

**Title 20-DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND
PROFESSIONAL REGISTRATION**

Division 2120-State Board of Embalmers and Funeral Directors

Chapter 3 – Preneed

PROPOSED AMENDMENT

20 CSR 2120-3.525 [Independent Financial Advisor is Agent of Trustee] 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.] To set forth the qualifications and duties of an authorized external investment advisor for a preneed trust.

- (1) An [independent financial advisor] **authorized external investment advisor**, as provided in section 436.440.6 **and 436.445**, RSMo, is an agent, as provided in section 436.440, RSMo, of the trustee.
- (2) **A preneed trust may utilize the services of an authorized external investment advisor as provided in Sections 436.435, .440 and .445, RSMo.**
- (3) **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.**
- (4) **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.**
- (5) **Except as provided in Chapter 436, 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.**
- (6) **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 and 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 duty to the preneed trust’s beneficiaries.**
- (7) **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 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; 436.440, RSMo 2009; and 436.520, RSMo 2009.*