

Trust-funded preneed contract requirements.

436.430. 1. A trust-funded guaranteed preneed contract shall comply with sections 436.400 to 436.520 and the specific requirements of this section.

2. A seller must deposit all payments received on a preneed contract into the designated preneed trust within sixty days of receipt of the funds by the seller, the preneed sales agent or designee. A seller may not require the consumer to pay any fees or other charges **[except as authorized]** prohibited by the provisions of chapter 333, RSMo, and this chapter and regulations promulgated thereunder, or **[other state or]** federal law.

3. A seller may request the trustee to distribute to the seller an amount up to the first five percent of the total amount of any preneed contract as an origination fee. The seller may make this request at any time after **[five percent of the total amount of the preneed contract has]** such funds have been deposited into the trust. The trustee shall make this distribution to the seller within fifteen days of the receipt of the request.

4. In addition to the origination fee, the trustee may distribute to the seller an amount up to ten percent of the face value of the good and services guaranteed **[contract]** on a preneed contract at any time after the consumer payment has been deposited into the trust. The seller may make written request for this distribution and the trustee shall make this distribution to the seller within fifteen days of the receipt of the request or as may be provided in any written agreement between the seller and the trustee.

5. The trustee of a preneed trust shall be a state- or federally-chartered financial institution authorized to exercise trust powers in Missouri, or other financial institution having the power to provide trust services that has been approved by the Board. The trustee shall accept all deposits made to it for a preneed contract and shall hold, administer, and distribute such deposits, in trust, as trust principal, under sections 436.400 to 436.520.

10. The seller and provider of a trust-funded guaranteed preneed contract shall be entitled to all income, including, but not limited to, interest, dividends, capital gains, and losses generated by the investment of preneed trust property regarding such contract as stipulated in the contract between the seller and provider, upon performance of the contract. Income of the trust, excluding expenses allowed under this subsection, shall accrue through the life of the trust, except in instances when a contract is cancelled. The trustee of the trust may distribute market value of all income, net of losses, to the seller upon, but not before, the final disposition of the beneficiary and provision of the funeral and burial services and facilities, and merchandise to, or for, the benefit of the beneficiary. This subsection shall apply to trusts established on or after August 28, 2009.