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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 11—DEPARTMENT OF PUBLIC SAFETY
Division 45—Missouri Gaming Commission
Chapter 30—Bingo**

EMERGENCY AMENDMENT

11 CSR 45-30.190 Rules of Play. The commission is amending section (1) and adding section (4).

PURPOSE: This emergency amendment is due to a statutory change. The rule clarifies the hours a bingo licensee can conduct bingo. This emergency amendment also establishes the maximum prize amount each licensee can award at a bingo occasion.

EMERGENCY STATEMENT: This emergency amendment is necessary to preserve the limit on the aggregate retail value of all prizes and merchandise awarded in a single day of bingo and to adjust the hours pull tabs may be sold to coincide with statutory changes.

House Committee Substitute for Senate Bill 940 as truly agreed to and finally passed during the Second Regular Session of the Ninety-fifth General Assembly and signed by the governor requires that the daily maximum aggregate retail value of all prizes or merchandise awarded, except prizes or merchandise awarded by pull-tab cards and progressive bingo games, be set by the commission per regulation. The maximum payout in a single day of three thousand six hundred dollars (\$3,600) was previously set in statute. The intent of the legislation was not to remove the limit and thereby expand gambling in the state of Missouri, but to place the responsibility of overseeing

the limit with the commission.

If this emergency amendment is not enacted, there is no set limit to the prize amounts. With the removal of this maximum payout from the statute prior to it being set in rule, some larger bingo organizations could advertise excessive payouts in an attempt to control the market. By keeping a maximum payout in force, all licensed charities, large and small, can remain equally competitive in a declining market. In addition, without this emergency amendment, the larger charities may advertise excessive payouts that they may not be able to afford resulting in a loss of trust by the public and affecting the overall integrity of charitable gaming.

The Missouri Gaming Commission contacted the Association of Charitable Games of Missouri in an effort to assure fairness to all organizations. No opposition to keeping a limit on the aggregate retail value of all prizes or merchandise was expressed.

Without the emergency amendment regarding the time pull tabs may be sold, the statutory change would contradict the present rule and cause confusion of when pull tabs can be sold.

This emergency amendment is necessary to protect public health, safety, and welfare. As a result, the Missouri Gaming Commission finds a compelling governmental interest, which requires this emergency action. A proposed amendment which covers the same material is published in this issue of the *Missouri Register*. The scope of this emergency amendment is limited to the circumstances creating the emergency and complies with the protections extended in the *Missouri* and *United States Constitutions*. The Missouri Gaming Commission believes this emergency amendment is fair to all interested persons and parties under the circumstances. This emergency amendment was filed July 28, 2010, effective August 28, 2010, and expires February 23, 2011.

(1) Except for pull-tab games, a bingo game begins with the first letter and number drawn (called). Bingo paper may be sold no more than two (2) hours prior to the start of the first bingo game, however, no pull-tab sales may start before [10:00] 7:00 a.m. The paper and/or pull-tab sales time must be clearly posted in the licensee's house or game rules. All bingo paper and/or pull tabs must be sold by approved workers and sales times are subject to approval by the commission.

(4) The aggregate retail value of all prizes or merchandise awarded, except prizes or merchandise awarded by pull-tab cards and progressive bingo games, in any single day of bingo may not exceed three thousand six hundred dollars (\$3,600).

AUTHORITY: section 313.040, HCS for SB 940, Second Regular Session, Ninety-fifth General Assembly, 2010 and section 313.065, RSMo 2000. Emergency rule filed June 21, 1994, effective July 1, 1994, expired Oct. 28, 1994. Emergency rule filed Oct. 19, 1994, effective Oct. 29, 1994, expired Feb. 25, 1995. Original rule filed July 11, 1994, effective Jan. 29, 1995. For intervening history, please consult the *Code of State Regulations*. Emergency amendment filed July 28, 2010, effective Aug. 28, 2010, expires Feb. 23, 2011. A proposed amendment covering this same material is published in this issue of the *Missouri Register*.

**Title 20—DEPARTMENT OF INSURANCE,
FINANCIAL INSTITUTIONS AND PROFESSIONAL
REGISTRATION**

**Division 2030—Missouri Board for Architects,
Professional Engineers, Professional Land Surveyors,
and Landscape Architects
Chapter 6—Fees**

EMERGENCY AMENDMENT

20 CSR 2030-6.015 Application, Renewal, Reinstatement, Relicensure, and Miscellaneous Fees. The board is proposing to amend the title and subsection (1)(M).

PURPOSE: The board is statutorily obligated to enforce and administer the provisions of section 327.081, RSMo. Fees collected by the board should be set at a level sufficient, but not excessive, to cover the cost and expense to the board for administering the provisions of Chapter 327, RSMo. Therefore, the board is proposing to decrease the individual renewal fee for the 2011 fiscal year.

EMERGENCY STATEMENT: This emergency amendment is necessary to preserve a compelling governmental interest of enforcing section 327.081, RSMo, by adjusting the fees collected by the board to cover only the costs and expenses of the board. An emergency rulemaking or early effective date is necessary to inform the public of a change in the individual renewal fee required for the renewal of such license. The board is proposing to decrease the individual renewal fee from sixty dollars (\$60) to thirty-five dollars (\$35). The emergency amendment is necessary to allow the board to collect the decreased renewal fee during the 2010 renewal period. In developing this emergency amendment, the board has determined that the fee decrease is necessary to prevent funds from exceeding the maximum fund balance as set forth in section 327.081, RSMo. Pursuant to section 324.001.10, RSMo, "A compelling governmental interest shall be deemed to exist for the purposes of section 536.025, RSMo, for licensure fees to be reduced by emergency rule, if the projected fund balance of any agency assigned to the division of professional registration is reasonably expected to exceed an amount that would require transfer from that fund to general revenue." The scope of the emergency amendment is limited to the circumstances creating the emergency and complies with the protections extended in the *Missouri and United States Constitutions*. The board believes this emergency amendment to be fair to all interested parties under the circumstances. A proposed amendment, which covers this same material, is published in this issue of the *Missouri Register*. This emergency amendment was filed July 20, 2010, becomes effective July 30, 2010, and expires February 24, 2011.

(1) The following fees are established by the Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Landscape Architects:

(M) Individual Renewal Fee \$[60]35

AUTHORITY: section 327.041, RSMo Supp. [2007] 2009. This rule originally filed as 4 CSR 30-6.015. Emergency rule filed Aug. 12, 1981, effective Aug. 22, 1981, expired Dec. 10, 1981. Original rule filed Aug. 12, 1981, effective Nov. 12, 1981. For intervening history, please consult the *Code of State Regulations*. Emergency amendment filed July 20, 2010, effective July 30, 2010, expires Feb. 24, 2011. A proposed amendment covering this same material is published in this same issue of the *Missouri Register*.

**Title 20—DEPARTMENT OF INSURANCE,
FINANCIAL INSTITUTIONS AND PROFESSIONAL
REGISTRATION**

**Division 2120—State Board of Embalmers and Funeral
Directors**

Chapter 2—General Rules

EMERGENCY AMENDMENT

20 CSR 2120-2.100 Fees. The board is proposing to add subsections (1)(X), (1)(AA), and (1)(DD), remove subsections (1)(BB) and (1)(CC), amend subsections (1)(W) through (1)(DD), and reletter subsections (1)(X) through (1)(GG).

PURPOSE: The State Board of Embalmers and Funeral Directors is

statutorily obligated to enforce and administer the provisions of Chapter 333, RSMo and sections 436.400 to 436.525, RSMo. Pursuant to sections 333.III and 436.520, RSMo, the board shall by rule and regulation set the amount of fees authorized by Chapter 333, RSMo and sections 436.400 to 436.520, RSMo, so that the revenue produced is sufficient, but not excessive, to cover the cost and expense to the board for administering the provisions of Chapter 333, RSMo and sections 436.400 to 436.525, RSMo. Therefore, the board is proposing to adopt new fees associated with the implementation of Senate Bill 1, 95th General Assembly, First Regular Session (2009).

EMERGENCY STATEMENT: During the First Regular Session of the 95th General Assembly, 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 board met in various open sessions prior to the implementation of Senate Bill 1 to set application fees in order to license preneed sellers and preneed providers and registered preneed agents in order to continue to serve the death care consumers. The rule that established the application fees became effective by emergency rule on October 6, 2009, and the proposed rule became effective April 30, 2010. After the initial licensure process was completed for providers, sellers, and preneed agents, the board was then able to establish the renewal fee based on actual number of licenses that were issued versus using an estimated number.

The division and its boards utilize a rolling five (5)-year financial analysis process to evaluate fund balances, establish fee structures and assess budgetary needs. The five (5)-year analysis is based on the projected revenue, expenses, and number of licensees. Between August 28, 2009, and the July 2010 board meeting, the board met several times to evaluate the estimated cost of implementation of SB1. Once the initial licensing activities were complete, board staff began working closely with division staff in March 2010, to develop a proposed fee schedule wherein the actual number of licensees and the five (5)-year analysis were considered. The proposed fee schedule was reviewed and approved by the board at their July 2010 meeting. The board also considered all of these factors and determined that the fees are absolutely necessary to maintain the fund balance as required by statute and are set at the minimal amount necessary to cover the expenses.

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 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 (1) of NPS's central figures was recently placed under federal indictment.

Now that this legislation has passed and became effective on August 28, 2009, this emergency amendment is necessary to preserve a compelling governmental interest of establishing fees to cover the

expenses of section 436.470, RSMo, which authorizes the board to conduct inspections, investigations, financial examinations of books and records, and audits of preneed providers, sellers, and preneed agents. Without the collection of these fees the board will be unable to meet its statutory responsibility relating to conducting inspections, investigations, financial examinations of books and records, and audits. The board receives a majority of its revenue during the annual reporting period and renewal. Renewal notices are mailed to licensees on or about August 1 in order for the license to be renewed by October 31. Pursuant to section 436.460.4(7), RSMo, the license of the seller will be suspended if it is not renewed prior to October 31.

Adoption of this amendment only through the ordinary rule making process would preclude the board from setting fees for its licensees and registrants under the new requirements of Chapters 333 and 436 and would preclude licensees and registrants from being able to meet the statutory requirements for the renewal of licensure or registration, thus precluding them from doing business in the state of Missouri.

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 amendment 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 amendment is fair to all interested persons and parties under the circumstances. This emergency amendment was filed July 26, 2010, effective August 5, 2010, and expires February 24, 2011.

(1) The following fees hereby are established by the State Board of Embalmers and Funeral Directors:

(W) Provider <i>[Biennial]</i> Annual Renewal Fee	\$/* *70
(X) Provider Delinquent Renewal Fee	\$100
<i>[(X)](Y)</i> Seller License Application Fee	\$[75]200
<i>[(Y)](Z)</i> Seller <i>[Biennial]</i> Annual Renewal Fee	\$/* *200
(AA) Seller Delinquent Renewal Fee	\$200
<i>[(Z)](BB)</i> <i>[Seller]</i> Preneed Agent Registration Fee	\$50
<i>[(AA)](CC)</i> <i>[Seller]</i> Preneed Agent <i>[Biennial]</i> Annual Registration Renewal Fee	\$/* *50
(DD) Preneed Agent Delinquent Renewal Fee	\$50
<i>[(BB)]</i> Seller Annual Report Fee	\$ * *]
<i>[(CC)]</i> Seller Annual Report Late Fee	\$ * *]
<i>[(DD)](EE)</i> Preneed Seller Agent Law Examination Fee	\$**
<i>[(EE)](FF)</i> Seller per Contract Annual Reporting Fee (for contracts executed on or after August 28, 2009)	\$36
<i>[(FF)](HH)</i> Amended Provider Application Fee	\$25
<i>[(GG)](II)</i> Amended Seller Application Fee	\$25

*This fee will not apply to the initial copy of the law book which is automatically mailed to all applicants for licensure and to educational institutions of mortuary science. Furthermore, this fee will not be charged to licensees or any other individual, for additions or corrections to the law book after the initial copy is mailed.

**This fee is not yet determined by the board.

AUTHORITY: section 333.111.1, RSMo 2000 and section 333.340, RSMo Supp. 2009. This rule originally filed as 4 CSR 120-2.100. Emergency rule filed June 30, 1981, effective July 9, 1981, expired Nov. 11, 1981. Original rule filed June 30, 1981, effective Oct. 12, 1981. For intervening history, please consult the **Code of State Regulations**. Emergency Amendment filed July 26, 2010, effective Aug. 5, 2010, expires Feb. 24, 2011. A proposed amendment covering this same material is published in this issue of the **Missouri Register**.

The Secretary of State shall publish all executive orders beginning January 1, 2003, pursuant to section 536.035.2, RSMo Supp. 2009.

EXECUTIVE ORDER 10-25

WHEREAS, the severe storm systems that began on June 12, 2010, created a condition that constituted a significant threat to the health, safety, welfare, and property of the citizens of the State of Missouri beyond the capabilities of some local jurisdictions, and other established agencies; and

WHEREAS, since the severe storms began, state agencies, including the State Emergency Management Agency, Missouri Department of Corrections, Missouri State Highway Patrol, Missouri Department of Natural Resources, and Missouri State Water Patrol, have provided resources and assistance to affected communities; and

WHEREAS, Executive Order 10-22 was issued on June 21, 2010, declaring a State of Emergency within the State of Missouri and directing the resources of the state to assist affected local communities and help relieve the condition of distress and hazard to the safety and welfare of our fellow Missourians; and

WHEREAS, Executive Order 10-22 expires on July 20, 2010, and

WHEREAS, ongoing rains and storm systems continue to have a significant detrimental impact on the state; and

WHEREAS, the State Emergency Management Agency continues to work with local officials to provide resources and coordinate ongoing response efforts throughout these events; and

WHEREAS, the State Emergency Management Agency has advised me that the resources of the State of Missouri may still be needed to assist affected jurisdictions and our fellow Missourians; and

WHEREAS, the State of Missouri will continue to be proactive where the health and safety of the citizens of Missouri are concerned.

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 extend the declaration of emergency contained in Executive Order 10-22 for the purpose of protecting the safety and welfare of our fellow Missourians.

This order shall terminate on August 19, 2010, unless extended in whole or in part.




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 July, 2010.



Jeremiah W. (Jay) Nixon
Governor

ATTEST:



Robin Carnahan
Secretary of State