

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

PROPOSED RULE

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 Funds shall only be withdrawn or paid from the account upon the signatures of both the seller and the purchaser or under a pay-on-death designation or as required to pay reasonable expenses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 setup 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 or more of the following actions to be taken by 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 acknowledgement 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.

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 State Board of Embalmers and Funeral Directors, Patty Faenger, Executive Director, 3605 Missouri Boulevard, PO Box 423, Jefferson City, MO 65102-0423, by facsimile at (573) 751-1155 or via email to 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.*