

MISSOURI
STATE BOARD OF EMBALMERS AND FUNERAL DIRECTORS

FINANCIAL EXAMINATION PROCEDURE HANDBOOK

EXAMINATION DIRECTIVES - APPROVED BY BOARD.....---

IMPLEMENTATION.....---

 PRE ONSITE VISIT.....---

 ONSITE VISIT---

 POST ONSITE VISIT---

 POST ONSITE EVALUATION.....---

SCOPE OF FINANCIAL EXAMINATION.....---

 GENERAL.....---

 APPLICABLE TO ALL CONTRACTS---

 APPLICABLE TO TRUST FUNDED PRENEED CONTRACTS---

 APPLICABLE TO JOINT ACCOUNT FUNDED PRENEED CONTRACTS---

 APPLICABLE TO INSURANCE FUNDED PRENEED CONTRACTS---

 CONTRACTS OF OTHER SELLERS---

 OTHER.....---

FINANCIAL EXAMINATION ATTESTATION DOCUMENT.....---

Board Directives for Preneed Seller Financial Examinations

A. General Board Directives to Staff

1. Examinations are done to fulfill the board's statutory direction in Section 436.470, RSMo, to conduct financial examinations of each preneed seller at least once every 5 years.
2. Examinations are done within the scope of the board's statutory authority and to fulfill the board's purpose of protecting the public by ensuring that preneed sellers are complying with their statutory requirements and duties.
3. Examinations are done for the purpose of ensuring that sellers are safeguarding preneed funds and that the funds are properly utilized per contracts with the consumer and in accord with statutory requirements.
4. Staff shall work diligently and with good faith and fairness to ensure that each financial exam is conducted lawfully and with professional conduct to fulfill the board's directives.
5. The board has directed the Staff to prepare a written financial exam procedures handbook to be used by all examiners in conducting financial examinations and to be provided to the industry as a guideline. Subject to approval by the board, the handbook shall set out all techniques for confirming data provided by sellers, consumers, financial institutions and insurance companies.

B. Scope of Exams

1. For all preneed sellers, the examiners shall confirm:
 - a. Seller's seller license is current and active; (§ 333.320, RSMo)
 - b. Seller affirms that it has provided the board access to all preneed contracts; (§ 436.420, RSMo)
 - c. Preneed contracts meet the statutory requirements; (§ 436.425, RSMo)
 - d. Seller maintains records adequate to determine compliance with 1) the timely transmission of consumer funds to banks, trustees and insurance companies, and 2) the statutory requirements for authority to request distributions from funding agents ; (§436.465, RSMo)
 - e. Seller provides written notification to consumers of any change in funding source; (§436.425, RSMo)
 - f. Consumer funds are properly and timely deposited; (§§ 436.430,.450 and .456, RSMo)
 - g. If the Seller has sold trust funded contracts, that it has a written agreement with its trustee; (§§ 333.320 and 436.420, RSMo)
 - h. If the Seller's preneed contracts are performed by a third party funeral home, that it has a written provider agreement with each such funeral home. (§§ 333.320 and 436.420, RSMo)
 - i. Seller maintains its fulfilled contracts and related records for 5 years; (§ 436.465, RSMo)
 - j. Seller records confirm the accuracy of annual reports filed with the board; (§ 436.460, RSMo)
 - k. Seller handled cancellations or transfers in accordance with statute; (§ 436.456, RSMo)
 - l. If a provider funeral home has complained to the board, whether Seller complies with statutes regarding payments at death of preneed beneficiary; (§§ 436.430, .450, .455, RSMo)
2. For trust funded preneed contracts, the examiner shall:
 - a. Confirm that the trust agreement complies with §436.430.5;

- b. Confirm that each preneed contract form used by the seller since its preceding examination complies with subsections 4, 7, 8, 9, 10, 13, 14 and 15 of §436.425 (See Section _() instructions;
3. For joint account funded preneed contracts, the examiner shall :
 - a. Confirm that each preneed contract form used by the seller since its preceding examination complies with subsections 4, 7, 8, 9, 10, 13, 14 and 15 of §436.425 (See Section _() instructions;
 - b. Confirm that depository accounts are under joint control of the seller and the purchaser; (§436.455, RSMo)
 - c. Confirm that 100% of consumer funds are in the depository accounts; (§436.455, RSMo)
4. For insurance funded preneed contracts, the examiner shall also:
 - a. Confirm that each preneed contract form used by the seller since its preceding examination complies with subsections 4, 5, 6, 7, 8, 9, 11, 13, 14 and 15 of §436.425;
 - b. Confirm for the sampling of preneed contracts that that the seller is not the owner of the insurance policy, for preneed contracts under the new law; (§ 436.450, RSMo)
5. For the sampling of seller's preneed contracts, confirm compliance with subsections 1, 2, 3 and 12 of §436.425.

Financial Examination Evaluation Procedures

1. For each financial examination, the examiner shall prepare a financial examination report with attachments as needed to document exceptions. When the examiner has completed the data compilation and review, a final draft examination report is submitted to the financial supervisor and executive director for review.
2. The financial supervisor shall review each financial examination report to ensure its compliance with these guidelines and for accuracy and completeness. If exceptions are noted for missing records, the financial supervisor shall determine if adequate inquiries have been made of the seller for such records, and whether further action(s) should be taken by the examiner to augment the report before it is submitted to the financial examination committee. For each report, the financial supervisor shall summarize the exceptions in terms of legal issues, recordkeeping issues and financial issues, and offer assessments and recommendations to the financial examination committee. For exceptions of a technical nature, the supervisor's summary should include the seller's position on the issue. Financial exceptions should also be noted as whether isolated, an obvious error or systemic. Exceptions for inadequate records must be explained in terms of the financial transaction that cannot be confirmed and the inquiries made to the seller for documentation and/or reports. The recommendations should include the level of review for the seller's next examination, and whether there exist circumstances to schedule the next examination sooner than in five years. The financial supervisor shall forward the completed report and summary to the executive director for review by the financial examination committee.
3. All financial examination reports shall be reviewed by the financial examination committee before being sent to sellers. Giving deference to the financial supervisor's summary, the committee shall

determine whether corrective actions should be sought from the seller. The committee may close an exam with no or minor exceptions, and shall provide notice of such closure to the seller. The notice may include explanations of minor exceptions and suggested corrective actions. When the committee determines that corrective action may be required of a seller, the notice given to the seller may seek additional information and/or required corrective actions.

4. The board staff shall send a copy of that financial examination report to the licensee for response and the licensee shall be given at least 30 days to file a written response with the board. This response may dispute the findings and provide evidence to support the seller's response, it may present a plan to remedy the exceptions noted in the final examination report or it may provide any other response the seller wishes the board to consider.
5. After the response time has passed, the financial examination report and the licensee's response shall be considered by the examination committee*. The examination committee may take one of the following actions:
 - a. The committee may accept the financial examination report and direct staff to close the exam and to provide closure notice to the seller;
 - b. The committee may accept the seller's plan to resolve the exceptions and give the seller up to 18 months to resolve the exceptions, at the committee's discretion;
 - c. The committee may offer additional direction to the licensee as to what is required to resolve the exceptions and the committee may offer the licensee additional time to resolve the exceptions, but no longer than 18 months unless there are special circumstances, at the committee's discretion;
 - d. The committee may refer the financial examination report and the seller's response to the full board for further action.
6. The examination committee shall have no authority to seek any judicial action or to initiate any disciplinary process.
7. Upon direction by either the examination committee or the full board to close a financial examination, board staff shall provide the seller with a written notice that the exam has been closed.

End of directives

* Financial Examination Committee is official name of committee

Implementation

The following outlines staff implementation of the board's directives.

1. PRE ONSITE VISIT

- Within six months of a seller's 5 year anniversary of the prior financial examination, the exam committee and the staff shall determine if the seller is subject to a Level 1, 2 or 3 examination.
- Financial supervisor shall assign exams to an examiner via email, pursuant to section 436.470.3.
- The examiner shall review the seller's prior annual reports for consistency in assigning consecutive contract numbers, and for gaps in the contract numbers reported. Inconsistencies shall be noted in the first notification letter with a request for an explanation during the onsite visit.
- A notification letter will be prepared to advise the seller whether the examination is a Level 1, 2, or 3 exam, with explanations of the sampling sizes of contracts and financial transactions for seller's level of examination. The letter will also identify which months are being used for the financial transaction review.
- From the active contract list to be supplied by the seller, the examiner shall identify one set of sampling of contracts for the names, addresses, signatures and arrangement descriptions review. For Level 1 examinations, the sampling shall be 10% of the preneed contracts, but a minimum of 10 contracts. For Level 2 examinations, the sampling shall be 25% of the preneed contracts, but a minimum of 25 contracts. For Level 3 examinations, all preneed contracts shall be reviewed.
- From the seller's active serviced/canceled contract list, the examiner shall identify the set of sampling of contracts for performance payment review. For Level 1 examinations, the sampling shall be 10% of the serviced preneed contracts. For Level 2 examinations, the sampling shall be 25% of the serviced contracts. For Level 3 examinations, all serviced/canceled preneed contracts shall be reviewed.
- If the seller is scheduled for a Level 1 exam, the examiner shall identify 12 calendar months that will be used for the financial transaction review. If the seller is scheduled for a Level 2 exam, the examiner will identify 30 calendar months that will be used for the financial transaction review. The examiner may, but is not required to, designate each August as months for financial transaction review. Level 3 exams require all open calendar months to be reviewed. Financial transaction reviews for Level 1 and 2 exams are to be part of the pre-onsite review if the seller responds with the necessary records and reports in a timely fashion. The financial transaction review for Level 3 exams are conducted at the seller's offices.
- Examination notification letters shall request the following: i) a copy of all preneed contract forms used since the previous exam; ii) a current list of active preneed contracts; iii) a list of contracts that have been serviced since the seller's prior examinations; iv) a list of contracts that have canceled since the seller's prior examinations; v) a list of funding agents utilized since the seller's prior exam; vi) agreements with those funding agents; vi) seller records or reports for consumer funds received during the months identified by the letter for the financial transaction review; vii) seller records or reports for consumer funds transmitted to funding agents during the months identified by the letter for the financial transaction review; viii) funding agent monthly reports for the financial transaction review; and ix) confirmation whether any income has been distributed from a preneed trust pursuant to Section 436.031.3, and all supporting documentation created for each such distribution.
- The Notification letter will request items i) through iv) within 30 days of the letter date and all other items within sixty (60) days of letter date. Examination information is received in office

and scanned for use by the examiners. Thirty day extensions will be granted when a reasonable basis for additional time is given by the seller.

- Examiner shall scan information and documents received from the seller into a working electronic file, including contract forms, sampling contracts noted with exceptions, seller's financial transaction records and reports, and the funding agent records/reports.
- For trust funded preneed contract forms, the examiner shall confirm that the contract form complies with subsections 4, 7, 8, 9, 10, 13, and 15 of §436.425. (The examiner will not apply subsection 15 to non-guaranteed preneed contracts.);
- For joint account funded preneed contract forms, the examiner shall confirm that the contract form complies with subsections 4, 7, 8, 9, 10, 13, and 15 of §436.425. (The examiner will not apply subsection 15 to non-guaranteed preneed contracts.);
- For insurance funded preneed contracts, the examiner shall confirm that the contract form complies with subsections 4, 5, 6, 7, 8, 9, 11, 13, and 15 of §436.425;
- Upon receipt of seller's active preneed contract list and the serviced/canceled preneed contract list, the examiner shall determine the appropriate sampling number of active contracts and serviced contracts, and then identify those contracts from each list that are to be provided during the onsite visit for review. A second notification letter will be sent out to the seller ten business days prior to the scheduled onsite visit that notifies the seller of the preneed contract files to be provided for review.
- Upon receipt from seller of Notification letter request items v through ix, the examiner shall attempt to reconcile seller's receipt of consumer funds to their deposit with the funding agents. The examiner shall confirm the proper amounts were deposited with the funding agent within the time requirements imposed by Chapter 436.
- If seller's Section 436.031.3 response includes statutory income documents, the examiner will attempt to reconcile such distributions. Examiner shall confirm that income distributions were limited to contracts sold prior to August 28, 2009, and were otherwise adequately documented to show the trust market value equaled or exceeded the contracts' aggregate deposit balance, and that the trust had adequate income to fund the distribution. If seller's documentation is sufficient, examiner shall note the issue for discussion during the onsite visit.
- Upon completion of the preliminary analysis, examiner contacts seller to schedule the onsite visit.

2. ONSITE VISIT

- Examiner meets with person in charge or their representative to determine location of requested sampling preneed contract files and related information, as well as the assigned work area. (See Preliminary Interview steps below.)

Preliminary Interview - The examiner may ask, at a minimum, the following questions in order to obtain sufficient information about the seller's practices.

1. Where are the requested sampling contract files located?
2. Where are the consumer payment receipt reports and records?
3. Where are the seller records that reflect submission of consumer funds to funding agents?
4. Where are the preneed funding agent transaction reports?

5. Who is the contact person for questions during and after the onsite visit?
 6. What are the funding sources used in the past and currently used, including specific names of trust companies, financial institutions, and insurance companies.
 7. How does seller handle cancellations and transfers (if this information was not already provided in the random examination information)?
 8. Discuss and provide the Financial Examination Attestation document and explain its purpose.
 9. Has the seller's preneed contract form changed since the last examination? (If the contract form has not changed, the examiner need not review the form.)
 10. Copy consumer payment reports and current bank/trust/insurance reports if the requested months were not provided for the pre-visit desk review.
- Examiner shall review the sampling of active contract files for: i) the name, address and phone number of the purchaser, beneficiary, provider and seller; ii) the name, address, phone and license number of the provider and the seller; iii) detail of the disposition, funeral and burial services and facilities, and merchandise requested; and iv) the name and signature of the purchaser, the provider or its authorized representative, the preneed agent responsible for the sale of the contract, and the seller or its authorized representative. (Sampling files if Level 1 or 2, all files if Level 3) If the examination is a Level 3, the examiner will be reviewing all contracts, financial transaction reports/records and serviced/canceled contract files during the onsite visit.
 - When reviewing serviced/canceled contract files, the examiner will look to see if the statement of goods and services reflects the appropriate funding agent as the source of payment, and the amount of funds received. The examiner shall trace that payment back to the funding agent report of distributions. The examiner will document any discrepancies between the payment reflected on the statement of goods and services and the funding agent distribution report, and seek an explanation from the provider.
 - When the seller has received a Section 436.031.3 income distribution from a trust, the examiner will seek an explanation of the supporting documentation of the trust deposit balance, accrued income, and market value at the time of the distribution.
 - Examiner explains and obtains seller's signature on "Financial Examination Attestation" form (sample on page ____), which states that the seller has not used any preneed contracts as collateral or security for a loan, and that the seller has provided access to all records necessary to conduct the examination.
 - Examiner explains the current status of examination process to the seller's representative, including the possibility of a consumer letter mailing.
 - At the conclusion of the examiners review of sampling contract files with desk review exceptions, the examiner will meet with the seller's representative to discuss any exceptions regarding contract form compliance, discrepancies from the sampling contract review, missing contract files, missing financial reports/records or related files to give the seller an opportunity to locate such records. The examiner will also request a current listing of preneed contracts that are making installments, and explain the purpose of the consumer letters. The examiner shall afford the seller an opportunity to identify preneed contracts that are requested to be excluded from the consumer letter process. The seller shall provide an explanation for each requested exclusion.

3. POST ONSITE VISIT

- From the installment contract list, examiner creates a listing of those consumers randomly selected for consumer letters.
 - A. Criteria for consumer letters, which applies only to contracts that are trust funded and joint account funded: send to 10% of those still making payments or some evidence of a less than full payment, and 100% of those with contracts where no payment made (that are still considered valid contracts and not just consumer “wishes” lists). Consumer letters are only derived from joint account-funded contracts or trust accounts. Insurance-funded contracts and contracts through other sellers are NOT included in the consumer letter mailing, as well as no letters for pre-1982 contracts. If the contract payment information obtained from the seller is more than 60 days old, obtain an updated report from the seller.
 - B. Provide a copy of the consumer letters to the seller 5 days prior to mailing. If seller has a reasonable basis for excluding one or more consumer letters, substitute additional consumers.
 - C. Discrepancies from consumers are noted (examiner to refer to seller for explanation prior to writing up report).
 - D. If no contact is made by the consumer, the examiner assumes the consumer considers the information as correct.
- Examiner conducts further analysis of data.
- Examiner contacts seller or visits again to discuss any concerns/discrepancies, sending list of any questions to seller.
- Examiner prepares a draft examination report.

4. ADDITIONAL EVALUATION GUIDELINES

The draft examination report is reviewed by financial supervisor and executive director and unless further instructions are given the examiner, the financial supervisor will prepare his/her summary and initiate the Financial Examination Evaluation Procedures.

A. Applicable Review To Contract Form Reviews

During pre-visit review of seller’s information, examiner is to review preneed contract forms used since the prior examination, checking for the following below, to ensure compliance with statutory requirements of Section 436.425 RSMo. (Note: it is acceptable for seller to use the preprinted contract numbers stamped on the contract, such as standard preneed contracts from an insurance company or other seller) Each contract shall clearly and conspicuously:

- Identify the funding source as either trust funded, insurance funded, or joint account funded (examiner will also confirm that the contract wording for funding is in agreement with the actual funding source);
- Notice is given that the purchaser has the right to transfer the provider designation to another provider;
- Set forth the terms for cancellation by the purchaser. And if the contract has a provision giving the seller the right to cancel the contract that such provision is consistent with §436.457;
- Whether the contract is revocable or irrevocable;

- Whether the contract is a guaranteed or nonguaranteed contract;
- B. If the contract is insurance funded, does it:
- I) include notice that the cancellation of the contract shall not cancel life insurance funding the contract, and that insurance cancellation is required to be made in writing to the insurer;
 - Ii) include notice that the purchaser will only receive the cash surrender value of insurance policy funding the contract if cancelled after a designated time, which may be less than the amount paid into the policy; and
 - Iii) include the name, address and phone number of the insurance company issuing an insurance policy used to fund the preneed contract.
- C. If the contract is trust or joint account funded, does it:
- Identify preneed trust or joint account into which contract payments shall be deposited, including the name and address of the corresponding trustee or financial institution;
 - If the contract is a **guaranteed** installment payment contract, does it have a disclosure informing the purchaser what will take place in the event the beneficiary dies before all installments have been paid, including an explanation of what will be owed by the purchaser for the funeral services in such an event;
- D. Applicable To the Sampling of Active Contracts Review: Each contract shall clearly and conspicuously:
- Include the name, address and phone number of the purchaser, beneficiary, provider and seller (if N/A entered into phone numbers, make inquiry about whether the information was sought);
 - For guaranteed price contracts, set out in detail the disposition, funeral and burial services and facilities, and merchandise;
- E. Applicable to Seller's annual reports:
- Are seller's preneed contracts sequentially numbered (Examiner will ask seller about their sequential numbering system if clarification is necessary.)
- Examiner will collect copies of any documentation to support any exceptions.
 - For any contract information previously provided by the seller on a printed report (trust report, insurance report, or bank account listing), examiner will compare previously reported information to the actual contract for consumer name, contract amount, consumer payments, etc. and note any differences. Examiner will note any contracts listed on trust, insurance or bank reports but contracts not found onsite, as well as any contracts found onsite but with no supporting funding source as noted in the contract. Examiner will also compare the sampling preneed contracts to their listing on the annual renewals.
- F. Applicable to the review of the sampling of Serviced/Canceled contracts:

- 1) Examiner will review cancelled contracts to ensure refunds were handled in accordance with statutes (section 436.456 for consumer cancellations and section 436.457 for seller cancellations).
- 2) Examiner will review serviced contract files to determine how funding agent payments were disclosed on the statement of goods and services, and matches the distribution report provided by the funding agent.

G. Applicable to Trust Funded Preeed Contracts:

- For trust funded contracts sold prior to August 28, 2009, seller could retain consumer payments until it had received an amount up to 20% of the face value of the contract.
- For trust funded contracts sold after August 28, 2009, seller can request trustee to distribute to the seller an amount up to 5% of the face value of the contract and 10% of the sales price of guaranteed goods and services.
- Examiner's work product will include a calculation of the amount that should be in trust, taking into account the amount of consumer payments and allowable retainage percentage. This amount will be compared to the amount of deposits into the trust accounts, and any corresponding shortages in the deposits will be noted and later forwarded to the seller for explanation.
- Examiner will also verify that while funds relating to two or more contracts may be deposited into and commingled in the same preneed trust, the trustee must maintain records to separately identify the payments, earnings, and distributions for each preneed contract.

H. Applicable to Joint Account Funded Preeed Contracts:

- Examiner's work product will include a comparison of funds paid by the consumer to the amount held in the bank account on the consumer's behalf.
- Funds are allowed to be held in savings accounts, checking accounts, passbooks, certificates of deposit, etc.
- Funds deposited in the bank account must be at least as much as the total consumer payments. Any shortages will be noted and later forwarded to the seller for explanation.
- Examiner will verify that each consumer's funds are held in separate bank accounts.
- Examiner will also verify (by means of a written attestation received from each financial institution used by the seller) that the accounts are under joint control of the seller and consumer. If such joint control confirmation is not received from the financial institution through the initial receipt of examination information prior to the onsite, examiner will request seller to obtain such written confirmation from all financial institutions holding consumer funds.
- Titling of accounts is not specifically reviewed, but examiner will make inquiries for any questions.

I. Applicable to Insurance Funded Preeed Contracts

- A preneed contract is required in situations where seller has written documentation from an insurance company indicating they are the owner, beneficiary, or assignee of an insurance policy.

- For contracts entered after August 28, 2009, the seller or provider must be named as the beneficiary or assignee of the life insurance policy funding the contract.
- For contracts entered prior to August 28, 2009, the seller was allowed to be the owner of the policy, but seller is prohibited from being the owner of the policy for contracts after August 28, 2009.
- If seller collected payments from the purchaser, payments shall be promptly remitted to the insurer pursuant to Section 436.450.3.
- If the seller is provided with an affiliated insurance report, the examiner will confirm that the report matches the preneed contracts.



STATE OF MISSOURI
DIVISION OF PROFESSIONAL REGISTRATION
FINANCIAL EXAMINATION ATTESTATION

STATE BOARD OF EMBALMERS AND FUNERAL DIRECTORS
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I. INSTRUCTIONS

Please read the below statements and page 2 of this attestation prior to signing the form.

II. GENERAL INFORMATION

SELLER NAME (PRINT FULL NAME)

SELLER ADDRESS (CITY, STATE, ZIP)

SELLER LICENSE NUMBER (REQUIRED)

III. LOAN COLLATERAL AFFIDAVIT (STATUTORY REFERENCES ARE AVAILABLE ON THE REVERSE SIDE OF THIS FORM)

As a preneed seller, I attest to the following:

As of August 29, 2009, this seller has not used any preneed contracts as collateral or security pledged for a loan, nor have we taken any preneed funds of any existing preneed contract as a loan for any purposes. Further, we have not procured or accepted a loan against any investment, joint account, or insurance contract used to fund a preneed contract.

SIGNATURE OF SELLER REPRESENTATIVE

DATE

PRINTED NAME AND TITLE OF PERSON SIGNING ON BEHALF OF SELLER

IV. RECORD ACCESS AFFIDAVIT (STATUTORY REFERENCES ARE AVAILABLE ON THE REVERSE SIDE OF THIS FORM)

As a preneed seller, I attest to the following:

To the best of my knowledge, I have provided the State Board of Embalmers and Funeral Directors full and complete access to all records necessary for the board to conduct a financial examination of the books and records of this seller.

SIGNATURE OF SELLER REPRESENTATIVE

DATE

PRINTED NAME AND TITLE OF PERSON SIGNING ON BEHALF OF SELLER

Below are listed the statutory references relating to the affidavits in sections III and IV on the reverse side of this page. Prior to signing the affidavits on the reverse, please read the below.

LOAN COLLATERAL STATUTORY REFERENCES

Statute 436.435.6 Compliance of contracts entered into prior to effective date—investment of trust property and assets--loans against assets prohibited:

No seller, provider, or preneed agent shall procure or accept a loan against any investment or asset of or belonging to a preneed trust. As of August 29, 2009, no preneed seller, provider, or agent shall use any existing preneed contract as collateral or security pledged for a loan or take preneed funds of any existing preneed contract as a loan or for any purpose other than as authorized by this chapter.

Statute 436.450 Insurance-funded preneed contract requirements:

436.450.2 As of August 29, 2009, no preneed seller, provider, or agent shall use any existing preneed contract as collateral or security pledged for a loan or take preneed funds of any existing preneed contract as a loan for any purpose other than as authorized by this chapter.

436.450.4 It is unlawful for a seller, provider, or preneed agent to procure or accept a loan against any insurance contract used to fund a preneed contract.

Statute 436.455.7 Joint account-funded preneed contract requirements:

Any seller, provider, or preneed agent shall not procure or accept a loan against any investment, or asset of, or belonging to a joint account. As of August 28, 2009, it shall be prohibited to use any existing preneed contract as collateral or security pledged for a loan, or take preneed funds of any existing preneed contract as a loan or for any purpose other than as authorized by this chapter.

RECORDS ACCESS STATUTORY REFERENCES

333.101 Places of business may be inspected.

333.101. The board or any member thereof or any agent duly authorized by it may enter the office, premises, establishment or place of business of any licensee or registrant, or any office, premises, establishment or place where the practice of funeral directing, embalming, preneed selling or providing is carried on, or where such practice is advertised as being carried on for the purpose of inspecting said office, premises or establishment and for the purpose of inspecting the license and registration of any licensee or registrant and the manner and scope of training given by the licensee or registrant to the apprentice operating therein.

436.470 Complaint procedure--violation, attorney general may file court action

436.470.2. The board shall have authority to conduct inspections and investigations of providers, sellers, and preneed agents and conduct financial examinations of the books and records of providers, sellers, and preneed agents and any trust or joint account to determine compliance with sections 436.400 to 436.520, or to determine whether grounds exist for disciplining a person licensed or registered under sections 333.310 to 333.340, at the discretion of the board and with or without cause. The board shall conduct a financial examination of the books and records of each seller as authorized by this section at least once every five years, subject to available funding.

436.470.6. The person conducting the inspection, investigation, or audit may enter the office, premises, establishment, or place of business of any seller or licensed provider of preneed contracts, or any office, premises, establishment, or place where the practice of selling or providing preneed funerals is conducted, or where such practice is advertised as being conducted for the purpose of conducting the inspection, investigation, examination, or audit.

7.. Upon request by the board, a licensee or registrant shall make the books and records of the licensee or registrant available to the board for inspection and copying at any reasonable time, including, any insurance, trust, joint account, or financial institution records deemed necessary by the board to determine compliance with sections 436.400 to 436.520.

8. The board shall have the power to issue subpoenas to compel the production of records and papers by any licensee, trustee or registrant of the board. Subpoenas issued under this section shall be served in the same manner as subpoenas in a criminal case.

9. All sellers, providers, preneed agents, and trustees shall cooperate with the board or its designee, the division of finance, the department of insurance, financial institutions and professional registration, and the office of the attorney general in any inspection, investigation, examination, or audit brought under this section.

436.485 Violations, penalties.

436.485.1. Any person, including the officers, directors, partners, agents, or employees of such person, who shall knowingly and willfully violate or assist or enable any person to violate any provision of sections 436.400 to 436.520 by incompetence, misconduct, gross negligence, fraud, misrepresentation, or dishonesty is guilty of a class C felony. Each violation of any provision of sections 436.400 to 436.520 constitutes a separate offense and may be prosecuted individually. The attorney general shall have concurrent jurisdiction with any local prosecutor to prosecute under this section.

436.485.2. Any violation of the provisions of sections 436.400 to 436.520 shall constitute a violation of the provisions of section 407.020. In any proceeding brought by the attorney general for a violation of the provisions of sections 436.400 to 436.520, the court may order all relief and penalties authorized under chapter 407 and, in addition to imposing the penalties provided for in sections 436.400 to 436.520, order the revocation or suspension of the license or registration of a defendant seller, provider, or preneed agent.