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SALUS POPULI SUPREMA LEX ESTO

*"The welfare of the people shall be the supreme law."*



ROBIN CARNAHAN  
SECRETARY OF STATE

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## IN THIS ISSUE:

### EMERGENCY RULES

**Department of Public Safety**  
 Missouri Gaming Commission . . . . . 85

**Department of Insurance, Financial Institutions and Professional Registration**  
 State Board of Embalmers and Funeral Directors . . . . . 88

### PROPOSED RULES

**Office of Administration**  
 Personnel Advisory Board and Division of Personnel . . . . . 98

**Department of Public Safety**  
 Missouri Gaming Commission . . . . . 99

**Retirement Systems**  
 Missouri Local Government Employees' Retirement System (LAGERS) . . . . . 104

**Department of Insurance, Financial Institutions and Professional Registration**  
 State Board of Embalmers and Funeral Directors . . . . . 105

### ORDERS OF RULEMAKING

**Department of Conservation**  
 Conservation Commission . . . . . 114

**Department of Labor and Industrial Relations**  
 Division of Employment Security . . . . . 119

**Department of Natural Resources**  
 Clean Water Commission . . . . . 119

**Department of Health and Senior Services**  
 Division of Regulation and Licensure . . . . . 119

### Department of Insurance, Financial Institutions and Professional Registration

State Board of Chiropractic Examiners . . . . . 120

Missouri Board of Geologist Registration . . . . . 121

State Board of Registration for the Healing Arts . . . . . 121

Board of Therapeutic Massage . . . . . 122

State Board of Nursing . . . . . 123

Missouri State Committee of Interpreters . . . . . 123

Real Estate Appraisers . . . . . 123

Missouri Real Estate Commission . . . . . 124

### IN ADDITIONS

**Department of Health and Senior Services**  
 Missouri Health Facilities Review Committee . . . . . 126

### DISSOLUTIONS . . . . . 127

### SOURCE GUIDES

**RULE CHANGES SINCE UPDATE** . . . . . 133

**EMERGENCY RULES IN EFFECT** . . . . . 142

**EXECUTIVE ORDERS** . . . . . 145

**REGISTER INDEX** . . . . . 147

Register Filing Deadlines	Register Publication Date	Code Publication Date	Code Effective Date
September 1, 2009 September 15, 2009	<b>October 1, 2009</b> <b>October 15, 2009</b>	October 31, 2009 October 31, 2009	November 30, 2009 November 30, 2009
October 1, 2009 October 15, 2009	<b>November 2, 2009</b> <b>November 16, 2009</b>	November 30, 2009 November 30, 2009	December 30, 2009 December 30, 2009
November 2, 2009 November 16, 2009	<b>December 1, 2009</b> <b>December 15, 2009</b>	December 31, 2009 December 31, 2009	January 30, 2010 January 30, 2010
December 1, 2009 December 15, 2009	<b>January 4, 2010</b> <b>January 15, 2010</b>	January 29, 2010 January 29, 2010	February 28, 2010 February 28, 2010
January 4, 2010 January 15, 2010	<b>February 1, 2010</b> <b>February 16, 2010</b>	February 28, 2010 February 28, 2010	March 30, 2010 March 30, 2010
February 1, 2010 February 16, 2010	<b>March 1, 2010</b> <b>March 15, 2010</b>	March 31, 2010 March 31, 2010	April 30, 2010 April 30, 2010
March 1, 2010 March 15, 2010	<b>April 1, 2010</b> <b>April 15, 2010</b>	April 30, 2010 April 30, 2010	May 30, 2010 May 30, 2010
April 1, 2010 April 15, 2010	<b>May 3, 2010</b> <b>May 17, 2010</b>	May 31, 2010 May 31, 2010	June 30, 2010 June 30, 2010
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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.

**R**ules 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.

**R**ules 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.

**A**ll 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 11—Taxation Regulations**

**EMERGENCY AMENDMENT**

**11 CSR 45-11.020 Deposit Account—Taxes and Fees.** The commission is amending sections (5)–(7).

*PURPOSE:* This amendment establishes the requirement for daily deposits into the operating account for taxes and fees.

*EMERGENCY STATEMENT:* This emergency amendment is necessary to preserve a compelling governmental interest by providing a method for the Missouri Gaming Commission to receive the admission taxes and adjusted gross receipts (AGR) due to the state on a daily basis rather than the current once-a-week format.

The Missouri Gaming Commission has been in budget planning meetings with the Office of Administration's Division of Budget and Planning, the Treasurer's Office, and the Department of Revenue in an effort to find ways to efficiently use the state's monies.

The Missouri Gaming Commission contacted the Missouri Gaming Association and personnel from the casino's accounting departments in an effort to assure fairness to all casinos. No opposition was expressed. The casino's funds are in non-interest-bearing accounts, so there is no loss of funds by the casinos. The casinos foresee no problems with meeting the deadline for daily transfer of funds versus the weekly transfers that are currently used.

The real value of this emergency amendment is the ability to use

the money on a daily basis. An additional benefit will be recognized in the daily transfer of funds to the state into interest-bearing accounts. Potentially, this will earn additional interest for the state of \$3.65 million dollars during the first year. This daily cash flow will benefit the Proceeds for Education Fund, and Early Childhood Development programs. Home dock funds for the cities which host a casino may also benefit from the daily funds.

Without this emergency amendment, it will cause a six (6)-month delay and a missed opportunity to have more financial resources in terms of interest and cash flow that would be beneficial to the state budget during this economically critical situation.

The daily transfer of taxes will ensure maximum cash flow of these monies and will in turn help the current financial state budget situation. The cost savings to the state is immeasurable and substantial against any cost to implement, as it maximizes cash flow of state funds, with the only cost being the daily versus weekly electronic transfer of monies. If this emergency amendment is not enacted, the current procedures will delay providing monies to the state cash flow. It is imperative to adopt these procedures so that the state will be provided the flexibility to use these funds on a daily basis.

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 December 2, 2009, becomes effective January 6, 2010, and expires July 4, 2010.

(5) As a condition of its license, each licensee shall establish and, after that, maintain [two (2) accounts] an operating account at a designated financial institution capable of handling electronic fund transfers. I, the deposit accounts. These accounts shall be designated, in substance, by the following language: "Name of licensee, for the benefit of the Missouri Gaming Commission." J The licensee must notify the commission of the financial institution where funds are deposited. No change of financial institution may be made without prior commission approval.

(6) Each Class A licensee, as a condition of licensure, shall deposit into [separate] two (2) accounts an amount sufficient to cover its estimated liability for the gaming tax and the admission fee imposed by section 313.820, RSMo, representing [the first week] the average liability for the gaming tax and the admission fee for two (2) days of operation. These accounts shall be designated, in substance, by the following language: "Name of licensee, for the benefit of the Missouri Gaming Commission."

(7) Licensees. Beginning in the first month, second day of operation, each licensee, as a condition of its license, shall deposit daily into the [deposit account] operating account an amount sufficient to cover the estimated tax and fee liabilities for the previous day. The licensee then shall timely remit from the operating account to the commission the gaming tax and admissions fee for each daily period that is defined as the business day for the purpose of establishing the estimated tax and fee liabilities.

(D) In the event that the licensee's adjusted gross receipts result in a negative tax due or if overpayment is made and amended with the commission within the same weekly period which, for purposes of this section, means Wednesday of each week through the following Tuesday, the licensee may adjust their payment by the overpaid amount on the next gaming day's subsequent payment. In the event that the licensee's adjusted gross receipts result in a

**negative tax due or if overpayment is made and amended in a subsequent week**, the licensee shall file a Claim for Refund or Credit Form, included herein, along with the tax return.

(E) Every Claim for Refund or Credit Form must be in writing under oath and must state the specific grounds upon which the claim is founded. *[Amended returns are required to be filed for all periods involved within the weekly period defined in 11 CSR 45-11.030.]*

*AUTHORITY: sections 313.004 and 313.807, RSMo 2000 and sections 313.800, 313.805, 313.820, 313.822, and 313.835, RSMo Supp. 2008. Emergency rule filed Sept. 1, 1993, effective Sept. 20, 1993, expired Jan. 17, 1994. Emergency rule filed Jan. 5, 1994, effective Jan. 18, 1994, expired Jan. 30, 1994. Original rule filed Sept. 1, 1993, effective Jan. 31, 1994. For intervening history, please consult the Code of State Regulations. Emergency amendment filed Dec. 2, 2009, effective Jan. 6, 2010, expires July 4, 2010. A proposed amendment covering this same material is published in this issue of the Missouri Register.*

**Title 11—DEPARTMENT OF PUBLIC SAFETY  
Division 45—Missouri Gaming Commission  
Chapter 11—Taxation Regulations**

**EMERGENCY AMENDMENT**

**11 CSR 45-11.030 Payment—Gaming Tax.** The commission is amending sections (1), (2), and (7).

*PURPOSE: This amendment updates the payment procedure for gaming taxes.*

*EMERGENCY STATEMENT: This emergency amendment is necessary to preserve a compelling governmental interest by providing a method for the Missouri Gaming Commission to receive the admission taxes and adjusted gross receipts (AGR) due to the state on a daily basis rather than the current once-a-week format.*

*The Missouri Gaming Commission has been in budget planning meetings with the Office of Administration's Division of Budget and Planning, the Treasurer's Office, and the Department of Revenue in an effort to find ways to efficiently use the state's monies.*

*The Missouri Gaming Commission contacted the Missouri Gaming Association and personnel from the casino's accounting departments in an effort to assure fairness to all casinos. No opposition was expressed. The casino's funds are in non-interest-bearing accounts, so there is no loss of funds by the casinos. The casinos foresee no problems with meeting the deadline for daily transfer of funds versus the weekly transfers that are currently used.*

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*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 December 2, 2009, becomes effective January 6, 2010, and expires July 4, 2010.*

(1) The licensee shall timely remit from the *[deposit]* operating account to the commission the gaming tax for each *[weekly]* daily period *[which, for purposes of this section, means Wednesday of each week through the following Tuesday]* that is defined as the business day for the purpose of establishing the estimated tax and fee liabilities.

(2) The *[weekly]* daily remittance shall be automatically made from the licensee's *[deposit]* operating account and shall be deemed timely if credited to the deposit account designated by the commission on or before 12:00 p.m. Central Standard Time on the first day financial institutions are open for business after the close of *[the day following each weekly period]* the business day on which the estimated liabilities were established.

(7) The commission may waive the penalty against any licensee during the first two (2) months the licensee is obligated to make *[weekly]* daily remittance of the gaming tax; provided that all due remittances are paid in full at the end of the two (2)-month period, along with interest as determined under 11 CSR 45-11.120(2).

*AUTHORITY: sections 313.004 and 313.807, RSMo [1994] 2000 and sections 313.805, 313.822, and 313.835, RSMo Supp. [1997] 2008. Emergency rule filed Sept. 1, 1993, effective Sept. 20, 1993, expired Jan. 17, 1994. Emergency rule filed Jan. 5, 1994, effective Jan. 18, 1994, expired Jan. 30, 1994. Original rule filed Sept. 1, 1993, effective Jan. 31, 1994. For intervening history, please consult the Code of State Regulations. Emergency amendment filed Dec. 2, 2009, effective Jan. 6, 2010, expires July 4, 2010. A proposed amendment covering this same material is published in this issue of the Missouri Register.*

**Title 11—DEPARTMENT OF PUBLIC SAFETY  
Division 45—Missouri Gaming Commission  
Chapter 11—Taxation Regulations**

**EMERGENCY AMENDMENT**

**11 CSR 45-11.050 Admission Fee.** The commission is amending section (2) and dividing a portion into section (3).

*PURPOSE: This amendment updates the procedure for payment of admission fees.*

*EMERGENCY STATEMENT: This emergency amendment is necessary to preserve a compelling governmental interest by providing a method for the Missouri Gaming Commission to receive the admission taxes and adjusted gross receipts (AGR) due to the state on a daily basis rather than the current once-a-week format.*

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(2) [An admission fee paid by the licensee to the commission shall be deposited into a separate deposit account. This deposit account shall be one separate and apart from the account established for the gaming tax.] **The licensee shall timely remit from the operating account to the commission the admission fee for each daily period that is defined as the business day for the purpose of establishing the estimated tax and fee liabilities.**

(3) Not less than once per month on a date to be selected by the commission, disbursement shall be made from this account to the home dock city or county designated by the licensee of moneys owed to home dock city or county. The remaining amount of the admission fee shall be deposited in the state treasury to the credit of the Gaming Commission Fund for the purpose of funding the administrative costs of the commission relating to excursion gambling boat operations, subject to appropriation.

*AUTHORITY:* section 313.004, RSMo 2000 and sections 313.805 and 313.820, RSMo Supp. 2008. Emergency rule filed Sept. 1, 1993, effective Sept. 20, 1993, expired Jan. 17, 1994. Emergency rule filed Jan. 5, 1994, effective Jan. 18, 1994, expired Jan. 30, 1994. Original rule filed Sept. 1, 1993, effective Jan. 31, 1994. Emergency amendment filed Oct. 29, 2008, effective Nov. 15, 2008, expired May 13, 2009. Amended: Filed Oct. 29, 2008, effective April 30, 2009. Emergency amendment filed Dec. 2, 2009, effective Jan. 6, 2010,

expires July 4, 2010. A proposed amendment covering this same material is published in this issue of the *Missouri Register*.

**Title 11—DEPARTMENT OF PUBLIC SAFETY  
Division 45—Missouri Gaming Commission  
Chapter 11—Taxation Regulations**

**EMERGENCY AMENDMENT**

**11 CSR 45-11.070 Return and Payment—Admission Fee.** The commission is amending sections (3), (4), (7), and (9).

*PURPOSE:* This amendment updates the procedure for payment returns for the admission fees.

*EMERGENCY STATEMENT:* This emergency amendment is necessary to preserve a compelling governmental interest by providing a method for the Missouri Gaming Commission to receive the admission taxes and adjusted gross receipts (AGR) due to the state on a daily basis rather than the current once-a-week format.

The Missouri Gaming Commission has been in budget planning meetings with the Office of Administration's Division of Budget and Planning, the Treasurer's Office, and the Department of Revenue in an effort to find ways to efficiently use the state's monies.

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(3) The licensee shall timely remit from the [deposit] operating account to the commission the admission fee for each [weekly] daily

period [which for purposes of this section, means Wednesday of each week through the following Tuesday] that is defined as the business day for the purpose of establishing the estimated tax and fee liabilities.

(4) The [weekly] daily remittance shall be automatically made from the licensee's [deposit] operating account and shall be deemed timely if credited to the deposit account designated by the commission on or before 12:00 p.m. Central Standard Time on the first day financial institutions are open for business after the close of [the day following each weekly period] the business day on which the estimated liabilities were established. These deposits shall be made via an electronic funds transfer system employing an automated clearinghouse method.

(7) In the case of an underpayment of any [weekly] daily amount to be paid, the licensee shall be liable for interest on the delinquent amount as determined under 11 CSR 45-11.120(2) and for a penalty which shall be five percent (5%) of the amount of the underpayment.

(9) The commission may waive the penalty against any licensee during the first two (2) months the licensee is obligated to make [weekly] daily remittance of the admission fee; provided that all due remittances are paid in full at the end of the two (2)-month period, along with interest as determined under 11 CSR 45-11.120(2).

*AUTHORITY: section[s] 313.004, RSMo [1994] 2000 and sections 313.805[,] and 313.820, RSMo Supp. 2008. Emergency rule filed Sept. 1, 1993, effective Sept. 20, 1993, expired Jan. 17, 1994. Emergency rule filed Jan. 5, 1994, effective Jan. 18, 1994, expired Jan. 30, 1994. Original rule filed Sept. 1, 1993, effective Jan. 31, 1994. For intervening history, please consult the Code of State Regulations. Emergency amendment filed Dec. 2, 2009, effective Jan. 6, 2010, expires July 4, 2010. A proposed amendment covering this same material is published in this issue of the Missouri Register.*

**Title 11—DEPARTMENT OF PUBLIC SAFETY  
Division 45—Missouri Gaming Commission  
Chapter 11—Taxation Regulations**

**EMERGENCY AMENDMENT**

**11 CSR 45-11.130 Failure to File Return or Pay Tax or Fee.** The commission is amending section (2).

*PURPOSE: This amendment updates the procedure for determining failure to file required returns.*

*EMERGENCY STATEMENT: This emergency amendment is necessary to preserve a compelling governmental interest by providing a method for the Missouri Gaming Commission to receive the admission taxes and adjusted gross receipts (AGR) due to the state on a daily basis rather than the current once-a-week format.*

*The Missouri Gaming Commission has been in budget planning meetings with the Office of Administration's Division of Budget and Planning, the Treasurer's Office, and the Department of Revenue in an effort to find ways to efficiently use the state's monies.*

*The Missouri Gaming Commission contacted the Missouri Gaming Association and personnel from the casino's accounting departments in an effort to assure fairness to all casinos. No opposition was expressed. The casino's funds are in non-interest-bearing accounts, so there is no loss of funds by the casinos. The casinos foresee no problems with meeting the deadline for daily transfer of funds versus the weekly transfers that are currently used.*

*The real value of this emergency amendment is the ability to use the money on a daily basis. An additional benefit will be recognized in the daily transfer of funds to the state into interest-bearing accounts. Potentially, this will earn additional interest for the state of*

*\$3.65 million dollars during the first year. This daily cash flow will benefit the Proceeds for Education Fund, and Early Childhood Development programs. Home dock funds for the cities which host a casino may also benefit from the daily funds.*

*Without this emergency amendment, it will cause a six (6)-month delay and a missed opportunity to have more financial resources in terms of interest and cash flow that would be beneficial to the state budget during this economically critical situation.*

*The daily transfer of taxes will ensure maximum cash flow of these monies and will in turn help the current financial state budget situation. The cost savings to the state is immeasurable and substantial against any cost to implement, as it maximizes cash flow of state funds, with the only cost being the daily versus weekly electronic transfer of monies. If this emergency amendment is not enacted, the current procedures will delay providing monies to the state cash flow. It is imperative to adopt these procedures so that the state will be provided the flexibility to use these funds on a daily basis.*

*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 December 2, 2009, becomes effective January 6, 2010, and expires July 4, 2010.*

(2) In case of failure to deposit accurate estimates of the gaming tax or admission fee on or before the date prescribed for deposit [into the deposit accounts] to the commission (determined with regard to any extension of time for payment), unless it is shown that the failure is due to reasonable cause and not the result of willful neglect, evasion or fraudulent intent, there shall be added to the tax or fee an amount equal to five percent (5%) of the deficiency.

*AUTHORITY: sections 313.004[,] and 313.830, RSMo 2000 and sections 313.800, 313.805, and 313.822, RSMo Supp. [1997] 2008. Emergency rule filed Sept. 1, 1993, effective Sept. 20, 1993, expired Jan. 17, 1994. Emergency rule filed Jan. 5, 1994, effective Jan. 18, 1994, expired Jan. 30, 1994. Original rule filed Sept. 1, 1993, effective Jan. 31, 1994. Amended: Filed Dec. 15, 1997, effective July 30, 1998. Emergency amendment filed Dec. 2, 2009, effective Jan. 6, 2010, expires July 4, 2010. 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 2120—State Board of Embalmers and Funeral  
Directors  
Chapter 2—General Rules**

**EMERGENCY RULE**

**20 CSR 2120-2.130 Final Disposition as Defined in Chapter 193**

*PURPOSE: This emergency rule explains that the use of the term "final disposition" in Chapter 333, RSMo, and sections 436.400 to 436.520, RSMo, shall be consistent with the definition of the term in Chapter 193, RSMo.*

*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 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 (1) 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 maintaining consistent use of the term "final disposition" in the Missouri Revised Statutes.

Adoption of this rule only through the ordinary rulemaking process would risk inconsistent use and application of the term "final disposition" which could result in violation of Chapter 333, RSMo, and sections 436.400 to 436.520, RSMo, or Chapter 193, RSMo. These potential violations could harm consumers of preneed services.

As a result, the 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 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 December 4, 2009, becomes effective December 14, 2009, and expires June 11, 2010.

(1) For purposes of Chapter 333, RSMo, and sections 436.400 to 436.520, RSMo, final disposition shall be defined in accordance with the definition contained in section 193.015(3), RSMo.

(2) Use of the term final disposition in Chapter 333, RSMo, and sections 436.400 to 436.520, RSMo, shall be consistent with its use in Chapter 193, RSMo.

*AUTHORITY:* section 193.015, RSMo Supp. 2008 and sections 333.340, 333.011(10), 436.405, and 436.520, as amended by Senate Bill 1, 95th General Assembly, First Regular Session 2009. Emergency rule filed Dec. 4, 2009, effective Dec. 14, 2009, expires June 11, 2010. A proposed rule covering this same material is published in this 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 RULE**

**20 CSR 2120-2.140 Financial Welfare Cause for Injunction**

*PURPOSE:* This emergency rule states that serious danger to an individual's financial welfare is cause for the State Board of Embalmers and Funeral Directors to seek an injunction pursuant to section 333.335.1(2), RSMo.

*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 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 (1) 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 preventing harm to the financial welfare of consumers of preneed services by including harm to financial welfare as a basis for the board seeking an injunction against persons engaging in the practices regulated by Chapter 333, RSMo, and sections 436.400 to 436.520, RSMo.

Adoption of this rule only through the ordinary rulemaking process would risk financial harm to consumers of preneed services under Chapter 333, RSMo, and sections 436.400 to 436.520, RSMo, by allowing harmful practices to continue without being subject to being enjoined.

As a result, the 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 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 December 4, 2009, becomes effective December 14, 2009, and expires June 11, 2010.

(1) For purposes of section 333.335, RSMo, the Missouri State Board of Embalmers and Funeral Directors shall be entitled to seek injunctive relief against any person from engaging in any business or practice authorized by a registration or authority, permit, or license issued under this chapter in a manner that presents a substantial probability of serious danger to the health, safety, or welfare of any resident of this state or client or customer of the licensee or registrant.

(2) For purposes of section 333.335, RSMo, serious danger to the welfare of any resident or client or customer shall include, but is not limited to, the financial welfare of the resident, client, or customer.

*AUTHORITY: sections 333.340, 333.335, and 436.520, as amended by Senate Bill 1, 95th General Assembly, First Regular Session 2009. Emergency rule filed Dec. 4, 2009, effective Dec. 14, 2009, expires June 11, 2010. A proposed rule covering this same material is published in this 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 RULE**

**20 CSR 2120-2.150 Payment Not Determining Factor of Practice  
of Funeral Directing**

*PURPOSE: This emergency rule explains that the receipt of payment for providing funeral services is not the determining factor in identifying the practice of funeral directing.*

*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 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 (1) 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 preventing harm to consumers of preneed and funeral services by stating that payment is not the determining factor in identifying the practice of funeral directing. Without this emergency rule, those practicing pursuant to Chapter 333, RSMo, and sections 436.400 to 436.520, RSMo, could try and evade the requirements or responsibilities of Chapter 333, RSMo, and sections 436.400 to 436.520, RSMo, if the consumer had not yet made payment.*

*Adoption of this rule only through the ordinary rulemaking process would risk harm to consumers of funeral and preneed services under Chapter 333, RSMo, and sections 436.400 to 436.520, RSMo, by allowing evasion of the requirements contained in Chapter 333, RSMo, and sections 436.400 to 436.520, RSMo, if the consumer has not made payment for the services.*

*As a result, the 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 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 December 4, 2009, becomes effective December 14, 2009, and expires June 11, 2010.*

(1) In determining whether a person, pursuant to section 333.011(6), RSMo, is engaging in the practice of funeral directing pursuant to section 333.011(8), RSMo, the board shall consider all activities listed in section 333.011(8), RSMo.

(2) Receipt of payment by any person for any or all services provided pursuant to this chapter or Chapter 436, RSMo, shall not be the determining factor in determining whether the person is engaging in the practice of funeral directing.

*AUTHORITY: sections 333.340, 333.011(8), and 436.520, as amended by Senate Bill 1, 95th General Assembly, First Regular Session 2009. Emergency rule filed Dec. 4, 2009, effective Dec. 14, 2009, expires June 11, 2010. A proposed rule covering this same material is published in this 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 3—Preneed**

**EMERGENCY RULE**

**20 CSR 2120-3.115 Contact Information**

*PURPOSE: This emergency rule details the requirements for preneed providers, sellers, and agents for providing the board with current contact information.*

*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 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 (1) 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 protecting consumers of preneed services by requiring preneed sellers, providers, and agents to provide the board with current contact information.

Adoption of this rule only through the ordinary rulemaking process would risk harm to consumers of preneed services because it will preclude the board from having current contact information for preneed sellers, providers, and agents. Without current contact information, the board cannot properly regulate its licensees and registrants pursuant to Chapter 333, RSMo, and sections 436.400 to 436.520, RSMo. This could result in consumers and the board not being able to contact licensees and registrants regarding services provided. It could also result in the board not being able to complete inspections or visits of licensees and registrants. The end result is potential harm, including financial harm, to consumers.

As a result, the 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 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 December 4, 2009, becomes effective December 14, 2009, and expires June 11, 2010.

(1) Preneed providers, sellers, and agents shall keep the board notified of their current address, telephone number, facsimile number, and email address, as applicable, at all times.

(2) Preneed providers, sellers, and agents shall notify the board within thirty (30) days of any such change by submitting written notice with the new information. The written notice shall comply with the board's rules regarding written notice.

*AUTHORITY: sections 333.340, 333.320, and 436.520, as amended by Senate Bill 1, 95th General Assembly, First Regular Session 2009. Emergency rule filed Dec. 4, 2009, effective Dec. 14, 2009, expires June 11, 2010. A proposed rule covering this same material is published in this 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 3—Preneed**

**EMERGENCY RULE**

**20 CSR 2120-3.120 Display of License**

*PURPOSE: This emergency rule states that preneed sellers, providers, and preneed agents must prominently display their license or registration to practice issued by the Missouri State Board of Embalmers and Funeral Directors.*

*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 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 (1) 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 protecting consumers of preneed services by requiring preneed sellers, providers, and agents to display their license or registration in their place of business.

Adoption of this rule only through the ordinary rulemaking process would risk harm to consumers of preneed services because it will prevent consumers or board investigators from identifying validly licensed or registered preneed providers, sellers, and agents.

As a result, the 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 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 December 4, 2009, becomes effective December 14, 2009, and expires June 11, 2010.

(1) All licenses or registrations, and any and all duplicate copies thereof, issued by the Missouri State Board of Embalmers and Funeral Directors shall be prominently displayed at all times in a conspicuous location or manner easily accessible to the public for each office or place of business of the licensee or registrant.

(2) All licenses or registrations shall be available at all times for inspection by any duly authorized agent of the Missouri State Board of Embalmers and Funeral Directors.

(3) The Missouri State Board of Embalmers and Funeral Directors may cause a complaint to be filed with the Administrative Hearing Commission pursuant to section 333.330, RSMo, for failure of a licensee or registrant to display his or her license or registration as required by section 333.091, RSMo, and this regulation.

*AUTHORITY: sections 333.340, 333.330, and 436.520, as amended by Senate Bill 1, 95th General Assembly, First Regular Session 2009.*

Emergency rule filed Dec. 4, 2009, effective Dec. 14, 2009, expires June 11, 2010. A proposed rule covering this same material is published in this 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 3—Preneed  
EMERGENCY RULE**

**20 CSR 2120-3.200 Seller Obligations**

*PURPOSE:* This emergency rule clarifies the duties of the seller of a preneed contract.

*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 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 (1) 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 protecting consumers of preneed services by establishing the requirements for preneed sellers in the state of Missouri.

Adoption of this rule only through the ordinary rulemaking process would risk harm to consumers of preneed services because it will not clearly and fully establish the requirements for preneed sellers under the new requirements contained in Chapter 333, RSMo, and sections 436.400 to 436.520, RSMo, which became effective August 28, 2009.

As a result, the 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 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 December 4, 2009, becomes effective December 14, 2009, and expires June 11, 2010.

(1) Except as otherwise provided in sections 436.400 to 436.520, RSMo, and any rules validly promulgated pursuant to those sections—

(A) The seller shall be obligated to collect and properly deposit and disburse all payments made by, or on behalf of, a purchaser of a preneed contract;

(B) A purchaser may make payments on any preneed contract by making the payment directly to the trustee, the insurance company, or the financial institution where the joint account is held, as applicable, in lieu of paying the seller; and

(C) All sellers shall designate an individual to serve as manager in charge of the seller's business. This individual shall either reside or work within the state of Missouri. The seller shall designate the manager in charge in its initial application for licensure. If the manager in charge changes, the seller shall provide written notice to the board within thirty (30) days of the change.

*AUTHORITY:* sections 333.340, 436.415, and 436.520, as amended by Senate Bill 1, 95th General Assembly, First Regular Session 2009. Emergency rule filed Dec. 4, 2009, effective Dec. 14, 2009, expires June 11, 2010. A proposed rule covering this same material is published in this 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 3—Preneed  
EMERGENCY RULE**

**20 CSR 2120-3.300 Provider Includes Funeral Establishment**

*PURPOSE:* This emergency rule establishes that a provider in a preneed contract includes, but is not limited to, a funeral establishment that has agreed to undertake the obligations of a preneed contract under sections 436.400 to 436.520, RSMo.

*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 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 (1) 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 protecting consumers of preneed services by establishing that funeral establishments are also providers of preneed services.

Adoption of this rule only through the ordinary rulemaking process would risk harm to consumers of preneed services because it would not be clearly set out that funeral establishments are also providers and subject to the requirements for preneed providers under the revised Chapter 333, RSMo, and sections 436.400 to 436.520, RSMo, which became effective August 28, 2009.

As a result, the 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 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 December 4, 2009, becomes effective December 14, 2009, and expires June 11, 2010.

(1) As defined by section 333.011(10), RSMo, the provider of services under any preneed contract pursuant to sections 436.400 to 436.520, RSMo, shall include any licensed funeral establishment that has agreed to undertake the obligations of a preneed contract pursuant to sections 436.400 to 436.520, RSMo.

(2) Any provider who is a licensed funeral establishment who has agreed to undertake the obligations of a preneed contract pursuant to sections 436.400 to 436.520, RSMo, must meet all requirements of both a licensed funeral establishment and a preneed provider pursuant to Chapter 333, RSMo, and sections 436.400 to 436.520, RSMo.

*AUTHORITY:* sections 333.340, 333.011(10), and 436.520, as amended by Senate Bill 1, 95th General Assembly, First Regular Session 2009. Emergency rule filed Dec. 4, 2009, effective Dec. 14, 2009, expires June 11, 2010. A proposed rule covering this same material is published in this 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 3—Preneed**

**EMERGENCY RULE**

**20 CSR 2120-3.305 Funeral Director Agent Registration**

*PURPOSE:* This emergency rule establishes the reporting requirement for any funeral directors serving as preneed agents.

*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 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 (1) 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 protecting consumers of preneed services by requiring funeral directors acting as preneed seller's agents to report the sellers for whom they work to the board.

Adoption of this rule only through the ordinary rulemaking process would risk harm to consumers of preneed services because it would allow funeral directors acting as agents for sellers to do business outside the requirements of Chapter 333, RSMo, and sections 436.400 to 436.520, RSMo, effective August 28, 2009.

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 December 4, 2009, becomes effective December 14, 2009, and expires June 11, 2010.

(1) Any funeral director acting as a preneed agent shall report the name and address of each preneed seller for whom the funeral director is authorized to sell, negotiate, or solicit preneed contracts to the board on a form prescribed by the board.

(2) Any funeral director shall also identify himself or herself as acting as a preneed agent on his or her biennial report form to the board by checking the appropriate box on the form prescribed by the board.

*AUTHORITY:* sections 333.340, 333.325.4, and 436.520, as amended by Senate Bill 1, 95th General Assembly, First Regular Session 2009. Emergency rule filed Dec. 4, 2009, effective Dec. 14, 2009, expires June 11, 2010. A proposed rule covering this same material is published in this 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 3—Preneed**

**EMERGENCY RULE**

**20 CSR 2120-3.310 Change in Seller Affiliation**

**PURPOSE:** This emergency rule explains the provider's obligation for a change in seller affiliation under a preneed contract.

**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 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 (1) 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 protecting consumers of preneed services by establishing the requirements for providers and sellers of a preneed contract when there is a change in seller affiliation.

Adoption of this rule only through the ordinary rulemaking process would risk harm to consumers of preneed services because it would allow providers and sellers to change affiliation without giving notice to the consumer or the board which could lead to the board's inability to regulate the contract and the licensees and the consumer's inability to contact his or her seller under the contract.

As a result, the 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 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 December 4, 2009, becomes effective December 14, 2009, and expires June 11, 2010.

(1) After initial application, if there is a change in seller affiliation, the provider shall provide written notice to the board, pursuant to section 436.420.3, RSMo, that the provider has authorized a new seller to designate the provider on the seller's preneed contracts. This notice shall be provided to the board within fifteen (15) days after the provider authorizes the seller to act, and the notice shall contain, at least:

- (A) Name and address of the provider;
- (B) License number of the provider;
- (C) Name and address of the seller; and
- (D) Effective date of the authorization or agreement

(2) This notice may be provided to the board electronically, but the

original signed document shall be provided to the board by mail or hand delivery.

**AUTHORITY:** sections 333.340, 333.325.4, and 436.520, as amended by Senate Bill 1, 95th General Assembly, First Regular Session 2009. Emergency rule filed Dec. 4, 2009, effective Dec. 14, 2009, expires June 11, 2010. A proposed rule covering this same material is published in this 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 3—Preneed

#### EMERGENCY RULE

#### 20 CSR 2120-3.400 Preneed Agents—Requirements of Agent's Seller

**PURPOSE:** This emergency rule explains that any licensed preneed agent in the state of Missouri must be selling preneed contracts on behalf of a seller who is licensed in the state of Missouri.

**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 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 (1) 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 protecting consumers of preneed services by requiring that all preneed agents registered to sell preneed contracts for or on behalf of a seller must be the agent of a seller who is licensed by the board to sell preneed contracts.

Adoption of this rule only through the ordinary rulemaking process would risk harm to consumers of preneed services because agents may otherwise be able to sell preneed contracts for unlicensed sellers.

As a result, the 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 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 December 4, 2009, becomes effective December 14, 2009, and expires June 11, 2010.*

(1) Any preneed agent registered by the Missouri State Board of Embalmers and Funeral Directors to sell a preneed contract for or on behalf of a seller must be the agent of a seller who is licensed to sell preneed contracts by the State Board of Embalmers and Funeral Directors.

*AUTHORITY: sections 333.340, 333.011(9), 333.320, 333.325, and 436.520, as amended by Senate Bill 1, 95th General Assembly, First Regular Session 2009. Emergency rule filed Dec. 4, 2009, effective Dec. 14, 2009, expires June 11, 2010. A proposed rule covering this same material is published in this 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 3—Preneed**

**EMERGENCY RULE**

**20 CSR 2120-3.410 Preneed Agent's Seller Must be Licensed**

*PURPOSE: This emergency rule explains that any licensed preneed agent in the state of Missouri must be selling preneed contracts on behalf of a seller who is licensed in the state of Missouri.*

*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 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 (1) 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 protecting consumers of preneed services by requiring that preneed agents must sell preneed on behalf of a seller who is licensed by the board.*

*Adoption of this rule only through the ordinary rulemaking process would risk harm to consumers of services because it will not require preneed sellers and providers to obtain a license from the board or preneed agents to obtain a registration. Operation without license and registration puts consumers at risk of harm including, but not limited to, financial harm. Licensure and registration allows the board to serve its duty in protecting the public.*

*As a result, the 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 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 December 4, 2009, becomes effective December 14, 2009, and expires June 11, 2010.*

(1) Any preneed agent registered by the Missouri State Board of Embalmers and Funeral Directors to sell a preneed contract for or on behalf of a seller must be the agent of a seller who is licensed to sell preneed contracts by the Missouri State Board of Embalmers and Funeral Directors.

*AUTHORITY: sections 333.340, 333.011(9), 333.320, 333.325, and 436.520, as amended by Senate Bill 1, 95th General Assembly, First Regular Session 2009. Emergency rule filed Dec. 4, 2009, effective Dec. 14, 2009, expires June 11, 2010. A proposed rule covering this same material is published in this 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 3—Preneed**

**EMERGENCY RULE**

**20 CSR 2120-3.505 Types of Financing; Other Financing Still  
Preneed**

*PURPOSE: This emergency rule identifies the acceptable funding mechanisms for preneed contracts.*

*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 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 (1) 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 protecting consumers of preneed services by identifying the types of financing allowed for preneed contracts. It also is necessary to preserve a compelling governmental interest of protecting consumers of preneed services by stating that other types of financing may still constitute preneed for which the seller and provider would be subject to the board's regulation.

Adoption of this rule only through the ordinary rulemaking process would harm consumers by failing to clearly state the types of financing acceptable to the board for preneed services under the new requirements of Chapter 333, RSMo, and sections 436.400 to 436.520, RSMo.

As a result, the 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 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 December 4, 2009, becomes effective December 14, 2009, and expires June 11, 2010.

(1) Preneed contracts shall only be funded by:

- (A) A preneed trust as defined by section 436.405.1(8), RSMo;
- (B) An insurance policy or single premium annuity contract as defined by section 436.405.1(3), RSMo; or
- (C) A joint account as defined by section 436.405.1(4), RSMo.

(2) Preneed contracts funded by any other mechanism shall be non-compliant with the requirements of sections 436.400 to 436.520, RSMo. All non-compliant preneed contracts shall still be subject to regulation by the board under sections 436.400 to 436.520, RSMo.

*AUTHORITY: sections 333.340, 436.405, and 436.520, as amended by Senate Bill 1, 95th General Assembly, First Regular Session 2009. Emergency rule filed Dec. 4, 2009, effective Dec. 14, 2009, expires June 11, 2010. A proposed rule covering this same material is published in this 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 3—Preneed**

**EMERGENCY RULE**

**20 CSR 2120-3.515 Single Premium Annuity Contracts**

*PURPOSE: This emergency rule states that while only single premium annuity contracts can fund an insurance-funded preneed contract, purchasers may purchase replacement single premium annuity contracts during the contract period.*

*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 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 (1) 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 protecting consumers of preneed services by establishing that only single premium annuity contracts can be used in insurance-funded preneed contracts but that single premium annuity contracts can be replaced by new single premium annuity contracts.

Adoption of this rule only through the ordinary rulemaking process would risk harm to consumers by potentially allowing other types of annuity or insurance contracts to be used in insurance-funded preneed contracts in conflict with the revised Chapter 333, RSMo, and sections 436.400 to 436.520, RSMo.

As a result, the 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 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 December 4, 2009, becomes effective December 14, 2009, and expires June 11, 2010.

(1) An insurance-funded preneed contract may be funded by an insurance policy or a single premium annuity contract.

(2) An insurance-funded preneed contract may not be funded by an annuity other than a single premium annuity contract.

(3) If a purchaser funds an insurance-funded preneed contract with a single premium annuity contract, the purchaser may replace the single premium annuity contract with another single premium annuity contract at any time in the duration of the preneed contract.

(4) Any replacement single premium annuity contract must meet all the requirements of the initial annuity contract, Chapter 333, RSMo, and sections 436.400 to 436.520, RSMo, and any other requirements under state or federal law.



*AUTHORITY: sections 333.340, 436.405, and 436.520, as amended by Senate Bill 1, 95th General Assembly, First Regular Session 2009. Emergency rule filed Dec. 4, 2009, effective Dec. 14, 2009, expires June 11, 2010. A proposed rule covering this same material is published in this 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 3—Preneed**

**EMERGENCY RULE**

**20 CSR 2120-3.525 Independent Financial Advisor is Agent of  
Trustee**

*PURPOSE: This emergency rule clarifies that an independent financial advisor is an agent of the trustee in a trust-funded preneed contract.*

*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 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 (1) 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 protecting consumers of preneed services by establishing that independent financial advisors are the agents of trustees in trust-funded preneed contracts.*

*Adoption of this rule only through the ordinary rulemaking process would risk harm to consumers by potentially allowing independent financial advisors working with trustees in trust-funded preneed contracts to do so without regulation by the board and in conflict with the revised Chapter 333, RSMo, and sections 436.400 to 436.520, RSMo.*

*As a result, the 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 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 December 4, 2009, becomes effective December 14, 2009, and expires June 11, 2010.*

(1) An independent financial advisor, as provided in section 436.440.6, RSMo, is an agent, as provided in section 436.440, RSMo, of the trustee.

*AUTHORITY: sections 333.340, 436.440.6, and 436.520, as amended by Senate Bill 1, 95th General Assembly, First Regular Session 2009. Emergency rule filed Dec. 4, 2009, effective Dec. 14, 2009, expires June 11, 2010. A proposed rule covering this same material is published in this issue of the Missouri Register.*

**U**nder this heading will appear the text of proposed rules and changes. The notice of proposed rulemaking is required to contain an explanation of any new rule or any change in an existing rule and the reasons therefor. This is set out in the Purpose section with each rule. Also required is a citation to the legal authority to make rules. This appears following the text of the rule, after the word "Authority."

**E**ntirely new rules are printed without any special symbolology under the heading of the proposed rule. If an existing rule is to be amended or rescinded, it will have a heading of proposed amendment or proposed rescission. Rules which are proposed to be amended will have new matter printed in boldface type and matter to be deleted placed in brackets.

**A**n important function of the *Missouri Register* is to solicit and encourage public participation in the rulemaking process. The law provides that for every proposed rule, amendment, or rescission there must be a notice that anyone may comment on the proposed action. This comment may take different forms.

**I**f an agency is required by statute to hold a public hearing before making any new rules, then a Notice of Public Hearing will appear following the text of the rule. Hearing dates must be at least thirty (30) days after publication of the notice in the *Missouri Register*. If no hearing is planned or required, the agency must give a Notice to Submit Comments. This allows anyone to file statements in support of or in opposition to the proposed action with the agency within a specified time, no less than thirty (30) days after publication of the notice in the *Missouri Register*.

**A**n agency may hold a public hearing on a rule even though not required by law to hold one. If an agency allows comments to be received following the hearing date, the close of comments date will be used as the beginning day in the ninety (90)-day-count necessary for the filing of the order of rulemaking.

**I**f an agency decides to hold a public hearing after planning not to, it must withdraw the earlier notice and file a new notice of proposed rulemaking and schedule a hearing for a date not less than thirty (30) days from the date of publication of the new notice.

(B) Hearings Procedure. The conduct of hearings before the Personnel Advisory Board is subject to the following provisions:

1. Hearings will be held in the Office of the Personnel Advisory Board in Jefferson City, Missouri, unless a different location is specified by action of the board;

2. If no prehearing conference has been held, the board will make a determination of what questions are at issue based upon the notice of the disciplinary action and the appellant's contentions in the appeal prior to the taking of testimony. The hearing shall be confined to and come within the scope of law and facts that the board has determined to be at issue. The board may exclude evidence which is purely cumulative;

3. The person who imposed the discipline is to attend the hearing. If that person is not the appointing authority, it must be the subordinate to whom authority has been delegated. The person who imposed the discipline does not have to attend the hearing if:

A. The appellant has waived his or her attendance;

B. The parties agree to present his or her testimony by other means such as stipulation, affidavit, or testimony over the telephone or if either party wishes to present the testimony by deposition; or

C. He or she is unable to attend the hearing and the absence of his or her testimony would not unduly prejudice the appellant;

4. If the person who imposed the discipline is unavailable to provide his or her testimony for the hearing and the board determines that not having this testimony unduly prejudices the appellant, then the board may disapprove the appellant's discipline;

5. When the appointing authority is required to appear, he or she is not required to stay for the entire hearing. Rather, the appointing authority must only appear so that the appellant can ask him or her questions;

6. The person conducting the hearing will read a statement citing the appropriate sections of the merit system law applicable to appeals;

7. The person conducting the hearing will read the charges of the appointing authority and the contentions of the appellant. By agreement, these documents may be inserted in the record without reading before commencing the taking of testimony;

8. All witnesses will be sworn or affirmed. When possible, witnesses will stand to be sworn or affirmed;

9. The Personnel Advisory Board, on request of either party or on its own motion, may order that the witnesses be separated so as to preclude any witness, other than the parties and their attorneys, from hearing the testimony of other witnesses. When requested by the appellant, only one (1) person in addition to counsel shall remain in the room to represent the appointing authority;

10. The appointing authority will *[be required to present his/her case first. Experience has shown this method gives the board a clearer and quicker picture of the issues. This is not a shift of the burden of proof, but is only the burden of going ahead with the proof]* present his/her case first in appeals brought under section 36.390.5, RSMo, or in an appeal which is a combination of sections 36.390.5 and 105.055, RSMo. The appellant will present his/her case first in appeals brought only under section 105.055, RSMo, or by a regular employee from a non-merit agency that has adopted the provisions for appeals provided in section 36.390.5, RSMo, or a non-merit agency that has neither adopted the provisions for appeals provided in section 36.390.5, RSMo, or adopted substantially similar dismissal procedures as provided for in section 36.390.5, RSMo;

11. The Personnel Advisory Board may take notice of its rules, the class specifications, official records of the Personnel Division, and the pay plan without the necessity of an offer in evidence;

12. The Personnel Advisory Board may fix the total time to be allowed for oral argument;

13. At the hearing, the entire proceedings will be recorded. After the board announces its findings of fact, conclusions of law, and

Proposed Amendment Text Reminder:

**Boldface text indicates new matter.**

*[Bracketed text indicates matter being deleted.]*

**Title 1—OFFICE OF ADMINISTRATION  
Division 20—Personnel Advisory Board and Division  
of Personnel  
Chapter 4—Appeals, Investigations, Hearings and  
Grievances**

**PROPOSED AMENDMENT**

**1 CSR 20-4.010 Appeals.** The board is amending subsection (3)(B).

*PURPOSE: This amendment provides direction for appointing authorities and appellants regarding the presentation of their case at an appeal hearing. It also provides direction to the appellant making an attorney's fee request and the appointing authority making an objection to an attorney's fee request.*

(3) Appeals Must Be Submitted and Hearings Conducted Following the Procedures and Guides Provided in this Rule.

decision and order, or at an earlier time if the board determines that the interest of efficient administration would be served, a copy of the recording will be made available to either party. The board will not transcribe the recording to written form. The cost of a transcription will be borne by the requesting party. The transcription may be performed by any commercial business or agency selected by the requesting party. The board will forward directly to the selected business or agency a copy of the recording;

14. No rehearing, which includes any post-hearing motion other than a Nunc Pro Tunc, Request for Attorney's Fees, or Motion for Back Pay, shall be granted from a final decision of the Personnel Advisory Board. Should such a post-hearing motion be filed, it shall be deemed denied by the board and no ruling from the board is necessary; however, at any time prior to issuance of the decision, the board may require the production of additional documents and records, the presentation of additional testimony after prior notification to both parties, or both;

15. When the board issues an order dismissing an appeal or its findings of fact, conclusions of law, and decision, that order is a final decision on the merits and may be appealed as provided in Chapter 536, RSMo. A motion for attorney's fees, if any, is due to the board within thirty (30) days of its dismissing an appeal or its findings of fact, conclusions of law, and decision. The filing of a petition for judicial review or the fact that back pay has not been determined does not stay the thirty (30)-day requirement for filing the motion for attorney's fees with the board.

**A. A motion for attorney's fees must be in writing and filed with the board and served on the appointing authority. The motion for attorney's fees must contain the following:**

**(I) A statement that the appellant meets one (1) of the two (2) definitions of "party" set out in Chapter 536, RSMo, including attaching an affidavit regarding the net worth of the appellant;**

**(II) An allegation that the appointing authority's position was not substantially justified and an explanation supporting that allegation. The fact that the appointing authority lost the appeal to the board does not support a presumption that the dismissal of the appellant was not substantially justified;**

**(III) The amounts of fees and expenses sought. This statement must be supported with an itemized statement from the attorney and expert witnesses (if any) setting out the actual time expended on the case, including the time spent on different issues in the case. Simply stating "research four (4) hours" is not sufficiently detailed; what was researched must be stated; and**

**(IV) If the hourly rate requested is more than the statutory rate of seventy-five dollars (\$75), the requesting party must set out what special circumstances justify an award above the statutory rate;**

**B. Once a timely request for attorney's fees has been filed, the appointing authority must file a written response within thirty (30) days if the appointing authority has any objections to the request, including whether anything in the itemized statement is not sufficiently detailed or the amount of time spent was not reasonable. The appointing authority is not required to file a written response if the appointing authority has no objections to the request, the parties settle the case, or the parties agree to submit the fee's dispute to the board by stipulation; and**

**C. If the appointing authority has filed a written response setting out his or her objections to the request for attorney's fees, either party may request a hearing on any factual dispute. The board's hearings officer will decide whether a hearing is appropriate;**

16. An appeal set for hearing may be continued by the Personnel Advisory Board for cause deemed sufficient or by consent of both parties to the appeal. However, a continuance will not be granted except for compelling cause or to serve the ends of justice. If an appellant requests and is granted a continuance, the Personnel Advisory Board, in its discretion, may deny the appellant any com-

penensation for that portion of time lost by reason of the continuance made at the request if the appellant's appeal is finally sustained. If an appeal scheduled for hearing is not reached, it shall be reset and given precedence over any subsequent appeal;

17. The finding of the board will be announced in writing subsequent to the hearing. Parties will be notified by letter sent by certified mail. The finding will be made as provided in section 36.390(5), RSMo; and

18. As appropriate and where no specific rule governs the issue, the Personnel Advisory Board will utilize the rules of the civil procedure for guidance.

*AUTHORITY: sections 36.060 and 36.070, RSMo 2000. Original rule filed July 9, 1947, effective July 19, 1947. For intervening history, please consult the Code of State Regulations. Amended: Filed Dec. 14, 2009.*

*PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.*

*PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.*

*NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Director of Personnel, Office of Administration, PO Box 388, Jefferson City, MO 65102. To be considered, comments must be received by the date of the public hearing. A public hearing is scheduled for 10:00 A.M., March 9, 2010, in Room 500 of the Harry S Truman State Office Building, 301 W. High Street, Jefferson City, Missouri.*

**Title 11—DEPARTMENT OF PUBLIC SAFETY  
Division 45—Missouri Gaming Commission  
Chapter 10—Licensee's Responsibilities**

**PROPOSED AMENDMENT**

**11 CSR 45-10.040 Prohibition and Reporting of Certain Transactions.** The commission is amending subsection (8)(B).

*PURPOSE: This amendment amends the definition of a financial institution.*

(8) The following definitions apply to the terms used in 11 CSR 45-10.040:

(B) Financial institution: Any bank, savings institution or trust company organized and supervised under the laws or any state or the laws of the United States, or other entity specifically approved in writing by the commission;

*AUTHORITY: sections 313.004, 313.807, and 313.812, RSMo 2000 and sections 313.800 and 313.805, RSMo Supp. [2007] 2008. Emergency rule filed Sept. 1, 1993, effective Sept. 20, 1993, expired Jan. 17, 1994. Emergency rule filed Jan. 5, 1994, effective Jan. 18, 1994, expired Jan. 30, 1994. Original rule filed Sept. 1, 1993, effective Jan. 31, 1994. For intervening history, please consult the Code of State Regulations. Amended: Filed Dec. 2, 2009.*

*PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.*

*PRIVATE COST: This proposed amendment will not cost any private entities more than five hundred dollars (\$500) in the aggregate.*

*NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Gaming Commission, PO Box 1847, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. A public hearing is scheduled for February 17, 2010, at 10:00 a.m., in the Missouri Gaming Commission's Hearing Room, 3417 Knipp Drive, Jefferson City, Missouri.*

**Title 11—DEPARTMENT OF PUBLIC SAFETY  
Division 45—Missouri Gaming Commission  
Chapter 11—Taxation Regulations**

**PROPOSED AMENDMENT**

**11 CSR 45-11.020 Deposit Account—Taxes and Fees.** The commission is amending sections (5)–(7).

*PURPOSE: This amendment establishes the requirement of an operating account for taxes and fees.*

(5) As a condition of its license, each licensee shall establish and, after that, maintain *[two (2) accounts]* **an operating account** at a designated financial institution capable of handling electronic fund transfers, *the deposit accounts. These accounts shall be designated, in substance, by the following language: "Name of licensee, for the benefit of the Missouri Gaming Commission."* The licensee must notify the commission of the financial institution where funds are deposited. No change of financial institution may be made without prior commission approval.

(6) Each Class *[A]* **B** licensee, as a condition of licensure, shall deposit into *[separate]* **two (2) accounts** an amount sufficient to cover its estimated liability for the gaming tax and the admission fee imposed by section 313.820, RSMo, representing *[the first week]* **the average liability for the gaming tax and the admission fee for two (2) days** of operation. **These accounts shall be designated, in substance, by the following language: "Name of licensee, for the benefit of the Missouri Gaming Commission."**

(7) Licensees. Beginning in the first month, second day of operation, each licensee, as a condition of its license, shall deposit daily into the *[deposit account]* **operating account** an amount sufficient to cover the estimated tax and fee liabilities for the previous day. **The licensee then shall timely remit from the operating account to the commission the gaming tax and admissions fee for each daily period that is defined as the business day for the purpose of establishing the estimated tax and fee liabilities.**

(D) In the event that the licensee's adjusted gross receipts result in a negative tax due or if overpayment is made **and amended with the commission within the same weekly period which, for purposes of this section, means Wednesday of each week through the following Tuesday, the licensee may adjust their payment by the overpaid amount on the next gaming day's subsequent payment.** **In the event that the licensee's adjusted gross receipts result in a negative tax due or if overpayment is made and amended in a subsequent week, the licensee shall file a Claim for Refund or Credit Form, included herein, along with the tax return.**

(E) Every Claim for Refund or Credit Form must be in writing under oath and must state the specific grounds upon which the claim is founded. *[Amended returns are required to be filed for all periods involved within the weekly period defined in 11 CSR 45-11.030.]*

*AUTHORITY: sections 313.004 and 313.807, RSMo 2000 and sections 313.800, 313.805, 313.820, 313.822, and 313.835, RSMo*

*Supp. 2008. Emergency rule filed Sept. 1, 1993, effective Sept. 20, 1993, expired Jan. 17, 1994. Emergency rule filed Jan. 5, 1994, effective Jan. 18, 1994, expired Jan. 30, 1994. Original rule filed Sept. 1, 1993, effective Jan. 31, 1994. For intervening history, please consult the Code of State Regulations. Emergency amendment filed Dec. 2, 2009, effective Jan. 6, 2010, expires July 4, 2010. Amended: Filed Dec. 2, 2009.*

*PUBLIC COST: This proposed amendment will cost the Missouri Gaming Commission an additional seven hundred eighty dollars (\$780) each year per casino for the daily wire transfers.*

*PRIVATE COST: This proposed amendment will cost each casino approximately five dollars to twenty-five dollars (\$5–\$25) per wire transfer. The difference between the weekly and daily transfers is seven hundred eighty dollars to three thousand nine hundred dollars (\$780–\$3,900) annually.*

*NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Gaming Commission, PO Box 1847, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. A public hearing is scheduled for February 17, 2010, at 10:00 a.m., in the Missouri Gaming Commission's Hearing Room, 3417 Knipp Drive, Jefferson City, Missouri.*

**FISCAL NOTE  
PUBLIC COST**

- I. Department Title: 11—Department of Public Safety  
Division Title: 45—Missouri Gaming Commission  
Chapter Title: 11—Taxation Regulations**

<b>Rule Number and Name:</b>	<b>11 CSR 45-11.020 Deposit Account—Taxes and Fees</b>
<b>Type of Rulemaking:</b>	Proposed Amendment

**II. SUMMARY OF FISCAL IMPACT**

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
<b>Missouri Gaming Commission</b>	<b>\$780 per casino (currently licensed number is 12)</b>

**III. WORKSHEET**

The cost of one (1) wire transfer to the state account is \$5. Currently, the annual wire transfer cost per casino to the state account is approximately \$520. That is \$10 for two wires for 52 weeks. Under the proposed change, one (1) wire daily for five (5) business banking days for 52 weeks, the cost would be approximately \$1,300 per casino. This is an additional \$780 annually for each casino.

Currently there are 12 licensed casinos.

The cost savings to the state is immeasurable and substantial against any cost to implement, as it maximizes cash flow of state funds, with the only cost being the daily versus weekly electronic transfer of monies.

**IV. ASSUMPTIONS**

The cost of receiving a wire is contracted every 3 or 4 years with the awarded bank. Therefore, the cost of receiving wires can change with each contract negotiation.

**FISCAL NOTE  
PRIVATE COST**

- I. Department Title: 11—Department of Public Safety  
Division Title: 45—Missouri Gaming Commission  
Chapter Title: 11—Taxation Regulations**

<b>Rule Number and Title:</b>	<b>11 CSR 45-11.020 Deposit Account—Taxes and Fees</b>
<b>Type of Rulemaking:</b>	Proposed Amendment

**II. SUMMARY OF FISCAL IMPACT**

Estimate of the number of entities by class which would likely be affected by the adoption of the rule:	Classification by types of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:
<b>12</b>	<b>Licensed casinos</b>	<b>\$780 - \$3,900 per casino</b>

**III. WORKSHEET**

**Currently the casinos pay approximately \$5–\$25 per wire transfer. Two (2) wires for 52 weeks would be \$520 to \$2,600 annually per casino. With the proposed, the cost would be \$1,300 to \$6,500 per casino. That is a difference of \$780 to \$3,900 annually per casino.**

**Currently there are 12 licensed casinos.**

**IV. ASSUMPTIONS**

Contracts are negotiated by the casinos with their respective banks. The numbers used above are based on the average amounts charged by various banks for wire transfers. Renegotiated contracts can change amounts charged for wire transfers.

**Title 11—DEPARTMENT OF PUBLIC SAFETY  
Division 45—Missouri Gaming Commission  
Chapter 11—Taxation Regulations**

**PROPOSED AMENDMENT**

**11 CSR 45-11.030 Payment—Gaming Tax.** The commission is amending sections (1), (2), and (7).

*PURPOSE:* This amendment updates the payment procedure for gaming taxes.

(1) The licensee shall timely remit from the *[deposit]* operating account to the commission the gaming tax for each *[weekly]* daily period *[which, for purposes of this section, means Wednesday of each week through the following Tuesday]* that is defined as the business day for the purpose of establishing the estimated tax and fee liabilities.

(2) The *[weekly]* daily remittance shall be automatically made from the licensee's *[deposit]* operating account and shall be deemed timely if credited to the deposit account designated by the commission on or before 12:00 p.m. Central Standard Time on the first day financial institutions are open for business after the close of *[the day following each weekly period]* the business day on which the estimated liabilities were established.

(7) The commission may waive the penalty against any licensee during the first two (2) months the licensee is obligated to make *[weekly]* daily remittance of the gaming tax; provided that all due remittances are paid in full at the end of the two (2)-month period, along with interest as determined under 11 CSR 45-11.120(2).

*AUTHORITY:* sections 313.004 and 313.807, RSMo [1994] 2000 and sections 313.805, 313.822, and 313.835, RSMo Supp. [1997] 2008. Emergency rule filed Sept. 1, 1993, effective Sept. 20, 1993, expired Jan. 17, 1994. Emergency rule filed Jan. 5, 1994, effective Jan. 18, 1994, expired Jan. 30, 1994. Original rule filed Sept. 1, 1993, effective Jan. 31, 1994. For intervening history, please consult the Code of State Regulations. Emergency amendment filed Dec. 2, 2009, effective Jan. 6, 2010, expires July 4, 2010. Amended: Filed Dec. 2, 2009.

*PUBLIC COST:* This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

*PRIVATE COST:* This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

*NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS:* Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Gaming Commission, PO Box 1847, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. A public hearing is scheduled for February 17, 2010, at 10:00 a.m., in the Missouri Gaming Commission's Hearing Room, 3417 Knipp Drive, Jefferson City, Missouri.

**Title 11—DEPARTMENT OF PUBLIC SAFETY  
Division 45—Missouri Gaming Commission  
Chapter 11—Taxation Regulations**

**PROPOSED AMENDMENT**

**11 CSR 45-11.050 Admission Fee.** The commission is amending section (2) and dividing a portion into section (3).

*PURPOSE:* This amendment updates the procedure for payment of admission fees.

(2) *[An admission fee paid by the licensee to the commission shall be deposited into a separate deposit account. This deposit account shall be one separate and apart from the account established for the gaming tax.]* The licensee shall timely remit from the operating account to the commission the admission fee for each daily period that is defined as the business day for the purpose of establishing the estimated tax and fee liabilities.

(3) Not less than once per month on a date to be selected by the commission, disbursement shall be made from this account to the home dock city or county designated by the licensee of moneys owed to home dock city or county. The remaining amount of the admission fee shall be deposited in the state treasury to the credit of the Gaming Commission Fund for the purpose of funding the administrative costs of the commission relating to excursion gambling boat operations, subject to appropriation.

*AUTHORITY:* section 313.004, RSMo 2000 and sections 313.805 and 313.820, RSMo Supp. 2008. Emergency rule filed Sept. 1, 1993, effective Sept. 20, 1993, expired Jan. 17, 1994. Emergency rule filed Jan. 5, 1994, effective Jan. 18, 1994, expired Jan. 30, 1994. Original rule filed Sept. 1, 1993, effective Jan. 31, 1994. Emergency amendment filed Oct. 29, 2008, effective Nov. 15, 2008, expired May 13, 2009. Amended: Filed Oct. 29, 2008, effective April 30, 2009. Emergency amendment filed Dec. 2, 2009, effective Jan. 6, 2010, expires July 4, 2010. Amended: Filed Dec. 2, 2009.

*PUBLIC COST:* This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

*PRIVATE COST:* This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

*NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS:* Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Gaming Commission, PO Box 1847, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. A public hearing is scheduled for February 17, 2010, at 10:00 a.m., in the Missouri Gaming Commission's Hearing Room, 3417 Knipp Drive, Jefferson City, Missouri.

**Title 11—DEPARTMENT OF PUBLIC SAFETY  
Division 45—Missouri Gaming Commission  
Chapter 11—Taxation Regulations**

**PROPOSED AMENDMENT**

**11 CSR 45-11.070 Return and Payment—Admission Fee.** The commission is amending sections (3), (4), (7), and (9).

*PURPOSE:* This amendment updates the procedure for payment returns for the admission fees.

(3) The licensee shall timely remit from the *[deposit]* operating account to the commission the admission fee for each *[weekly]* daily period *[which for purposes of this section, means Wednesday of each week through the following Tuesday]* that is defined as the business day for the purpose of establishing the estimated tax and fee liabilities.

(4) The [weekly] daily remittance shall be automatically made from the licensee's [deposit] operating account and shall be deemed timely if credited to the deposit account designated by the commission on or before 12:00 p.m. Central Standard Time on the first day financial institutions are open for business after the close of [the day following each weekly period] the business day on which the estimated liabilities were established. These deposits shall be made via an electronic funds transfer system employing an automated clearinghouse method.

(7) In the case of an underpayment of any [weekly] daily amount to be paid, the licensee shall be liable for interest on the delinquent amount as determined under 11 CSR 45-11.120(2) and for a penalty which shall be five percent (5%) of the amount of the underpayment.

(9) The commission may waive the penalty against any licensee during the first two (2) months the licensee is obligated to make [weekly] daily remittance of the admission fee; provided that all due remittances are paid in full at the end of the two (2)-month period, along with interest as determined under 11 CSR 45-11.120(2).

*AUTHORITY:* section[s] 313.004, RSMo [1994] 2000 and sections 313.805[,] and 313.820, RSMo Supp. 2008. Emergency rule filed Sept. 1, 1993, effective Sept. 20, 1993, expired Jan. 17, 1994. Emergency rule filed Jan. 5, 1994, effective Jan. 18, 1994, expired Jan. 30, 1994. Original rule filed Sept. 1, 1993, effective Jan. 31, 1994. For intervening history, please consult the Code of State Regulations. Emergency amendment filed Dec. 2, 2009, effective Jan. 6, 2010, expires July 4, 2010. Amended: Filed Dec. 2, 2009.

*PUBLIC COST:* This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

*PRIVATE COST:* This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

*NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS:* Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Gaming Commission, PO Box 1847, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. A public hearing is scheduled for February 17, 2010, at 10:00 a.m., in the Missouri Gaming Commission's Hearing Room, 3417 Knipp Drive, Jefferson City, Missouri.

**Title 11—DEPARTMENT OF PUBLIC SAFETY  
Division 45—Missouri Gaming Commission  
Chapter 11—Taxation Regulations**

**PROPOSED AMENDMENT**

**11 CSR 45-11.130 Failure to File Return or Pay Tax or Fee.** The commission is amending section (2).

*PURPOSE:* This amendment updates the procedure for determining failure to file required returns.

(2) In case of failure to deposit accurate estimates of the gaming tax or admission fee on or before the date prescribed for deposit [into the deposit accounts] to the commission (determined with regard to any extension of time for payment), unless it is shown that the failure is due to reasonable cause and not the result of willful neglect, evasion or fraudulent intent, there shall be added to the tax or fee an amount equal to five percent (5%) of the deficiency.

*AUTHORITY:* sections 313.004[,] and 313.830, RSMo 2000 and sections 313.800, 313.805, and 313.822, RSMo Supp. [1997] 2008.

*Emergency rule filed Sept. 1, 1993, effective Sept. 20, 1993, expired Jan. 17, 1994. Emergency rule filed Jan. 5, 1994, effective Jan. 18, 1994, expired Jan. 30, 1994. Original rule filed Sept. 1, 1993, effective Jan. 31, 1994. Amended: Filed Dec. 15, 1997, effective July 30, 1998. Emergency amendment filed Dec. 2, 2009, effective Jan. 6, 2010, expires July 4, 2010. Amended: Filed Dec. 2, 2009.*

*PUBLIC COST:* This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

*PRIVATE COST:* This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

*NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS:* Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Gaming Commission, PO Box 1847, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. A public hearing is scheduled for February 17, 2010, at 10:00 a.m., in the Missouri Gaming Commission's Hearing Room, 3417 Knipp Drive, Jefferson City, Missouri.

**Title 16—RETIREMENT SYSTEMS  
Division 20—Missouri Local Government Employees'  
Retirement System (LAGERS)  
Chapter 2—Administrative Rules**

**PROPOSED RESCISSION**

**16 CSR 20-2.080 Workers' Compensation Service Credit.** This rule provided clarification regarding conditions and procedures for granting credited service for periods of absence from employment resulting from a temporary duty-related disability.

*PURPOSE:* This rule is being rescinded and replaced with a new rule to clarify these matters more accurately and appropriately due to changes in laws.

*AUTHORITY:* sections 70.605.21 and 70.640, RSMo 1986. Original rule filed Oct. 6, 1983, effective Jan. 13, 1984. Rescinded and readopted: Filed Jan. 7, 1988, effective April 1, 1988. Rescinded: Filed Dec. 10, 2009.

*PUBLIC COST:* This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

*PRIVATE COST:* This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

*NOTICE TO SUBMIT COMMENTS:* Any interested person or entity may submit written comments in support of or in opposition to the proposed rescission. Comments should be directed to the Missouri Local Government Employees Retirement System (LAGERS), ATTN: Robert Franson, Chief Counsel, PO Box 1665, Jefferson City, MO 65102-1665. To be considered, comments must be received within thirty (30) days of publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 16—RETIREMENT SYSTEMS  
Division 20—Missouri Local Government Employees'  
Retirement System (LAGERS)  
Chapter 2—Administrative Rules**

**PROPOSED RULE**



**16 CSR 20-2.080 Determination of Credited Service for Periods of Absence**

*PURPOSE: This rule clarifies conditions and procedures for granting credited service for periods of absence from employment resulting from military leave, workers' compensation leave, and educational leave.*

(1) In the event the member is on military leave, workers' compensation leave, or educational leave, the member may receive credited service for the period of the absence under the following conditions:

(A) The absence from employment due to the leave, of the type specified in this rule, must extend for one (1) full day or more during the calendar month being considered for credited service; and

(B) The member or member's agent makes application with the board for such credited service.

(2) Member and employer contributions shall be suspended for any month in which a member received credited service pursuant to section (1) of this rule.

(3) Any month of credited service granted pursuant to this rule, pertaining to worker's compensation leave or educational leave, shall not be considered for purposes of determining final average salary.

(4) Any month of credited service granted pursuant to this rule, pertaining to military leave, shall be considered for purposes of determining final average salary in accordance with The Uniformed Services Employment and Re-Employment Rights Act of 1994 (USERRA).

*AUTHORITY: section 70.605.21, RSMo Supp. 2008 and section 70.640, RSMo 2000. Original rule filed Oct. 6, 1983, effective Jan. 13, 1984. Rescinded and readopted: Filed Jan. 7, 1988, effective April 1, 1988. Rescinded and readopted: Filed Dec. 10, 2009.*

*PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.*

*PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars (\$500) in the aggregate.*

*NOTICE TO SUBMIT COMMENTS: Any interested person or entity may submit written comments in support of or in opposition to the proposed rule. Comments should be directed to the Missouri Local Government Employees Retirement System (LAGERS), ATTN: Robert Franson, Chief Counsel, PO Box 1665, Jefferson City, MO 65102-1665. To be considered, comments must be received within thirty (30) days of publication of this notice in the Missouri Register. No public hearing is scheduled.*

**Title 20—DEPARTMENT OF INSURANCE,  
FINANCIAL INSTITUTIONS AND PROFESSIONAL  
REGISTRATION  
Division 2120—State Board of Embalmers and Funeral  
Directors  
Chapter 2—General Rules**

**PROPOSED RULE**

**20 CSR 2120-2.130 Final Disposition as Defined in Chapter 193**

*PURPOSE: This rule explains that the use of the term "final disposition" in Chapter 333, RSMo, and sections 436.400 to 436.520, RSMo, shall be consistent with the definition of the term in Chapter 193, RSMo.*

(1) For purposes of Chapter 333, RSMo, and sections 436.400 to 436.520, RSMo, final disposition shall be defined in accordance with the definition contained in section 193.015(3), RSMo.

(2) Use of the term final disposition in Chapter 333, RSMo, and sections 436.400 to 436.520, RSMo, shall be consistent with its use in Chapter 193, RSMo.

*AUTHORITY: section 193.015, RSMo Supp. 2008 and sections 333.340, 333.011(10), 436.405, and 436.520, as amended by Senate Bill 1, 95th General Assembly, First Regular Session 2009. Emergency rule filed Dec. 4, 2009, effective Dec. 14, 2009, expires June 11, 2010. Original rule filed Dec. 4, 2009.*

*PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.*

*PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars (\$500) in the aggregate.*

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Board of Embalmers and Funeral Directors, PO Box 423, Jefferson City, MO 65102, by facsimile at 573-751-0813, or via email at embalm@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

**Title 20—DEPARTMENT OF INSURANCE,  
FINANCIAL INSTITUTIONS AND PROFESSIONAL  
REGISTRATION  
Division 2120—State Board of Embalmers and Funeral  
Directors  
Chapter 2—General Rules**

**PROPOSED RULE**

**20 CSR 2120-2.140 Financial Welfare Cause for Injunction**

*PURPOSE: This rule states that serious danger to an individual's financial welfare is cause for the State Board of Embalmers and Funeral Directors to seek an injunction pursuant to section 333.335.1(2), RSMo.*

(1) For purposes of section 333.335, RSMo, the Missouri State Board of Embalmers and Funeral Directors shall be entitled to seek injunctive relief against any person from engaging in any business or practice authorized by a registration or authority, permit, or license issued under this chapter in a manner that presents a substantial probability of serious danger to the health, safety, or welfare of any resident of this state or client or customer of the licensee or registrant.

(2) For purposes of section 333.335, RSMo, serious danger to the welfare of any resident or client or customer shall include, but is not limited to, the financial welfare of the resident, client, or customer.

*AUTHORITY: sections 333.340, 333.335, and 436.520, as amended by Senate Bill 1, 95th General Assembly, First Regular Session 2009. Emergency rule filed Dec. 4, 2009, effective Dec. 14, 2009, expires June 11, 2010. Original rule filed Dec. 4, 2009.*

*PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.*

*PRIVATE COST:* This proposed rule will not cost private entities more than five hundred dollars (\$500) in the aggregate.

*NOTICE TO SUBMIT COMMENTS:* Anyone may file a statement in support of or in opposition to this proposed rule with the Board of Embalmers and Funeral Directors, PO Box 423, Jefferson City, MO 65102, by facsimile at 573-751-0813, or via email at [embalm@pr.mo.gov](mailto:embalm@pr.mo.gov). To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 20—DEPARTMENT OF INSURANCE,  
FINANCIAL INSTITUTIONS AND PROFESSIONAL  
REGISTRATION  
Division 2120—State Board of Embalmers and Funeral  
Directors  
Chapter 2—General Rules**

**PROPOSED RULE**

**20 CSR 2120-2.150 Payment Not Determining Factor of Practice of Funeral Directing**

*PURPOSE:* This rule explains that the receipt of payment for providing funeral services is not the determining factor in identifying the practice of funeral directing.

(1) In determining whether a person, pursuant to section 333.011(6), RSMo, is engaging in the practice of funeral directing pursuant to section 333.011(8), RSMo, the board shall consider all activities listed in section 333.011(8), RSMo.

(2) Receipt of payment by any person for any or all services provided pursuant to this chapter or Chapter 436, RSMo, shall not be the determining factor in determining whether the person is engaging in the practice of funeral directing.

*AUTHORITY:* sections 333.340, 333.011(8), and 436.520, as amended by Senate Bill 1, 95th General Assembly, First Regular Session 2009. Emergency rule filed Dec. 4, 2009, effective Dec. 14, 2009, expires June 11, 2010. Original rule filed Dec. 4, 2009.

*PUBLIC COST:* This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

*PRIVATE COST:* This proposed rule will not cost private entities more than five hundred dollars (\$500) in the aggregate.

*NOTICE TO SUBMIT COMMENTS:* Anyone may file a statement in support of or in opposition to this proposed rule with the Board of Embalmers and Funeral Directors, PO Box 423, Jefferson City, MO 65102, by facsimile at 573-751-0813, or via email at [embalm@pr.mo.gov](mailto:embalm@pr.mo.gov). To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

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

**PROPOSED RULE**

**20 CSR 2120-3.115 Contact Information**

*PURPOSE:* This rule details the requirements for preneed providers, sellers, and agents for providing the board with current contact information.

(1) Preneed providers, sellers, and agents shall keep the board notified of their current address, telephone number, facsimile number, and email address, as applicable, at all times.

(2) Preneed providers, sellers, and agents shall notify the board within thirty (30) days of any such change by submitting written notice with the new information. The written notice shall comply with the board's rules regarding written notice.

*AUTHORITY:* sections 333.340, 333.320, and 436.520, as amended by Senate Bill 1, 95th General Assembly, First Regular Session 2009. Emergency rule filed Dec. 4, 2009, effective Dec. 14, 2009, expires June 11, 2010. Original rule filed Dec. 4, 2009.

*PUBLIC COST:* This proposed rule will cost state agencies or political subdivisions approximately eighty-seven dollars and ninety-six cents (\$87.96) annually for the life of the rule. It is anticipated that the costs will recur for the life of the rule, may vary with inflation, and are expected to increase at the rate projected by the Legislative Oversight Committee.

*PRIVATE COST:* This proposed rule will cost private entities approximately two dollars and fifty cents (\$2.50) annually for the life of the rule. It is anticipated that the costs will recur for the life of the rule, may vary with inflation, and are expected to increase at the rate projected by the Legislative Oversight Committee.

*NOTICE TO SUBMIT COMMENTS:* Anyone may file a statement in support of or in opposition to this proposed rule with the Board of Embalmers and Funeral Directors, PO Box 423, Jefferson City, MO 65102, by facsimile at 573-751-0813, or via email at [embalm@pr.mo.gov](mailto:embalm@pr.mo.gov). To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**PUBLIC FISCAL NOTE**

**I. RULE NUMBER**

**Title 20 - Department of Insurance, Financial Institutions and Professional Registration**  
**Division 2120 - State Board of Embalmers and Funeral Directors**  
**Chapter 3 - Preneed**  
**Proposed Rule - 20 CSR 2120-3.115 Contact Information**  
**Prepared September 16, 2009 by the Division of Professional Registration**

**II. SUMMARY OF FISCAL IMPACT**

Affected Agency or Political Subdivision	Estimated Cost of Compliance
State Board of Embalmers and Funeral Directors	\$87.96
	<b>Total Annual Cost of Compliance for the Life of the Rule</b>
	<b>\$87.96</b>

**III. WORKSHEET**

The Licensure Technician II receives the form and updates the licensee records.

**Personal Service Dollars**

STAFF	ANNUAL SALARY	SALARY TO INCLUDE FRINGE BENEFIT	HOURLY SALARY	COST PER MINUTE	TIME PER UPDATE	COST PER CHANGE OF INFORMATION	NUMBER OF UPDATES	TOTAL COST
Licensure Tech II	\$29,520	\$43,911	\$21.11	\$0.35	5 Minutes	\$1.76	50	87.96
<b>Total Annual Personal Service Costs for the Life of the Rule</b>								<b>\$87.96</b>

**IV. ASSUMPTION**

- Employee's salaries were calculated using the annual salary multiplied by 48.75% for fringe benefits and then divided by 2080 hours per year to determine the hourly salary. The hourly salary was then divided by 60 minutes to determine the cost per minute. The cost per minute was then multiplied by the amount of time individual staff spent on the processing the update. The total cost was based on the cost per update multiplied by the estimated number of changes in contact information the board receives on an annual basis.
- It is anticipated that the total cost will recur for the life of the rule, may vary with inflation and is expected to increase at the rate projected by the Legislative Oversight Committee.

## PRIVATE FISCAL NOTE

**I. RULE NUMBER****Title 20 - Department of Insurance, Financial Institutions and Professional Registration****Division 2120 - State Board of Embalmers and Funeral Directors****Chapter 3 - Preneed****Proposed Rule - 20 CSR 2120-3.115 Contact Information****Prepared September 16, 2009 by the Division of Professional Registration****II. SUMMARY OF FISCAL IMPACT**

Estimate the number of entities by class which would likely be affected by the adoption of the proposed amendment:	Classification by type of the business entities which would likely be affected:	Estimated cost of compliance with the amendment by affected entities:
50	Preneed Sellers, Providers and Agents (Postage @ 0.44)	\$2.50
	<b>Estimated Annual Cost of Compliance for the Life of the Rule</b>	<b>\$2.50</b>

**III. WORKSHEET**

See table above.

**IV. ASSUMPTION**

1. The estimated number of licensees is based on the fiscal note submitted by the division for SB1 (2009).
3. It is anticipated that the total cost will recur annually for the life of the rule, may vary with inflation and is expected to increase at the rate projected by the Legislative Oversight Committee.

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

**Division 2120—State Board of Embalmers and Funeral  
Directors  
Chapter 3—Preneed**

**PROPOSED RULE**

**20 CSR 2120-3.120 Display of License**

*PURPOSE:* This rule states that preneed sellers, providers, and preneed agents must prominently display their license or registration to practice issued by the Missouri State Board of Embalmers and Funeral Directors.

(1) All licenses or registrations, and any and all duplicate copies thereof, issued by the Missouri State Board of Embalmers and Funeral Directors shall be prominently displayed at all times in a conspicuous location or manner easily accessible to the public for each office or place of business of the licensee or registrant.

(2) All licenses or registrations shall be available at all times for inspection by any duly authorized agent of the Missouri State Board of Embalmers and Funeral Directors.

(3) The Missouri State Board of Embalmers and Funeral Directors may cause a complaint to be filed with the Administrative Hearing Commission pursuant to section 333.330, RSMo, for failure of a licensee or registrant to display his or her license or registration as required by section 333.091, RSMo, and this regulation.

*AUTHORITY:* sections 333.340, 333.330, and 436.520, as amended by Senate Bill 1, 95th General Assembly, First Regular Session 2009. Emergency rule filed Dec. 4, 2009, effective Dec. 14, 2009, expires June 11, 2010. Original rule filed Dec. 4, 2009.

*PUBLIC COST:* This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

*PRIVATE COST:* This proposed rule will not cost private entities more than five hundred dollars (\$500) in the aggregate.

*NOTICE TO SUBMIT COMMENTS:* Anyone may file a statement in support of or in opposition to this proposed rule with the Board of Embalmers and Funeral Directors, PO Box 423, Jefferson City, MO 65102, by facsimile at 573-751-0813, or via email at [embalm@pr.mo.gov](mailto:embalm@pr.mo.gov). To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

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

**Division 2120—State Board of Embalmers and Funeral  
Directors  
Chapter 3—Preneed**

**PROPOSED RULE**

**20 CSR 2120-3.200 Seller Obligations**

*PURPOSE:* This rule clarifies the duties of the seller of a preneed contract.

(1) Except as otherwise provided in sections 436.400 to 436.520, RSMo, and any rules validly promulgated pursuant to those sections—

(A) The seller shall be obligated to collect and properly deposit and disburse all payments made by, or on behalf of, a purchaser of a preneed contract;

(B) A purchaser may make payments on any preneed contract by making the payment directly to the trustee, the insurance company, or the financial institution where the joint account is held, as applicable, in lieu of paying the seller; and

(C) All sellers shall designate an individual to serve as manager in charge of the seller's business. This individual shall either reside or work within the state of Missouri. The seller shall designate the manager in charge in its initial application for licensure. If the manager in charge changes, the seller shall provide written notice to the board within thirty (30) days of the change.

*AUTHORITY:* sections 333.340, 436.415, and 436.520, as amended by Senate Bill 1, 95th General Assembly, First Regular Session 2009. Emergency rule filed Dec. 4, 2009, effective Dec. 14, 2009, expires June 11, 2010. Original rule filed: Dec. 4, 2009.

*PUBLIC COST:* This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

*PRIVATE COST:* This proposed rule will not cost private entities more than five hundred dollars (\$500) in the aggregate.

*NOTICE TO SUBMIT COMMENTS:* Anyone may file a statement in support of or in opposition to this proposed rule with the Board of Embalmers and Funeral Directors, PO Box 423, Jefferson City, MO 65102, by facsimile at 573-751-0813, or via email at [embalm@pr.mo.gov](mailto:embalm@pr.mo.gov). To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

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

**Division 2120—State Board of Embalmers and Funeral  
Directors  
Chapter 3—Preneed**

**PROPOSED RULE**

**20 CSR 2120-3.300 Provider Includes Funeral Establishment**

*PURPOSE:* This rule establishes that a provider in a preneed contract includes, but is not limited to, a funeral establishment that has agreed to undertake the obligations of a preneed contract under sections 436.400 to 436.520, RSMo.

(1) As defined by section 333.011(10), RSMo, the provider of services under any preneed contract pursuant to sections 436.400 to 436.520, RSMo, shall include any licensed funeral establishment that has agreed to undertake the obligations of a preneed contract pursuant to sections 436.400 to 436.520, RSMo.

(2) Any provider who is a licensed funeral establishment who has agreed to undertake the obligations of a preneed contract pursuant to sections 436.400 to 436.520, RSMo, must meet all requirements of both a licensed funeral establishment and a preneed provider pursuant to Chapter 333, RSMo, and sections 436.400 to 436.520, RSMo.

*AUTHORITY:* sections 333.011(10), 333.340, and 436.520, as amended by Senate Bill 1, 95th General Assembly, First Regular Session 2009. Emergency rule filed Dec. 4, 2009, effective Dec. 14, 2009, expires June 11, 2010. Original rule filed Dec. 4, 2009.

*PUBLIC COST:* This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

*PRIVATE COST:* This proposed rule will not cost private entities more than five hundred dollars (\$500) in the aggregate.

*NOTICE TO SUBMIT COMMENTS:* Anyone may file a statement in support of or in opposition to this proposed rule with the Board of Embalmers and Funeral Directors, PO Box 423, Jefferson City, MO 65102, by facsimile at 573-751-0813, or via email at [embalm@pr.mo.gov](mailto:embalm@pr.mo.gov). To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

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

**20 CSR 2120-3.305 Funeral Director Agent Registration**

*PURPOSE:* This rule establishes the reporting requirement for any funeral directors serving as preneed agents.

(1) Any funeral director acting as a preneed agent shall report the name and address of each preneed seller for whom the funeral director is authorized to sell, negotiate, or solicit preneed contracts to the board on a form prescribed by the board.

(2) Any funeral director shall also identify himself or herself as acting as a preneed agent on his or her biennial report form to the board by checking the appropriate box on the form prescribed by the board.

*AUTHORITY:* sections 333.325.4, 333.340, and 436.520, as amended by Senate Bill 1, 95th General Assembly, First Regular Session 2009. Emergency rule filed Dec. 4, 2009, effective Dec. 14, 2009, expires June 11, 2010. Original rule filed Dec. 4, 2009.

*PUBLIC COST:* This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

*PRIVATE COST:* This proposed rule will not cost private entities more than five hundred dollars (\$500) in the aggregate.

*NOTICE TO SUBMIT COMMENTS:* Anyone may file a statement in support of or in opposition to this proposed rule with the Board of Embalmers and Funeral Directors, PO Box 423, Jefferson City, MO 65102, by facsimile at 573-751-0813, or via email at [embalm@pr.mo.gov](mailto:embalm@pr.mo.gov). To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

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

**20 CSR 2120-3.310 Change in Seller Affiliation**

*PURPOSE:* This rule explains the provider's obligation for a change in seller affiliation under a preneed contract.

(1) After initial application, if there is a change in seller affiliation, the provider shall provide written notice to the board, pursuant to section 436.420.3, RSMo, that the provider has authorized a new seller to designate the provider on the seller's preneed contracts. This notice shall be provided to the board within fifteen (15) days after the provider authorizes the seller to act, and the notice shall contain, at least:

- (A) Name and address of the provider;
- (B) License number of the provider;
- (C) Name and address of the seller; and
- (D) Effective date of the authorization or agreement.

(2) This notice may be provided to the board electronically, but the original signed document shall be provided to the board by mail or hand delivery.

*AUTHORITY:* sections 333.325.4, 333.340, and 436.520, as amended by Senate Bill 1, 95th General Assembly, First Regular Session 2009. Emergency rule filed Dec. 4, 2009, effective Dec. 14, 2009, expires June 11, 2010. Original rule filed Dec. 4, 2009.

*PUBLIC COST:* This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

*PRIVATE COST:* This proposed rule will cost private entities approximately three hundred six dollars (\$306) annually for the life of the rule. It is anticipated that the costs will recur for the life of the rule, may vary with inflation, and are expected to increase at the rate projected by the Legislative Oversight Committee.

*NOTICE TO SUBMIT COMMENTS:* Anyone may file a statement in support of or in opposition to this proposed rule with the Board of Embalmers and Funeral Directors, PO Box 423, Jefferson City, MO 65102, by facsimile at 573-751-0813, or via email at [embalm@pr.mo.gov](mailto:embalm@pr.mo.gov). To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**PRIVATE FISCAL NOTE**

**I. RULE NUMBER**

**Title 20 - Department of Insurance, Financial Institutions and Professional Registration  
Division 2120 - State Board of Embalmers and Funeral Directors  
Chapter 3 - Preneed  
Proposed Rule - 20 CSR 2120-3.310 - Change in Seller Affiliation  
Prepared December 1, 2009 by the Division of Professional Registration**

**II. SUMMARY OF FISCAL IMPACT**

Estimate the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification by type of the business entities which would likely be affected:	Estimated cost of compliance with the rule by affected entities:
612	Preneed Providers (Printing and Postage - \$0.50)	\$306.00
<b>Estimated Annual Cost of Compliance for the Life of the Rule</b>		<b>\$306.00</b>

**III. WORKSHEET**

See table above.

**IV. ASSUMPTION**

1. In order for the preneed seller to immediately begin designating the provider in the preneed contract, the form must be provided to the board office within 15 days of the change of affiliation. The form can be sent electronically; however, a document containing the original signature must be sent to the board office. Therefore, preneed providers will incur printing and postage costs.
2. It is anticipated that the total cost will recur annually for the life of the rule, may vary with inflation and is expected to increase at the rate projected by the Legislative Oversight Committee.

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

**PROPOSED RULE**

**20 CSR 2120-3.400 Preneed Agents—Requirements of Agent's  
Seller**

*PURPOSE:* This rule explains that any licensed preneed agent in the state of Missouri must be selling preneed contracts on behalf of a seller who is licensed in the state of Missouri.

(1) Any preneed agent registered by the Missouri State Board of Embalmers and Funeral Directors to sell a preneed contract for or on behalf of a seller must be the agent of a seller who is licensed to sell preneed contracts by the State Board of Embalmers and Funeral Directors.

*AUTHORITY:* sections 333.011(9), 333.320, 333.325, 333.340, and 436.520, as amended by Senate Bill 1, 95th General Assembly, First Regular Session 2009. Emergency rule filed Dec. 4, 2009, effective Dec. 14, 2009, expires June 11, 2010. Original rule filed Dec. 4, 2009.

*PUBLIC COST:* This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

*PRIVATE COST:* This proposed rule will not cost private entities more than five hundred dollars (\$500) in the aggregate.

*NOTICE TO SUBMIT COMMENTS:* Anyone may file a statement in support of or in opposition to this proposed rule with the Board of Embalmers and Funeral Directors, PO Box 423, Jefferson City, MO 65102, by facsimile at 573-751-0813, or via email at embalm@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

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

**PROPOSED RULE**

**20 CSR 2120-3.410 Preneed Agent's Seller Must Be Licensed**

*PURPOSE:* This rule explains that any licensed preneed agent in the State of Missouri must be selling preneed contracts on behalf of a seller who is licensed in the state of Missouri.

(1) Any preneed agent registered by the Missouri State Board of Embalmers and Funeral Directors to sell a preneed contract for or on behalf of a seller must be the agent of a seller who is licensed to sell preneed contracts by the Missouri State Board of Embalmers and Funeral Directors.

*AUTHORITY:* sections 333.011(9), 333.320, 333.325, 333.340, and 436.520, as amended by Senate Bill 1, 95th General Assembly, First Regular Session 2009. Emergency rule filed Dec. 4, 2009, effective Dec. 14, 2009, expires June 11, 2010. Original rule filed Dec. 4, 2009.

*PUBLIC COST:* This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

*PRIVATE COST:* This proposed rule will not cost private entities more than five hundred dollars (\$500) in the aggregate.

*NOTICE TO SUBMIT COMMENTS:* Anyone may file a statement in support of or in opposition to this proposed rule with the Board of Embalmers and Funeral Directors, PO Box 423, Jefferson City, MO 65102, by facsimile at 573-751-0813, or via email at embalm@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

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

**PROPOSED RULE**

**20 CSR 2120-3.505 Types of Financing; Other Financing Still  
Preneed**

*PURPOSE:* This rule identifies the acceptable funding mechanisms for preneed contracts.

- (1) Preneed contracts shall only be funded by:
- (A) A preneed trust as defined by section 436.405.1(8), RSMo;
  - (B) An insurance policy or single premium annuity contract as defined by section 436.405.1(3), RSMo; or
  - (C) A joint account as defined by section 436.405.1(4), RSMo.

(2) Preneed contracts funded by any other mechanism shall be non-compliant with the requirements of sections 436.400 to 436.520, RSMo. All non-compliant preneed contracts shall still be subject to regulation by the board under sections 436.400 to 436.520, RSMo.

*AUTHORITY:* sections 333.340, 436.405, and 436.520, as amended by Senate Bill 1, 95th General Assembly, First Regular Session 2009. Emergency rule filed Dec. 4, 2009, effective Dec. 14, 2009, expires June 11, 2010. Original rule filed Dec. 4, 2009.

*PUBLIC COST:* This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

*PRIVATE COST:* This proposed rule will not cost private entities more than five hundred dollars (\$500) in the aggregate.

*NOTICE TO SUBMIT COMMENTS:* Anyone may file a statement in support of or in opposition to this proposed rule with the Board of Embalmers and Funeral Directors, PO Box 423, Jefferson City, MO 65102, by facsimile at 573-751-0813, or via email at embalm@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

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

**PROPOSED RULE**



**20 CSR 2120-3.515 Single Premium Annuity Contracts**

*PURPOSE:* This rule states that while only single premium annuity contracts can fund an insurance-funded preneed contract, purchasers may purchase replacement single premium annuity contracts during the contract period.

- (1) An insurance-funded preneed contract may be funded by an insurance policy or a single premium annuity contract.
- (2) An insurance-funded preneed contract may not be funded by an annuity other than a single premium annuity contract.
- (3) If a purchaser funds an insurance-funded preneed contract with a single premium annuity contract, the purchaser may replace the single premium annuity contract with another single premium annuity contract at any time in the duration of the preneed contract.

- (4) Any replacement single premium annuity contract must meet all the requirements of the initial annuity contract, Chapter 333, RSMo, and sections 436.400 to 436.520, RSMo, and any other requirements under state or federal law.

*AUTHORITY:* sections 333.340, 436.405, and 436.520, as amended by Senate Bill 1, 95th General Assembly, First Regular Session 2009. Emergency rule filed Dec. 4, 2009, effective Dec. 14, 2009, expires June 11, 2010. Original rule filed Dec. 4, 2009.

*PUBLIC COST:* This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

*PRIVATE COST:* This proposed rule will not cost private entities more than five hundred dollars (\$500) in the aggregate.

*NOTICE TO SUBMIT COMMENTS:* Anyone may file a statement in support of or in opposition to this proposed rule with the Board of Embalmers and Funeral Directors, PO Box 423, Jefferson City, MO 65102, by facsimile at 573-751-0813, or via email at [embalm@pr.mo.gov](mailto:embalm@pr.mo.gov). To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

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

**20 CSR 2120-3.525 Independent Financial Advisor is Agent of Trustee**

*PURPOSE:* This rule clarifies that an independent financial advisor is an agent of the trustee in a trust-funded preneed contract.

- (1) An independent financial advisor, as provided in section 436.440.6, RSMo, is an agent, as provided in section 436.440, RSMo, of the trustee.

*AUTHORITY:* sections 333.340, 436.440.6, and 436.520, as amended by Senate Bill 1, 95th General Assembly, First Regular Session 2009. Emergency rule filed Dec. 4, 2009, effective Dec. 14, 2009, expires June 11, 2010. Original rule filed Dec. 4, 2009.