Stewart Enterprises, Inc.
caring for people • making a difference

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August 4, 2009

Becky, here are some comments for upcoming meetings. Sorry for the late notice.

436.430.2 - the requirement to deposit "all payments received". Not only would there be a concern regarding finance charges being included in some of these payments but also administrative fees or the state preneed contract fee. The rule needs to clearly specify that excluded from trusting would be collection of any late fees, finance charges, administrative fees, etc.

436.425.1(12) – include 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. Requiring both the provider and the seller's signatures for each contract is difficult. The seller and provider already will have a contract/agreement between them but now they require both the seller and provider's signatures on every contract. It can't be done at the time the contract is written *especially* when the contract is written at the home of the family. Also, if a 3rd party seller is signing a contract with a purchaser, who, of the provider's location, would be responsible for signing such contract?

Section 436.430.11 requires that a certificate of performance be provided to the seller, signed by both the provider and the individual who made the arrangements for the beneficiary. Is this a separate certificate of performance or would the signing of the at-need contract suffice since such contract would be signed by both parties and in such contract they agree to deliver the merchandise and services for the beneficiary?

Section 436.430.3 states that the seller may request the distribution of an amount up to the first five percent of the total amount of the contract at any time AFTER five percent has been deposited. Considering that this is an origination fee, it would make more sense to be able to request the money that has been deposited into trust <u>until</u> an amount not to exceed 5% has been withdrawn for an origination fee. This would address situations where, for example, a contract is signed but the customer only pays three percent and then stops making payments. The seller has already incurred certain administrative expenses (commission to the counselor, booking the contract, funding 100% of such amount received, etc.) for which he should be entitled to the origination fee. Based on the current language, he would not be able to withdraw anything because the five percent has not been reached. This language would also be consistent with article 436.430.4.

Section 436.435.1 – it is unclear what provisions of the law should be made into compliance no later than July 1, 2010. The only section that appears should remain intact would be

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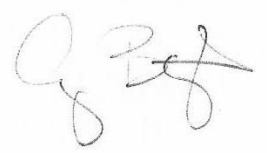
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436.031 as it relates to disbursements to the seller from the trust and payment of trust expenses based on the exclusion language of 436.412, but the rules should clarify this.

436.458 - Once a customer selects a different provider from the one selected on the original contract, the seller has the option to either establish a trust where the new provider receives credit for all principal or pay principal and income to the new provider? Please clarify who is entitled to the income under the first scenario. Also, subsection 2 states that "seller shall pay… all payments owed to the original provider under the contract" so please clarify that as much as 15% can be retained by the original provider based on section 436.430.

Sincerely,



Amy Battagler