to seek discipline against the licensee or registree for that conduct as if the person were fully licensed or registered while operating under the authority of the notice of intent.

AUTHORITY: sections 333.011, 333.315, 333.320, 333.325, and 333.340, as amended by Senate Bill 1 (2009). Emergency rule filed Aug. 28, 2009, effective Sept. 7, 2009, expires March 5, 2010.

The Secretary of State shall publish all executive orders beginning January 1, 2003, pursuant to section 536.035.2, RSMo Supp. 2008.

EXECUTIVE ORDER 09-22

WHEREAS, the State of Missouri is committed to creating jobs and growing our economy; and

WHEREAS, the home building sector represents thousands of jobs and is an integral part of the economy of the State of Missouri; and

WHEREAS, the current economic climate has created challenges for the home building sector and for many Missouri families wanting to purchase new and energy-efficient homes; and

WHEREAS, the State of Missouri is committed to supporting both the building of homes and home ownership as ways to stimulate our economy; and

WHEREAS, in addition, it is recognized that there are measures that will increase energy efficiency in homes; and

WHEREAS, it is recognized that improving consumer access to residential energy efficiency measures will save consumers money and improve the environment.

NOW THEREFORE, I, JEREMIAH W. (JAY) NIXON, GOVERNOR OF THE STATE OF MISSOURI, by virtue of the authority vested in me by the Constitution and laws of the State of Missouri, do hereby appoint the Home Building and Residential Energy Efficiency Advisory Panel and charge it with the duty to determine how this Administration can assist the home building sector, and to determine how the State of Missouri can improve consumer access to energy-efficient measures in homes, and to advise how the State of Missouri can help achieve these goals.

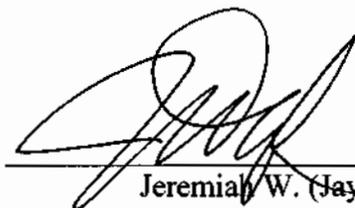
This Advisory Panel shall issue recommendations to me no later than October 15, 2009. The Advisory Panel will consist of people from the home building sector, banking, real estate, trade unions and persons with knowledge and expertise in energy efficiency and "green" building. The Advisory Panel shall consist of the following members, and such other members as I may deem necessary to appoint at a later date:

Ralph Bicknese, Wildwood
Gerald Feldhaus, St. Charles
Bob Frost, Blue Springs
Travis Graham, Blue Springs
Bruce Greer, Marshall
Andy Hosmer, Springfield
Joe Hudson, Kansas City
Sharon Keating, Jefferson City

Marc Lopata, Clayton
Jeff Martin, Cape Girardeau
Elizabeth Mendenhall, Columbia
Richard Millman, Ladue
Stuart Murr, Springfield
Jeffrey Reese, Independence
Richard Reilly, St. Louis
Tom Shimmens, Jefferson City
Ken Stricker, Chesterfield
Pat Sullivan, St. Charles
Brad Williams, Eminence

This Advisory Panel shall terminate on October 15, 2009, unless extended by executive order.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Missouri, in the City of Jefferson, on this 20th day of August, 2009.

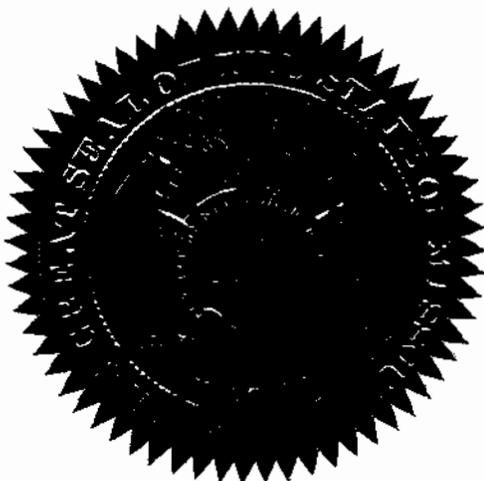


Jeremiah W. (Jay) Nixon
Governor

ATTEST:



Robin Carnahan
Secretary of State



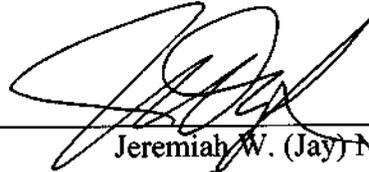
EXECUTIVE ORDER
09-23

WHEREAS, Section 105.454(5), RSMo, requires the Governor to designate those members of his staff who have supervisory authority over each department, division or agency of the state government.

NOW THEREFORE, I, JEREMIAH W. (JAY) NIXON, GOVERNOR OF MISSOURI, by virtue and authority vested in me by the Constitution and laws of the State of Missouri, do hereby designate the following members of my staff as having supervisory authority over the following departments, divisions or agencies:

Office of Administration	Jeff Harris
Department of Agriculture	Jeff Harris
Department of Conservation	Daniel Hall
Department of Corrections	Daniel Hall
Department of Economic Development	Jeff Harris
Department of Elementary and Secondary Education	Jeff Harris
Department of Health and Senior Services	Daniel Hall
Department of Higher Education	Jeff Harris
Department of Insurance, Financial Institutions and Professional Registration	Mary Nelson
Department of Labor and Industrial Relations	Jeff Harris
Department of Mental Health	Mayme Miller
Department of Natural Resources	Jeff Mazur
Department of Public Safety	Edward R. Ardini, Jr.
Department of Revenue	Jeff Harris
Department of Social Services	Daniel Hall
Department of Transportation	Daniel Hall
Missouri Housing Development Commission	Rex Burlison
Boards Assigned to the Governor	Mary Nelson
Unassigned Boards and Commissions	Mary Nelson.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Missouri, in the City of Jefferson, on this 1st day of September, 2009.



Jeremiah W. (Jay) Nixon
Governor

ATTEST:



Robin Carnahan
Secretary of State