

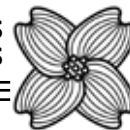


RULES OF
**Department of Commerce and
Insurance**
**Division 2120—State Board of Embalmers and
Funeral Directors**
Chapter 3—Preneed

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**TITLE 20 – DEPARTMENT OF COMMERCE AND
INSURANCE**
**Division 2120 – State Board of Embalmers and
Funeral Directors**
Chapter 3 – Preneed

20 CSR 2120-3.010 Preneed Sellers

PURPOSE: This rule outlines the provisions for the practice of preneed seller.

(1) Applications for a preneed seller license are to be made on the forms provided by the board and be accompanied by the applicable fees. At a minimum an applicant shall submit with the application –

(A) Evidence of being an individual resident of Missouri who is eighteen (18) years of age or older, or if a business entity, current registration of the entity name that reflects it is in good standing and, if applicable, current registration of fictitious name(s), both from the Missouri Secretary of State;

(B) Evidence if the applicant is a corporation, each officer, director, manager, or controlling shareholder, is eligible for licensure if they were applying for licensure as an individual;

(C) The name and address of a custodian of records responsible for maintaining the books and records of the seller relating to preneed contracts;

(D) The name and address of a trustee or, if applicable, the financial institution where any preneed trust or joint accounts will be maintained;

(E) The name and address of each insurance company that may be utilized for insurance funded preneed contracts;

(F) Have established, as grantor, a preneed trust, or an agreement to utilize a preneed trust with terms consistent with sections 436.400 to 436.510, RSMo. A trust shall not be required if the applicant certifies to the board that the seller will only sell insurance-funded or joint account-funded preneed contracts;

(G) The name, address, and license number of an individual designated to serve as manager in charge of the seller's business;

(H) The name(s), address(es), and license number(s) of each preneed agent who is authorized to sell, negotiate, or solicit preneed contracts on behalf of the seller;

(I) The name(s) and address(es) of each preneed provider with whom the licensee will have a contractual agreement to be designated as a preneed provider;

(J) A written consent authorizing the state board to inspect or order an investigation, examination, or audit of the seller's books and records which contain information concerning preneed contracts sold by or on behalf of the seller;

(K) A certificate of no tax due from the Missouri Department of Revenue, if applicable; and

(L) A Missouri Highway Patrol fee for each person that is an officer or who has at least a ten percent (10%) interest in the business.

(2) An applicant that does not meet the requirements of the board for licensure within ninety (90) days from the date the application is filed with the board and still desires to seek licensure shall file a new application and pay applicable fees.

(3) If the manager in charge changes, the seller shall provide written notice to the board within thirty (30) days of the change.

(4) The seller license issued by the board is effective for a specific name of a person or entity authorized to conduct business in Missouri and may include "doing business as" name(s). Whenever the ownership or name of the Missouri licensed seller changes, a new license shall be obtained.

(A) If a change of ownership is caused by a change in the majority of owners, for whatever reason (death, sale of interest, divorce, etc.) without the addition of any new owner(s), it is not necessary to obtain a new seller license. However, a new application for a seller license form shall be filed as an amended application within thirty (30) days prior to the change of ownership.

(B) If a corporation owns a Missouri licensed seller, it is not necessary to obtain a new seller license or to file an amended application for a seller license if the owners of the stock change.

(C) However, as a separate person, if a corporation begins ownership of a Missouri licensed seller or ceases ownership of a Missouri licensed seller, a new seller license shall be obtained regardless of the relationship of the previous or subsequent owner to the corporation.

(5) Except as otherwise provided in sections 436.400 to 436.510, 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; and

(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.

AUTHORITY: sections 333.320, 333.340, 436.415, and 436.520, RSMo 2016. This rule originally filed as 4 CSR 120-3.010. Original rule filed Jan. 7, 1983, effective June 11, 1983. Moved to 20 CSR 2120-3.010, effective Aug. 28, 2006. Rescinded and readopted: Filed March 9, 2020, effective Sept. 30, 2020.*

**Original authority: 333.320, RSMo 2009; 333.340, RSMo 2009; 436.415, RSMo 2009; and 436.520, RSMo 2009.*

20 CSR 2120-3.020 Preneed Providers

PURPOSE: This rule outlines the provisions for the practice of preneed provider.

(1) Applications for licensure as preneed providers are to be made on the forms provided by the board and be accompanied by the applicable fees. At a minimum an applicant shall submit with the application –

(A) Evidence, if a business entity, current registration of the entity name that reflects it is in good standing and, if applicable, current registration of fictitious name(s), both from the Missouri Secretary of State;

(B) Evidence if applicant is a corporation, each officer, director, manager, or controlling shareholder is eligible for licensure if they were applying for licensure as an individual;

(C) The name and address of a custodian of records responsible for maintaining the books and records of the provider relating to preneed contracts;

(D) The name(s) and address(es) of each seller authorized by the provider to sell preneed contracts in which the provider is designated or obligated as the provider;



(E) A written consent authorizing the state board to inspect or order an investigation, examination, or audit of the provider's books and records which contain information concerning preneed contracts sold for or on behalf of a seller or in which the applicant is named as a provider;

(F) A certificate of no tax due from the Missouri Department of Revenue, if applicable; and

(G) A Missouri Highway Patrol fee for each person that is an officer or who has at least a ten percent (10%) interest in the business.

(2) An applicant that does not meet the requirements of the board for licensure within ninety (90) days from the date the application is filed with the board and still desires to seek licensure shall file a new application and pay applicable fees.

(3) The provider license issued by the board is effective for a specific name of a person or entity authorized to conduct business in Missouri and may include "doing business as" name(s). Whenever the ownership or name of the Missouri licensed provider changed, a new license shall be obtained.

(A) If a change of ownership is caused by a change in the majority of owners, for whatever reason (death, sale of interest, divorce, etc.) without the addition of any new owner(s), it is not necessary to obtain a new provider license. However, a new application for a provider license form shall be filed as an amended application within thirty (30) days prior to change of ownership.

(B) If a corporation owns a Missouri licensed provider, it is not necessary to obtain a new provider license or to file an amended application for a provider license if the owners of the stock change.

(C) However, as a separate person, if a corporation begins ownership of a Missouri licensed provider or ceases ownership of a Missouri licensed provider, a new provider license shall be obtained regardless of the relationship of the previous or subsequent owner to the corporation.

(4) As defined by section 333.011(10), RSMo, the provider of services under any preneed contract pursuant to sections 436.400 to 436.525, RSMo, shall include any licensed funeral establishment that has agreed to undertake the obligations of a preneed contract pursuant to sections 436.400 to 436.525, RSMo.

(5) 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 436.525, 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 436.525, RSMo.

(6) 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, address, and license number of the seller; and
- (D) Effective date of the authorization or agreement.

AUTHORITY: sections 333.011(10), 333.111.1, 333.315, 333.340,

436.420, and 436.520, RSMo 2016. This rule originally filed as 4 CSR 120-3.020. Original rule filed Jan. 7, 1983, effective June 11, 1983. Moved to 20 CSR 2120-3.020, effective Aug. 28, 2006. Rescinded and readopted: Filed March 9, 2020, effective Sept. 30, 2020.*

**Original authority: 333.011, RSMo 1965, amended 2007, 2008, 2009; 333.111, RSMo 1965, amended 1981, 1993, 1995; 333.315, RSMo 2009; 333.340, RSMo 2009; 436.420, RSMo 2009; and 436.520, RSMo 2009.*

20 CSR 2120-3.030 Notification of Intent to Sell Assets or Cease Doing Business (Seller or Provider)

PURPOSE: This rule outlines the procedures for preneed sellers and preneed providers to notify the board when selling or disposing of all or a majority of its business assets or its stock, or ceasing to do business.

(1) Notification of intent to sell assets or cease doing business must be made on the forms provided by the board.

(2) As part of the notification, each licensed seller must inform the board of the actions it has taken or will take to ensure that the assets of the seller will be set aside and used to serve outstanding preneed contracts sold by the seller and each licensed provider must inform the board of the actions it has taken or will take to ensure that the provider's obligations under preneed contracts will be satisfied.

(3) If a seller ceases business, the seller shall assign all active preneed contracts to another licensed seller and transfer the funds held either in trust or in joint accounts to that licensed seller. In that assignment, the receiving seller shall agree to assume all obligations under the preneed contracts or in lieu of such complete assumption, the assignment shall set forth the obligations that the new seller is assuming.

AUTHORITY: sections 333.111.1, 436.490, and 436.500, RSMo 2016. This rule originally filed as 4 CSR 120-3.030. Original rule filed Jan. 7, 1983, effective June 11, 1983. Moved to 20 CSR 2120-3.030, effective Aug. 28, 2006. Amended: Filed June 12, 2019, effective Dec. 30, 2019.*

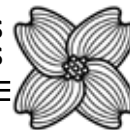
**Original authority: 333.111.1, RSMo 1965, amended 1981, 1993, 1995; 436.490, RSMo 2009; and 436.500, RSMo 2009.*

20 CSR 2120-3.105 Filing of Annual Reports and License Renewal

PURPOSE: This rule prescribes the board's process for the filing of annual reports and license renewal under Chapter 333 and sections 436.400 to 436.525, RSMo.

(1) The annual renewal date for licensed preneed sellers and preneed providers is November 1. The annual renewal date for registered preneed agents is December 1.

(2) For sellers –
(A) Each preneed seller shall file a completed renewal and all applicable fees on or before October 31 each year. If the license is not renewed by this date the license shall expire;
(B) Each preneed seller shall file a completed annual report before October 31 each year. If the report is not filed the license shall be automatically suspended until the time the completed



annual report is filed and all applicable fees have been paid;

(C) The seller's report must contain the following, if applicable:

1. The number of preneed contracts sold in the reporting year (including those written that were canceled, fulfilled, transferred, or serviced in the same reporting year);

2. If a consumer has more than one (1) preneed contract with different preneed sellers the contract should be identified on the annual report and the per contract fee is required for each preneed contract; and

3. If a consumer has one (1) preneed contract with multiple funding sources the contract should be identified on the annual report and one (1) per contract fee is to be submitted;

(D) For the seller annual report, if the seller is unable to validate the status and face value of the insurance policy and unable to obtain the certification from the insurance company, the following information will meet the requirements of section 436.460.4, RSMo, for the reporting requirements for insurance funded preneed contracts:

1. The name and address of the company issuing the policy or annuity funding the preneed;

2. The amount of the policy or balance on account at the time the preneed contract was sold; and

3. An attestation from the seller that since these accounts are funded by insurance, the seller has no ability to confirm the existence or amount of the policies or accounts;

(E) If the license is suspended the applicant must file the annual report and renewal and pay the delinquent fee established by the board before the license is issued; and

(F) If the license is not current the licensee shall not act as a preneed seller in any capacity, such as maintaining an active trust account or paying providers for fulfilled preneed contracts.

(3) For providers –

(A) Each preneed provider shall file a completed annual report on or before October 31 each year. If the license is not renewed by this date the license shall expire;

(B) If the license is not current the licensee shall not act as a preneed provider in any capacity, such as servicing preneed contracts or being named as a provider on such.

(4) For agents –

(A) Each preneed agent shall file a completed renewal and pay the applicable fees on or before November 30 each year. If the registration is not renewed by this date the license shall expire.

(5) The holders of expired Missouri licenses for preneed providers, preneed sellers, and registrations for agents which are not renewed will be notified that their licenses or registrations have expired. The holder of an expired license or registration may reinstate the license or registration within two (2) years of the renewal date after the proper forms have been completed and applicable fees have been paid. Any license or registration that has not been renewed within two (2) years shall be void.

AUTHORITY: sections 333.315, 333.320, 333.325, 333.340, 436.460, and 436.520, RSMo 2016. Emergency rule filed Sept. 24, 2009, effective Oct. 4, 2009, expired April 1, 2010. Original rule filed Sept. 24, 2009, effective April 30, 2010. Rescinded and readopted: Filed July 6, 2020, effective Jan. 30, 2021.*

**Original authority: 333.315, RSMo 2009; 333.320, RSMo 2009; 333.325, RSMo 2009;*

333.340, RSMo 2009; 436.460, RSMo 2009; and 436.520, RSMo 2009.

20 CSR 2120-3.115 Contact Information

(Rescinded January 30, 2021)

AUTHORITY: sections 333.320, 333.340, and 436.520, RSMo Supp. 2009. Emergency rule filed Dec. 4, 2009, effective Dec. 14, 2009, expired June 11, 2010. Original rule filed Dec. 4, 2009, effective June 30, 2010. Rescinded: Filed July 6, 2020, effective Jan. 30, 2021.

20 CSR 2120-3.120 Display of License

(Rescinded January 30, 2021)

AUTHORITY: sections 333.330, 333.340, and 436.520, RSMo Supp. 2009. Emergency rule filed Dec. 4, 2009, effective Dec. 14, 2009, expired June 11, 2010. Original rule filed Dec. 4, 2009, effective June 30, 2010. Rescinded: Filed July 6, 2020, effective Jan. 30, 2021.

20 CSR 2120-3.125 Corporate Ownership of a Licensee

(Rescinded January 30, 2021)

AUTHORITY: sections 333.315, 333.320, 333.340, and 436.456, RSMo Supp. 2009. Emergency rule filed Sept. 24, 2009, effective Oct. 4, 2009, expired April 1, 2010. Original rule filed Sept. 24, 2009, effective April 30, 2010. Rescinded: Filed July 6, 2020, effective Jan. 30, 2021.

20 CSR 2120-3.200 Seller Obligations

(Rescinded September 30, 2020)

AUTHORITY: sections 333.340, 436.415, and 436.520, RSMo Supp. 2009. Emergency rule filed Dec. 4, 2009, effective Dec. 14, 2009, expired June 11, 2010. Original rule filed Dec. 4, 2009, effective June 30, 2010. Rescinded: Filed March 9, 2020, effective Sept. 30, 2020.

20 CSR 2120-3.210 Requirements for a Preneed Contract Joint Account

PURPOSE: This rule provides standards for preneed sellers regarding the management of preneed contract funds that are to be placed and held in joint accounts.

(1) Effective January 1, 2025, any funds received for a joint-account funded preneed contract shall be deposited with a financial institution authorized to do business in Missouri. The account shall be set up either –

(A) In the joint names and under the joint control of the seller and purchaser, beneficiary, or party holding power of attorney over the beneficiary's estate. Funds shall only be withdrawn or paid from the account upon the signatures of both the seller and the purchaser or under a pay-on-death designation or as required to pay reasonable expenses of administering the account; or

(B) In an account titled in the beneficiary's name and payable on the beneficiary's death to the seller.

(2) Sellers shall perform necessary steps to ensure all existing accounts for joint-account preneed contracts meet compliance requirements prior to September 1, 2025. Accounts set up in the name of the seller with the beneficiary/purchaser name in



a memo line (e.g., Seller Name FBO Purchaser Name) are not compliant with the provisions of Chapter 436, RSMo, and are prohibited.

(3) The seller shall maintain proper documentation of the action taken and provide the purchaser with notice of any changes made to the account. For any existing account which is not in compliance, the board may approve one (1) or more of the following actions to be taken by the seller:

(A) Switch the funding source for the contract to utilize trust or insurance funding. The seller must procure written authorization from the purchaser before switching to a new funding source per section 436.425.5, RSMo;

(B) Provide the purchaser the option to cancel the contract, if revocable. Purchaser and the seller must abide by the terms of section 436.456, RSMo; or

(C) Request approval from the board to waive specific requirements for, or otherwise grandfather, an account in existence prior to January 1, 2025, which may not meet the joint account requirements. Requests for waiver should be received by the board no later than September 1, 2025. The board will consider these requests on an individual basis. To be considered, the seller's license must be in good standing, not subject to probation, and the seller shall submit the following:

1. A written request for approval to be considered for grandfathering of existing accounts, including a detailed explanation why the seller is making the request;

2. A listing of all contracts the seller requests to have considered, detailing the contract number, contract date, beneficiary/purchaser name, financial institution, contract face value, and current account balance;

3. A detailed business and successor plan of the seller; and

4. A written acknowledgment that the seller may only withdraw funds from the account if –

A. A death certificate is submitted to the financial institution;

B. The purchaser exercises their right to cancel according to the terms of section 436.456, RSMo; or

C. The seller exercises their right to cancel according to the terms of section 436.457, RSMo.

(4) Upon request of the board, the seller shall provide the board with any documents requested to verify the account. Any letter of attestation from the financial institution should also confirm the account meets the requirements stated.

(5) All funds received by the seller for a joint-account funded contract must be directly deposited into a joint-account within ten (10) days of receipt. Seller shall not deposit any funds received for a preneed contract into a general business account or holding account prior to the deposit into the joint account.

*AUTHORITY: sections 436.455 and 436.520.1, RSMo 2016. * Original rule filed July 1, 2024, effective Jan. 30, 2025.*

**Original authority: 436.455, RSMo 2009, amended 2011, and 436.520, RSMo 2009.*

20 CSR 2120-3.300 Provider Includes Funeral Establishment
(Rescinded September 30, 2020)

AUTHORITY: sections 333.011(10), 333.340, and 436.520, RSMo Supp. 2009. Emergency rule filed Dec. 4, 2009, effective Dec. 14, 2009, expired June 11, 2010. Original rule filed Dec. 4, 2009, effective June 30, 2010. Rescinded: Filed March 9, 2020, effective

Sept. 30, 2020.

20 CSR 2120-3.305 Funeral Director Agent Registration
(Rescinded January 30, 2021)

AUTHORITY: sections 333.325.4, 333.340, and 436.520, RSMo Supp. 2009. Emergency rule filed Dec. 4, 2009, effective Dec. 14, 2009, expired June 11, 2010. Original rule filed Dec. 4, 2009, effective June 30, 2010. Rescinded: Filed July 6, 2020, effective Jan. 30, 2021.

20 CSR 2120-3.310 Change in Seller Affiliation
(Rescinded September 30, 2020)

AUTHORITY: sections 333.325.4, 333.340, and 436.520, RSMo Supp. 2009. Emergency rule filed Dec. 4, 2009, effective Dec. 14, 2009, expired June 11, 2010. Original rule filed Dec. 4, 2009, effective June 30, 2010. Rescinded: Filed March 9, 2020, effective Sept. 30, 2020.

20 CSR 2120-3.400 Preneed Agents – Requirements of Agent's Seller
(Rescinded October 30, 2021)

AUTHORITY: sections 333.011(9), 333.320, 333.325, 333.340, and 436.520, RSMo Supp. 2009. Emergency rule filed Dec. 4, 2009, effective Dec. 14, 2009, expired June 11, 2010. Original rule filed Dec. 4, 2009, effective June 30, 2010. Rescinded: Filed April 13, 2021, effective Oct. 30, 2021.

20 CSR 2120-3.405 Preneed Agents

PURPOSE: This rule outlines the provisions for the practice of preneed agent.

(1) Any individual who desires to be registered as a preneed agent shall –

(A) Make application with the board on the forms provided by the board and pay applicable fees;

(B) Provide the name, address, and license number of each preneed seller who has authorized the applicant to sell, negotiate, or solicit preneed contracts on their behalf; and

(C) Achieve a score of seventy-five (75) or greater on the Missouri Law examination.

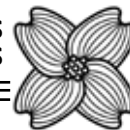
(2) Any individual that is currently licensed by the board as a funeral director and desires to be registered as a preneed agent shall –

(A) Make application with the board on the forms provided by the board; and

(B) Provide the name, address, and license number of each preneed seller who has authorized the applicant to sell, negotiate, or solicit preneed contracts on their behalf.

(3) An applicant that does not meet the requirements of the board for registration within one (1) year after the application is filed with the board and still desires to seek licensure shall file a new application and pay applicable fees.

(4) If there is a change in a preneed seller that an agent is authorized to sell, negotiate, or solicit preneed contracts, the agent shall notify the board in writing and include the name, address, and license number of the new seller prior to the



agent beginning to work on behalf of the seller.

(5) Any preneed agent registered by the board 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, 333.325.5, 333.340, and 436.520, RSMo 2016. Emergency rule filed Sept. 24, 2009, effective Oct. 4, 2009, terminated Nov. 2, 2009. Emergency rule filed Oct. 23, 2009, effective Nov. 2, 2009, expired April 1, 2010. Original rule filed Sept. 24, 2009, effective April 30, 2010. Rescinded and readopted: Filed April 13, 2021, effective Oct. 30, 2021.*

**Original authority: 333.011, RSMo 1965, amended 2007, 2008, 2009; 333.320, RSMo 2009; 333.325, RSMo 2009; 333.340, RSMo 2009; and 436.520, RSMo 2009.*

20 CSR 2120-3.410 Preneed Agent's Seller Must Be Licensed
(Rescinded October 30, 2021)

AUTHORITY: sections 333.011(9), 333.320, 333.325, 333.340, and 436.520, RSMo Supp. 2009. Emergency rule filed Dec. 4, 2009, effective Dec. 14, 2009, expired June 11, 2010. Original rule filed Dec. 4, 2009, effective June 30, 2010. Rescinded: Filed April 13, 2021, effective Oct. 30, 2021.

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, RSMo Supp. 2009. Emergency rule filed Dec. 4, 2009, effective Dec. 14, 2009, expired June 11, 2010. Original rule filed Dec. 4, 2009, effective June 30, 2010.*

**Original authority: 333.340, RSMo 2009; 436.405, RSMo 2009; and 436.520, RSMo 2009.*

20 CSR 2120-3.515 Single Premium Annuity Contracts
(Rescinded August 30, 2020)

AUTHORITY: sections 333.340, 436.405, and 436.520, RSMo Supp. 2009. Emergency rule filed Dec. 4, 2009, effective Dec. 14, 2009, expired June 11, 2010. Original rule filed Dec. 4, 2009, effective June 30, 2010. Rescinded: Filed Jan. 30, 2020, effective Aug. 30, 2020.

20 CSR 2120-3.525 Independent Financial Advisor is Agent of Trustee and Authorized External Investment Advisor

PURPOSE: This rule clarifies that an independent financial advisor is an agent of the trustee in a trust-funded preneed contract and sets forth the qualifications and duties of an authorized external investment advisor for a preneed trust.

(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.

(2) An authorized external investment advisor, as provided in section 436.445, RSMo, is an agent, as provided in section 436.440, RSMo, of the trustee.

(3) A preneed trust may utilize the services of an authorized external investment advisor as provided in sections 436.435, 436.440, and 436.445, RSMo.

(4) Any authorized external investment advisor utilized by a preneed trustee must have a current and active federal or Missouri registration as an investment advisor at all times when he or she serves as an investment advisor for a preneed trust.

(5) Any authorized external investment advisor shall exercise his or her duties in compliance with the provisions of applicable state and federal laws including compliance with his or her fiduciary duties including the duties of loyalty and of care.

(6) Except as provided in sections 436.400 to 436.525, RSMo, only a preneed trustee may retain the services of an authorized external investment advisor to assist the preneed trustee with the investment of preneed trust assets.

(7) If a preneed trustee utilizes the services of authorized external investment advisor, that relationship shall be memorialized in a written agreement that discloses the scope of duties and powers delegated, the compensation to be paid to the authorized external investment advisor, any relationship or contracts between the authorized external investment advisor and the seller, any relationship or contract between the authorized external investment advisor and any provider of any preneed contract for which funds are held in the seller's preneed trust, and any other provisions that the trustee deems necessary to meet its fiduciary duties.

(8) Any independent financial advisor, in place before August 28, 2009 in compliance with the provisions of section 436.440.6, RSMo, must be either a federally registered or Missouri registered independent qualified investment advisor at all times when acting as an investment advisor for a preneed trust and must meet all requirements required of an authorized external investment advisor.

AUTHORITY: sections 333.340, 436.440.6, 436.445, and 436.520, RSMo 2016. Emergency rule filed Dec. 4, 2009, effective Dec. 14, 2009, expired June 11, 2010. Original rule filed Dec. 4, 2009, effective June 30, 2010. Amended: Filed March 9, 2020, effective Sept. 30, 2020.*

**Original authority: 333.340, RSMo 2009; 436.440, RSMo 2009; 436.445, RSMo 2009, amended 2011; and 436.520, RSMo 2009.*



20 CSR 2120-3.530 Confidentiality of Premeed Records Obtained by the Board through Financial Examination, Audit, or Investigation

PURPOSE: The purpose of this rule is to ensure confidentiality of consumer records and confidential data of licensees and registrants.

(1) Upon completion of any financial exam, audit, or investigation involving preneed records, the board members may be provided with a summary of the results of the exam, audit, or investigation and any such summary shall not include information made confidential per section 436.525, RSMo, unless such information is required for the board to evaluate whether the board should take further action.

(2) No individual member of the board shall be given access to review the work papers of the examiners, auditors, or investigator related to the examination, audit, or investigation of preneed records unless such access has been specifically approved by the board, as a body. Work papers shall include any records or information obtained from any licensee, registrant, or any other source that includes any information made confidential by section 436.525, RSMo. Work papers shall also include any compilation, spreadsheet, or other record prepared by the examiner, auditor, or investigator from information and records obtained from the licensee, registrant, or other source that contains information made confidential by section 436.525, RSMo. Work papers shall not include any document that would otherwise be an open record under Missouri law.

AUTHORITY: sections 333.111 and 436.525, RSMo 2016. Original rule filed Jan. 30, 2020, effective Aug. 30, 2020.*

**Original authority: 333.111, RSMo 1965, amended 1981, 1993, 1995 and 436.525, RSMo 2009.*

20 CSR 2120-3.540 Financial Examination-Audit Process and Procedures

PURPOSE: This rule provides clarification of the financial examination process and procedures to educate licensees and the public.

(1) The board shall conduct a financial examination of the books and records of each seller at least once every five (5) years, subject to available funding.

(2) The board shall conduct financial examinations or audits as a means to ensure compliance with the provisions of Chapters 333 and 436.400 to 436.525, RSMo, and 20 CSR 2120-3 as those statutes and regulations relate to preneed funeral contracts.

(3) The board will set the scope of financial examinations.

(4) Upon determining that a financial examination or audit of a seller is to be conducted, the board will issue a notice to the assigned examiner that will instruct the examiner as to the scope of the financial examination or audit.

(5) Before the board begins a financial examination or audit, the board may provide notice to the seller that the board will be conducting a financial examination. This notice will contain the following:

(A) Notice to the seller that the board will be conducting a financial examination or audit; and

(B) A request of the seller to submit to the board specified records the board will require to begin the financial examination or audit and a date by which those records are due to the board. The board may request copies of statements showing trust balances and assets, joint account statements, verification of insurance for insurance funded preneed contracts, copies of ledgers or reports detailing all active preneed contracts, copies of agreements with providers, agents, trustees, and any other records the board deems relevant to conduct the financial examination or audit.

(6) Seller will be given opportunity to provide response to the financial examination or audit report.

(7) Upon the board's determination that all exceptions identified in a financial examination or audit have been resolved, the board will provide written notice to the seller that the financial examination or audit has been closed by the board.

AUTHORITY: sections 333.330, 333.340, 436.470, and 436.520, RSMo 2016. Original rule filed Jan. 30, 2020, effective Aug. 30, 2020.*

**Original authority: 333.330, RSMo 2009; 333.340, RSMo 2009; 436.470, RSMo 2009; and 436.520, RSMo 2009.*

20 CSR 2120-3.550 Seller Fees and Charges on Premeed Contracts

PURPOSE: This rule clarifies how optional fees and charges for items other than funeral services and funeral merchandise shall be shown on a preneed contract.

(1) If a seller and purchaser agree to include any optional fees or charges on a preneed contract for items other than funeral services and funeral merchandise, as those terms are defined in these rules and by provisions of Chapters 333 and sections 436.400 to 436.525, RSMo, the contract must include a description of each optional fee or charge as it is shown on the general price list. Examples of optional fees or charges that might be part of a preneed contract include fees for installment payments on the preneed contract, price protection, or price guarantee fees.

(2) With the exception of credit life premiums and the board's state contract fee, as authorized by sections 436.400 to 436.525, RSMo, all optional fees or charges shall be considered as payments on the preneed contract and must be deposited pursuant to sections 436.400 to 436.525, RSMo, into trust or joint account, as per the terms of the preneed contract. For insurance funded preneed contracts, any optional fees shall be considered as part of the preneed contract.

AUTHORITY: sections 333.340, 436.425, 436.430, and 436.520, RSMo 2016. Original rule filed Jan. 30, 2020, effective Aug. 30, 2020.*

**Original authority: 333.340, RSMo 2009; 436.425, RSMo 2009; 436.430, RSMo 2009; and 436.520, RSMo 2009.*



20 CSR 2120-3.560 Cemetery Exemption

PURPOSE: The purpose of the rule is to provide clarification regarding what preneed falls within Chapter 436, RSMo and Chapter 214, RSMo.

(1) Pursuant to section 333.310, RSMo, a cemetery is exempt from the licensure requirements of sections 333.315 and 333.320, RSMo, when all of the following conditions are satisfied:

(A) The cemetery has a current and valid license issued pursuant to section 214.275, RSMo;

(B) All sales of merchandise made by the cemetery that would otherwise be defined as a preneed contract for funeral merchandise are made pursuant to a contract whereby such merchandise is either –

1. Purchased in conjunction with an interment right or grave space subject to section 214.320, RSMo; or

2. Made to be delivered to an interment right or grave subject to section 214.320, RSMo, that is owned by the purchaser and identified in the contract;

(C) The cemetery has not been found to be in non-compliance with sections 214.385 or 214.387, RSMo, by the Office of Endowed Care Cemeteries pursuant to a completed examination, audit, decision of the Administrative Hearing Commission, or order of any court; and

(D) The cemetery does not offer funeral services that may only be provided by a Missouri licensed funeral director or embalmer.

AUTHORITY: sections 333.111 and 333.310, RSMo 2016. Original rule filed Jan. 30, 2020, effective Aug. 30, 2020.*

**Original authority: 333.111, RSMo 1965, amended 1981, 1993, 1995 and 333.310, RSMo 2009.*