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SALUS POPULI SUPREMA LEX ESTO

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



ROBIN CARNAHAN
SECRETARY OF STATE

MISSOURI
REGISTER

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

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HOW TO CITE RULES AND RSMo

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

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

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

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

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

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

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

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

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

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT

Division 85—Division of Business and Community Services

Chapter 6—Recovery Zone Bond Allocation, Waiver, and Reallocation

EMERGENCY RULE

4 CSR 85-6.010 Recovery Zone Bond Allocation, Waiver, and Reallocation

PURPOSE: This rule gives a brief overview of allocation and waiver process for recovery zone bonds and prescribes the department's process for reallocating recovery zone bond authority.

EMERGENCY STATEMENT: This emergency rule implements provisions of Senate Substitute No. 2 for Senate Committee Substitute for House Committee Substitute for House Bill No. 191, First Regular Session, Ninety-fifth General Assembly, 2009, that became effective August 28, 2009, and informs counties and large municipalities of the procedure for applying for and obtaining reallocation of recovery zone bond allocation authority (RZB cap). Pursuant to the American Recovery and Reinvestment Act, most Missouri counties and some large municipalities were allocated a certain amount of RZB cap, but it is anticipated that some will not be able to utilize all of their cap, and some will desire to take advantage of more cap than was allocated to them. Recovery zone bonds are designed for projects that

*may be implemented quickly so as to provide maximum economic stimulus, and they may not be issued after December 31, 2010, thus, this emergency rule is necessary to further the compelling governmental interest to ensure that all RZB cap is utilized, that it is allocated fairly among all counties and large municipalities, that reallocation may be accomplished quickly and efficiently, and that counties and large municipalities are informed of the procedures to apply for reallocation of RZB cap. To assure fairness to all persons and parties, this emergency rule will be sent to all affected counties and large municipalities for comment. A proposed rule, which covers the same material, is published in this issue of the *Missouri Register*. 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 Department of Economic Development believes this emergency rule is fair to all interested persons and parties under the circumstances. This emergency rule was filed September 18, 2009, becomes effective September 28, 2009, and expires March 26, 2010.*

(1) Section 108.1010, RSMo, provides that:

(A) The Department of Economic Development (DED) shall allocate recovery zone bonds to counties and large municipalities in accordance with Section 1400U-1 of the *Internal Revenue Code* of 1986, as amended, and shall provide notice of such allocation to each county and large municipality;

(B) Counties or large municipalities that receive recovery zone bond allocation may waive all or part of such allocation by providing written notice to the department;

(C) Allocations shall be deemed waived by the county or large municipality on the sixtieth day following notice of allocation, except to the extent the county or large municipality has provided the department with written notice of intent to issue recovery zone bonds stating the amount and type to be issued;

(D) Each county or large municipality shall notify the department in writing of the issuance of recovery zone bonds; and

(E) Any recovery zone bonds allocated to a county or large municipality which remain unissued as of the first day of July of each year shall be recaptured by the department for reallocation.

(2) Any county or large municipality may apply to DED for the reallocation of additional recovery zone bond authority (RZB cap) to the extent such RZB cap becomes available due to the waiver of recovery zone bond allocations by other counties or large municipalities or the recapture of RZB cap by the department.

(3) DED may reallocate RZB cap as it becomes available and request for reallocation is made up to three (3) times between the effective date of this rule and December 31, 2010, pursuant to the following process:

(A) The applicant must apply for reallocation, using the form included herein, within a timeframe and deadline set by DED. The first deadline for application for reallocation shall be September 30, 2009. Subsequent deadlines for reallocation, if any, will be posted on DED's website at least thirty (30) days prior to deadline;

(B) Any qualified issuing entity in the state of Missouri may apply for reallocation;

(C) Applicants must meet the following conditions:

1. Projects must be located in a recovery zone;
2. The local government must support the application;
3. Counties or large municipalities previously waiving RZB cap may apply for reallocation and may receive priority for projects consistent with the evaluation criteria;
4. Unsuccessful applicants in any round may resubmit applications in future rounds;
5. There are no limits to the size of a reallocation request; and
6. There are no limits to the number of requests for reallocation

of RZB cap from any one (1) county or eligible issuer; and

(D) Applications for reallocation of RZB cap will be evaluated according to the following criteria:

1. For recovery zone economic development bonds, DED shall consider the number of beneficiaries, environmental impact, local effort, economic impact, economic distress of the zone (including previous job loss, average income, and poverty levels), project readiness, and other compelling information that may be presented by the applicant; and

2. For recovery zone facility bonds, DED shall consider the number of jobs created and/or retained, the wages of the jobs created and/or retained, the economic distress of the zone (including previous job loss, average income, and poverty levels), project readiness, project competitiveness, amount of investment, economic impact, opportunities for spin-off jobs, and any other compelling information that may be presented by the applicant.

(4) DED will inform applicants for reallocation of RZB cap of the decision on their application in writing.



APPLICATION FOR RECOVERY ZONE BOND REALLOCATION

This application form is provided for use pursuant to Section 108.1000-108.1020, RSMo (HB191, 95th General Assembly). All bond issuers must complete and submit this application to the Director of the Department of Economic Development and receive approval prior to issuing Recovery Zone Bonds that are subject to the reallocation.

Bond Issuer

NAME OF ISSUER		NAME OF ISSUER'S REPRESENTATIVE		TITLE	
STREET ADDRESS		PO BOX	CITY	STATE	ZIP CODE
TELEPHONE	FAX NUMBER		E-MAIL ADDRESS		
DESCRIPTION OF RECOVERY ZONE AREA			COUNTY		
LOCAL GOVERNMENT JURSDICTION					
CHIEF ELECTED OFFICER			TITLE		
HAS SAID OFFICER APPROVED THE PROPOSED FINANCING? <input type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> NOT REQUIRED			HAS A PUBLIC HEARING BEEN HELD CONCERNING THE PROPOSED FINANCING? <input type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> TO BE HELD <input type="checkbox"/> NOT REQUIRED		
BOND COUNSEL FOR ISSUER		FIRM NAME			
STREET ADDRESS		PO BOX	CITY	STATE	ZIP CODE
TELEPHONE	FAX NUMBER		E-MAIL ADDRESS		

Description of Project or Financing

TYPE OF BONDS (CHECK ONE THEN COMPLETE SUBSECTION)

<input type="checkbox"/> Economic Development Bonds		<input type="checkbox"/> Facility Bonds	
Qualified Economic Development Purpose: <input type="checkbox"/> Capital expenditures for property in the zone <input type="checkbox"/> Public infrastructure <input type="checkbox"/> Public facilities <input type="checkbox"/> Job training and educational programs <input type="checkbox"/> Other _____	To be issued as: <input type="checkbox"/> General obligation bonds <input type="checkbox"/> Utility revenue bonds <input type="checkbox"/> Leasehold revenue bonds <input type="checkbox"/> Certificates of participation <input type="checkbox"/> Special obligation bonds <input type="checkbox"/> Other _____	Qualified Economic Development Purpose: <input type="checkbox"/> Capital expenditures for property in the zone <input type="checkbox"/> Public infrastructure <input type="checkbox"/> Public facilities <input type="checkbox"/> Job training and educational programs <input type="checkbox"/> Other _____	To be issued as: <input type="checkbox"/> General obligation bonds <input type="checkbox"/> Utility revenue bonds <input type="checkbox"/> Leasehold revenue bonds <input type="checkbox"/> Certificates of participation <input type="checkbox"/> Special obligation bonds <input type="checkbox"/> Other _____

LIST THE PRINCIPAL BENEFICIARY(S) OF THE PROJECT TO BE FINANCED WITH THE PROCEEDS OF BONDS (Include parent company and d/b/a where applicable)

NAME and LOCATION OF PROJECT (PROJECT NAME, STREET, P.O. BOX, CITY, STATE, ZIP CODE)

AMOUNT OF ALLOCATION REQUESTED (Least amount necessary)

DATE INDUCEMENT RESOLUTION OR OTHER COMMITMENT TO ISSUE WAS ADOPTED

DESCRIBE THE BUSINESS ACTIVITY AT THE FACILITY, IF APPLICABLE

DESCRIBE THE PROJECT WITH SPECIFIC DETAILS

DESCRIBE THE SPECIFIC BENEFIT OF A RECOVERY ZONE BOND TO THE PROJECT				
IS THE PROJECT FACILITY (CHECK ALL THAT APPLY TO FACILITY, AS APPLICABLE):				
<input type="checkbox"/> NEW CONSTRUCTION <input type="checkbox"/> RENOVATION <input type="checkbox"/> HISTORIC - ON NATIONAL REGISTER <input type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> OTHER _____				
IS THIS PROJECT PART OF AN APPROVED COMMUNITY PLAN? <input type="checkbox"/> YES <input type="checkbox"/> NO				
IF YES, WHICH PLAN			APPROVAL DATE	
Investment				
	TOTAL INVESTMENT	PRIVATE INVESTMENT	LEVERAGED PUBLIC INVESTMENT	
			SOURCE	AMOUNT
LAND & SITE PREPARATION				
BUILDING				
EQUIPMENT				
OTHER				
TOTAL INVESTMENT				
Jobs & Wages				
	WITHIN 1 YEAR	CUMULATIVE OVER 5 YEARS	AVERAGE WAGE OF NEW JOBS	
Estimate the number of permanent new jobs for this project:				
		NUMBER OF RETAINED JOBS	AVERAGE WAGE OF RETAINED JOBS	
Provide the number of retained jobs for this project:				
		NUMBER OF CONSTRUCTION JOBS		
Provide the number of relevant construction jobs for this project:				
Closing Information				
ANTICIPATED DATE OF CLOSING (NEEDS TO BE AS ACCURATE AS POSSIBLE)				
DESCRIBE ACTIVITIES THAT HAVE OCCURRED TO SUPPORT BOND CLOSING ON THE ABOVE DATE				
Attestation				
<i>I CERTIFY THAT THE ABOVE INFORMATION IS ACCURATE TO THE BEST OF MY KNOWLEDGE AND THAT I AM AUTHORIZED TO SUBMIT THIS APPLICATION ON BEHALF OF THE BOND ISSUER.</i>				
SIGNATURE OF ISSUER'S REPRESENTATIVE			DATE	
Submit to:	Department of Economic Development Recovery Zone Bond 301 West High Street PO Box 1157 Jefferson City, MO 65102 Phone: (573) 751-5097 Fax: (573) 522-5033			

AUTHORITY: section 108.1010, HB 191, First Regular Session, Ninety-fifth General Assembly, 2009. Emergency Rule filed Sept. 18, 2009, effective Sept. 28, 2009, expires March 26, 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 AMENDMENT**

20 CSR 2120-2.100 Fees. The board is proposing to add subsections (1)(U) through (GG).

PURPOSE: The State Board of Embalmers and Funeral Directors is statutorily obligated to enforce and administer the provisions of Chapter 333, RSMo, and sections 436.400 to 436.520, RSMo. Pursuant to section 333.111, RSMo, the board shall by rule and regulation set the amount of fees authorized by Chapter 333, RSMo, and sections 436.400 to 436.520, RSMo, so that the revenue produced is sufficient, but not excessive, to cover the cost and expense to the board for administering the provisions of Chapter 333, RSMo, and sections 436.400 to 436.520, RSMo. Therefore the board is proposing to adopt new fees associated with the implementation of Senate Bill 1, 95th General Assembly, First Regular Session 2009.

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

The impetus for this bill was the 2008 collapse of Missouri's largest preneed funeral plan seller, National PreArranged Services (NPS), a St. Louis based preneed funeral plan seller. NPS sold preneed funeral plans in approximately forty-four (44) states and had estimated liabilities of one (1) billion dollars. NPS and its sister insurance companies are being liquidated by the District Court of Travis County, Texas. NPS was the largest third-party preneed funeral plan seller in the state of Missouri and was the seller of approximately seven thousand (7,000) preneed funeral plans in Missouri at the time liquidation proceedings began. The repercussions of the liquidation of NPS will be felt throughout all of Missouri for years to come. Funeral homes will receive payment of much less than NPS promised to provide for funeral services, and some Missourians will be faced with the situation of having to pay twice for a funeral because there will be no funds available through the liquidation proceedings and there may be no funeral home in Missouri obligated to provide the funeral services. The ripple effects of this liquidation will also be felt in the economies of many Missouri communities. This matter has resulted in approximately two hundred (200) complaints to the board. Multiple lawsuits have been filed against NPS and one of NPS's central figures was recently placed under federal indictment.

Now that this legislation has passed and became effective on August 28, 2009, this emergency amendment is necessary to preserve a compelling governmental interest of establishing fees for the requirements contained in Chapters 333 and 436, RSMo, which became effective on August 28, 2009.

Adoption of this rule only through the ordinary rulemaking process

would preclude the board from setting fees for its licensees and registrants under the new requirements of Chapters 333 and 436, RSMo, and would preclude licensees and registrants from being able to meet the statutory requirements for licensure or registration, thus precluding them from doing business in the state of Missouri.

As a result, the Missouri State Board of Embalmers and Funeral Directors finds that there is a compelling governmental interest that requires this emergency action. The scope of this emergency amendment is limited to the circumstances creating the emergency and complies with the protections extended in the Missouri and United States Constitutions. The Missouri State Board of Embalmers and Funeral Directors believes this emergency amendment is fair to all interested persons and parties under the circumstances. This emergency amendment was filed September 24, 2009, becomes effective October 4, 2009, and expires April 1, 2010.

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

(U) Provider License Application Fee (if no Funeral Establishment license)	\$200
(V) Provider License Application Fee (if also Funeral Establishment license)	\$100
(W) Provider Biennial Renewal Fee	\$ **
(X) Seller License Application Fee	\$ 75
(Y) Seller Biennial Renewal Fee	\$ **
(Z) Seller Agent Registration Fee	\$ 50
(AA) Seller Agent Biennial Registration Renewal Fee	\$ **
(BB) Seller Annual Report Fee	\$ **
(CC) Seller Annual Report Late Fee	\$ **
(DD) Seller Agent Law Examination Fee	\$ **
(EE) Seller per Contract Annual Reporting Fee (for contracts executed on or after August 28, 2009)	\$ 36
(FF) Amended Provider Application Fee	\$ 25
(GG) Amended Seller Application Fee	\$ 25

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

AUTHORITY: section 333.111.1, RSMo 2000 and section 333.340, as amended by Senate Bill 1, 95th General Assembly, First Regular Session 2009. This rule originally filed as 4 CSR 120-2.100. Emergency rule filed June 30, 1981, effective July 9, 1981, expired Nov. 11, 1981. Original rule filed June 30, 1981, effective Oct. 12, 1981. For intervening history, please consult the Code of State Regulations. Emergency amendment filed Sept. 24, 2009, effective Oct. 4, 2009, expires April 1, 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 3—Preneed
EMERGENCY RULE**

20 CSR 2120-3.105 Filing of Annual Reports

PURPOSE: This emergency rule prescribes the board's process for the filing of annual reports under the revised sections of Chapters 333 and 436, 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 of NPS's central figures was recently placed under federal indictment.

Now that this legislation has passed and was effective on August 28, 2009, this emergency rule is necessary to preserve a compelling governmental interest of establishing a process through which preneed sellers, providers, and agents can continue preneed business and make required annual reports to the board. In the absence of such a rule, those who have engaged in any preneed business before October 31, 2009, would have annual reporting requirements under old and new law. This rule distinguishes reporting requirements for those conducting preneed business during that time frame.

Adoption of this rule only through the ordinary rulemaking process will leave the preneed industry in a state of confusion as to which annual reporting requirements to comply with for the reporting year for which part falls under the old law and part falls under the new law.

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 September 24, 2009, becomes effective October 4, 2009, and expires April 1, 2010.

(1) For sellers:

(A) For the annual report due on October 31, 2009, sellers registered with the board prior to August 28, 2009, in lieu of filing the annual report required by section 436.460, RSMo, may file an annual report, on the form provided by the board, containing all the information required by section 436.021.2, RSMo 2000. This report shall report all preneed contracts executed since the reporting period the seller reported in its report due on October 31, 2008, through August 27, 2009. This annual report shall be accompanied by a fee of two dollars (\$2) per preneed contract sold for the reporting period; and

(B) For the annual report due on October 31, 2010, sellers shall report all contracts executed from August 28, 2009, through August 31, 2010. Thereafter, the annual report shall report all contracts sold between September 1 of the year preceding the annual report through August 31 of the reporting year. Each annual report filed for report-

ing years ending October 31, 2010, and thereafter shall also be accompanied by the annual fee as established in 20 CSR 2120-2.100.

(2) For providers:

(A) For the annual report due as set out below, providers shall file an annual report as provided by section 333.315.3(4), RSMo, covering the reporting period as set out below:

1. For report due October 31, 2009, the reporting period shall be from the date of the provider's last annual report through August 27, 2009. No annual fee shall be required for this reporting period;

2. For report due October 31, 2010, the reporting period shall be August 28, 2009, through August 31, 2010, and accompanied by the renewal fee in 20 CSR 2120-2.100; and

3. For reports due successive years, reporting period shall be September 1 through August 31 and shall be accompanied by the renewal fee established in 20 CSR 2120-2.100.

AUTHORITY: sections 333.315, 333.320, 333.340, 436.460, and 436.520, as amended by Senate Bill 1, 95th General Assembly, First Regular Session 2009. Emergency rule filed Sept. 24, 2009, effective Oct. 4, 2009, expires April 1, 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 2120-3.125 Corporate Ownership of a Licensee

PURPOSE: This rule prescribes the requirements regarding corporation applications for a preneed provider or seller's license.

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

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 preneed consumers from potential harm by unlicensed practice.

Adoption of this rule only through the ordinary rulemaking process would potentially allow those not qualified for licensure by the board to be licensed through a creative corporate structure.

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 September 24, 2009, becomes effective October 4, 2009, and expires April 1, 2010.

(1) A corporate applicant for either a seller or provider license shall certify to the board that each of its officers, directors, managers, and controlling shareholders would be eligible for licensure under section 333.330, RSMo, if he or she applied for licensure as an individual.

(2) In any proceeding, the applicant shall have the burden to demonstrate to the board that its officers, directors, managers, and controlling shareholders would be eligible for licensure under section 333.330, RSMo.

AUTHORITY: sections 333.315, 333.320, 333.340, and 436.456, as amended by Senate Bill 1, 95th General Assembly, First Regular Session 2009. Emergency rule filed Sept. 24, 2009, effective Oct. 4, 2009, expires April 1, 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 2120-3.405 Preneed Agents—Missouri Law Exam

PURPOSE: This rule prescribes the process for certifying preneed seller agents to take the Missouri Law Exam as a requirement for registration.

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 funer-

al plan seller in the state of Missouri and was the seller of approximately seven thousand (7,000) preneed funeral plans in Missouri at the time liquidation proceedings began. The repercussions of the liquidation of NPS will be felt throughout all of Missouri for years to come. Funeral homes will receive payment of much less than NPS promised to provide for funeral services, and some Missourians will be faced with the situation of having to pay twice for a funeral because there will be no funds available through the liquidation proceedings and there may be no funeral home in Missouri obligated to provide the funeral services. The ripple effects of this liquidation will also be felt in the economies of many Missouri communities. This matter has resulted in approximately two hundred (200) complaints to the board. Multiple lawsuits have been filed against NPS and one of NPS's central figures was recently placed under federal indictment.

Now that this legislation has passed and was effective on August 28, 2009, this emergency rule is necessary to preserve a compelling governmental interest of establishing a process through which preneed agents can meet the requirements for registration with the board; specifically, the completion of the Missouri Law Exam.

Adoption of this rule only through the ordinary rulemaking process will preclude preneed agents from doing business in the state of Missouri because it would preclude them from meeting the registration requirement of completing the Missouri Law Exam.

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 September 24, 2009, becomes effective October 4, 2009, and expires April 1, 2010.

(1) All preneed agents registering with the board shall achieve a grade of seventy-five percent (75%) or greater on the Missouri Law exam.

(2) Successful completion of the Missouri Law exam shall be a prerequisite to registration.

(3) This exam may be taken any time after filing the Notice of Intent to Apply.

(4) Preneed agent applicants must successfully complete the Missouri Law exam on or before December 31, 2009, prior to the expiration of the Notice of Intent to Apply.

(5) The Missouri Law exam covers the following:

(A) Knowledge of Chapter 333, RSMo;

(B) Rules governing the practice of embalming, funeral directing, and funeral home licensing along with government benefits, statutes, and rules governing the care, custody, shelter, disposition, and transportation of dead human bodies;

(C) Knowledge of sections 436.400 to 436.520, RSMo, relating to preneed statutes;

(D) Knowledge of Chapters 193 and 194, RSMo, relating to the Missouri Department of Health and Senior Services statutes; and

(E) Questions regarding Federal Trade Commission rules and regulations and Occupational Safety and Health Administration (OSHA) requirements as they apply to Missouri licensees.

(6) Notification of intent to take this examination shall be received by the board at least fifteen (15) working days prior to the date the candidate plans to sit for the examination.

*AUTHORITY: sections 333.325.5 and 333.340, as amended by Senate Bill 1, 95th General Assembly, First Regular Session 2009. Emergency rule filed Sept. 24, 2009, effective Oct. 4, 2009, expires April 1, 2010. A proposed rule covering this same material is published in this issue of the **Missouri Register**.*

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

EXECUTIVE ORDER 09-25

WHEREAS, an effective disaster response and recovery system must have the well-being of Missouri's citizens as a principal goal; and

WHEREAS, our state is strengthened by a strong collaborative partnership between public agencies and faith-based, charitable and community service organizations in the service of its citizens in need after a disaster, especially those people with special needs such as the elderly and persons with disabilities; and

WHEREAS, providing a cohesive, effective human services response and recovery plan for Missourians requires advanced and on-going collaboration, communication, coordination and cooperation among federal, state, and local governments, and private sector and citizen groups; and

WHEREAS, record numbers of disasters have affected the State of Missouri over the past 30 months, imposing considerable hardship on Missourians and their communities; and

WHEREAS, providing a comprehensive disaster response system that includes faith-based, charitable and community service organizations along with state, federal, and local entities, will promote timely recovery to those affected individuals and communities.

NOW THEREFORE, I, JEREMIAH W. (JAY) NIXON, GOVERNOR OF THE STATE OF MISSOURI, by virtue of the authority vested in me by the Constitution and laws of the State of Missouri, do hereby create and establish the Governor's Faith-Based and Community Service Partnership for Disaster Recovery (herein called the "Partnership").

The Partnership shall be comprised of governmental and private agency representatives. To form the membership of the Partnership, I direct the following state departments and agencies to designate one representative each with appropriate policy-making authority:

- Agriculture
- Conservation
- Economic Development
- Elementary and Secondary Education
- Health and Senior Services
- Higher Education
- Insurance, Financial Institutions and Professional Registration
- Labor and Industrial Relations
- Mental Health
- Missouri Housing Development Commission
- Natural Resources
- Office of Administration
- Public Safety
- Social Services
- State Emergency Management Agency
- and
- University of Missouri – Extension

A representative from the Governor's staff will also serve as a member of the Partnership.

The partnership shall also include one representative from each of the following private sector organizations and federal agencies: American Red Cross, Missouri Voluntary Organizations Active in Disaster (MOVOAD), The Salvation Army, Missouri Catholic Conference, Missouri Baptist Convention, Lutheran Disaster Services, Missouri United Methodist Conference, Church World Service, Missouri Interfaith Disaster Response Organization, AmeriCorps - St. Louis, United Ways of Missouri, Missouri Association of Community Action, Missouri Legal Services, Missouri Police Chiefs Association, Missouri Sheriffs Association, Missouri Emergency Preparedness Association, Federal Emergency Management Agency, and United States Department of Agriculture

I further direct the Partnership, by and through its chairs, to invite additional membership from a wide range of private-sector organizations and agencies who by nature of their charters and mission are uniquely suited to enhance the delivery of assistance to victims of disasters to include but not limited to faith-based organizations, non-governmental organizations, Federal emergency human services related partner agencies and associations of emergency human services organizations. The Partnership shall keep the Office of the Governor fully apprised of its non-state, public and private-sector membership.

The Partnership shall be directed by two co-chairs. One co-chair shall represent the public-sector members of the Partnership and be appointed by the Governor. The second co-chair shall represent the private-sector members of the Partnership and shall be elected by a majority vote of such members. The Partnership shall meet at the call of its Co-Chairs.

The Partnership shall be staffed by the State Emergency Management Agency.

Members of the Partnership shall receive no compensation for their service to the people of Missouri but may seek reimbursement for their reasonable and necessary expenses incurred as members of the Partnership, in accordance with the rules and regulations of the Office of Administration, to the extent that funds are available for such purpose.

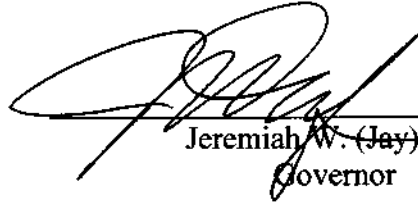
I hereby charge the Partnership with the following duties and responsibilities:

- Develop and maintain operating protocols for the Partnership;
- Serve as the coordinating organization in concert with the State Emergency Management Agency for emergency human services functions in natural disasters and terrorist events;
- Provide a forum to enable collaborative organizations such as the Missouri Voluntary Organizations Active in Disaster (MOVOAD) and Missouri Interfaith Disaster Response Organization (MIDRO) to best serve Missourians in time of emergency;
- Assure the responsiveness of public and private sector resources to citizens in time of disaster;
- Improve the human services disaster response and recovery delivery methods with a goal of increasing service to the citizens of Missouri while maximizing the use of public and private sector resources;
- Develop and maintain an effective response and recovery plan which includes those Missourians with special needs;
- Function as a State Citizen Council for the State of Missouri, with support to the Homeland Security Advisory Council, on post-disaster human service issues; and

- Develop and propose to the Governor's office, viable plans for funding recovery efforts in disasters that are undeclared, and to assist Missourians who are underserved in declared disasters.



IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Missouri, in the City of Jefferson, on this 21st day of September, 2009.



Jeremiah W. (Jay) Nixon
Governor

ATTEST:



Robin Carnahan
Secretary of State