

**Title 20—DEPARTMENT OF
COMMERCE AND INSURANCE
Division 2120—State Board of Embalmers
and Funeral Directors
Chapter 2—General Rules**

EMERGENCY RULE

20 CSR 2120-2.106 Preneed Contract Audit Fee Waiver

PURPOSE: To waive the twenty-five dollar (\$25) statutory state audit fee paid by consumers who are impacted by the receivership of National Prearranged Services (“NPS”).

EMERGENCY STATEMENT: In March 2024, Missouri funeral homes and Missouri consumers began receiving notices from the Texas Special Deputy Receiver (SDR) providing notification that orphan (no insurance involved) preneed contracts were being terminated by the receivership. Notices also provided expected refunds, as determined by the SDR. In many cases, the refunds would not be the full amount consumers paid toward their preneed contract due to the criminal actions by NPS which resulted in the receivership.

The receivership, through communication with the State Board of Embalmers and Funeral Directors (board), indicated consumers could begin receiving refunds as early as May 2024.

Section 436.460.5 RSMo, authorizes the board to collect an annual reporting fee from each preneed seller per contract written. The fee is customarily (although not always) charged to the consumer in a preneed contract and noted as a “State Audit Fee”. This practice is authorized by Sections 436.460.5, RSMo. The preneed seller is to pay the fee at the time of filing of their annual report during the license renewal period. The license renewal window occurs from September 1 through October 31 annually.

This proposed emergency rule attempts to minimize the impact of financial loss to the consumer/preneed seller by waiving the preneed contract audit fee for consumers or preneed sellers who enter a new (replacement) contract because of the NPS receivership action. The State Board of Embalmers and Funeral Directors believes this emergency rule is fair to all affected Missouri consumers and Missouri preneed sellers.

*As notice from the Texas Special Deputy Receiver has been provided to consumers regarding termination of orphan preneed contracts along with notice of pending refunds along with the upcoming annual renewal period beginning in September 2024, the board has determined this emergency rule is necessary to minimize any continued financial harm to Missouri citizens and Missouri preneed sellers. . As a result, the State Board of Embalmers and Funeral Directors finds there is an immediate danger to the public health, safety, and/or welfare and 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 April 29, 2024, becomes effective May 14, 2024, and expires February 20, 2025.

20 CSR 2120-2.106 – Preneed Funeral Contract Audit Fee Waiver

- (1) The board may waive the per contract annual reporting fee required by section 436.460.5, RSMo, and rule 20 CSR 2120-2.100(1)(DD) for any seller who has entered into a contract for preneed funeral services with a consumer impacted by the receivership of National Prearranged Services ("NPS").
- (2) To request a waiver, the seller shall submit its request in writing to the board along with its annual report and provide any additional documentation as the board may request. The board may provide a form with requested information.
- (3) Waivers may only be granted where the consumer has not been charged any State audit fee (or similar reporting fee) or the seller has affirmed the consumer shall receive a refund or credit of any fee previously paid. In no event shall any waiver exceed twenty-five dollars (\$25) per contract.
- (4) In the event any waiver is denied, the seller shall remit the reporting fee due within sixty (60) days' notice.
- (5) This rule shall sunset on October 31, 2026.

AUTHORITY: sections 333.340 and 436.460.5, RSMo 2016. Original rule filed: Emergency rule filed April 29, 2024, effective May 14, 2024, expires February 20, 2025.

PUBLIC COST: This proposed rule will cost state agencies or political subdivisions an estimated forty-six thousand five hundred dollars (\$46,500) in the time the emergency is effective.

PRIVATE COST: This proposed rule will save private an estimated forty-six thousand five hundred dollars (\$46,500) in the time the emergency is effective.

PUBLIC FISCAL NOTE

I. RULE NUMBER

Title 20 -Department of Commerce and Insurance

Division 2120—State Board of Embalmers and Funeral Directors

Chapter 2 - General Rules

Proposed Emergency Rule 20 CSR 2120-2.106 – Preneed Funeral Contract Audit Fee Waiver

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Loss of Revenue	
State Board of Embalmers and Funeral Directors		\$46,500
	During the Time the Emergency is Effective	\$46,500

III. WORKSHEET

See Private Entity Fiscal Note

IV. ASSUMPTION

1. The total loss of revenue is based on the cost savings to private entities reflected in the Private Fiscal Note filed with this rule.

PRIVATE FISCAL NOTE

I. RULE NUMBER

Title 20 -Department of Commerce and Insurance

Division 2120—State Board of Embalmers and Funeral Directors

Chapter 2 - General Rules

Proposed Emergency Rule 20 CSR 2120-2.106 – Preneed Funeral Contract Audit Fee Waiver

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 savings for the life of the rule by affected entities:
1,860	Audit Fee (Fee @ \$25)	\$46,500
	During the Time the Emergency is Effective	\$46,500

III. WORKSHEET

See Table Above

IV. ASSUMPTION

1. The figure reported above is based on the list provided by the receivership. It is a listing of approximately 3,100 Missouri consumers impacted by the orphan contract cancellations. The board estimates 60% of this total will enter into a new preneed contract.
2. The fee waiver only affects consumers and preneed sellers impacted by the receivership of the National Prearranged Services. The fee is waived for consumers that enter into new preneed contracts.