

## INSURANCE DIVISION[191]

### Notice of Intended Action

**Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”**

**Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.**

Pursuant to the authority of Iowa Code section 523A.809, the Insurance Division (the Division) hereby gives Notice of Intended Action to amend Chapter 100, “Sales of Cemetery Merchandise, Funeral Merchandise and Funeral Services,” Iowa Administrative Code.

Chapter 100 provides for the Iowa Insurance Commissioner’s administration of the provisions of Iowa Code chapter 523A, relating to the regulation of the sales of cemetery merchandise, funeral merchandise, and funeral services; the establishment and maintenance of trust funds; and the administration of violations of Iowa Code chapter 523A or Chapter 100. The proposed amendments to Chapter 100 are intended to do the following:

- Clarify that preneed sellers must maintain records of the sales agents who have made sales on behalf of the preneed sellers and that preneed sellers shall report to the Division each year the names of any affiliated sales agents.
- Clarify how preneed sellers and financial institutions should create and report funds and transactions of master trust agreement accounts.
- Remove references to 2015 Iowa Acts, as the Acts have been incorporated into the 2016 Iowa Code.

The Division intends that these amendments shall go into effect November 2, 2016.

Any interested person may make written suggestions or comments on these proposed amendments on or before August 23, 2016. Such written materials should be directed to Rosanne Mead, Iowa Insurance Division, Securities and Regulated Industries Bureau, Two Ruan Center, 601 Locust Street, Fourth Floor, Des Moines, Iowa 50319; fax (515)281-3059; e-mail [rosanne.mead@iid.iowa.gov](mailto:rosanne.mead@iid.iowa.gov).

Also, there will be a public hearing on August 23, 2016, at 2:30 p.m. at the offices of the Iowa Insurance Division, Two Ruan Center, 601 Locust Street, Fourth Floor, Des Moines, Iowa, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendments.

Any persons who intend to attend the public hearing and have special requirements, such as those relating to hearing or mobility impairments, should contact the Division and advise of specific needs.

The Division’s general waiver provisions in 191—Chapter 4 apply to these rules.

These amendments will impose no fiscal impact on the State.

After review and analysis of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code chapter 523A.

The following amendments are proposed.

ITEM 1. Amend rule 191—100.1(523A) as follows:

**191—100.1(523A) Purpose.** This chapter is promulgated to implement and administer Iowa Code chapter 523A ~~as amended by 2015 Iowa Acts, House File 632~~, which regulates the sale of cemetery merchandise, funeral merchandise, funeral services and any combination of those items.

ITEM 2. Amend subrule 100.15(1) as follows:

**100.15(1) Procedure for renewal.** The commissioner shall renew preneed sellers’ licenses, pursuant to Iowa Code section 523A.501(7) ~~as amended by 2015 Iowa Acts, House File 632, section 38~~, or sales agents’ licenses, pursuant to Iowa Code section 523A.502(5) ~~as amended by 2015 Iowa Acts, House File 632, section 39~~, for both active and restricted status licenses, if the preneed sellers or sales agents

provide to the commissioner all of the following, which must be received by the commissioner on or before April 15 of each year:

*a. Annual report.* A preneed seller or sales agent shall file a complete and accurate annual report in the form and manner directed by the commissioner. A preneed seller's report must include information on affiliated sales agents as provided in the instructions. The form and instructions may be obtained through the commissioner's Web site.

*b. and c.* No change.

ITEM 3. Adopt the following **new** rule 191—100.19(523A):

**191—100.19(523A) Master trusts.**

**100.19(1) Creation of master trusts.** Pursuant to Iowa Code section 523A.203, a preneed seller may commingle the care funds of multiple beneficiaries in a master trust. When a preneed seller enters into a master trust agreement and establishes a master trust agreement at a financial institution:

*a.* The title of the financial account shall include the name of the preneed seller and be identified as a master trust account.

*b.* Either the preneed seller or the financial institution shall be the trustee of the master trust account.

*c.* Either the preneed seller or the financial institution shall maintain the detailed listing as required by Iowa Code section 523A.203(3) by keeping the following:

(1) One listing of the amount deposited in trust for each beneficiary; and

(2) A separate accounting of each purchaser's principal, interest, and income, and balance in trust for each beneficiary who has care funds in the master trust account.

**100.19(2) Reporting of master trusts.**

*a.* As part of the preneed seller's annual report required by paragraph 100.15(1)"a," a preneed seller shall submit all of the following:

(1) The aggregate amount of deposits made to the master trust account during the calendar year.

(2) The aggregate amount of withdrawals made from the master trust account during the calendar year.

(3) Information detailing the name of any beneficiary related to a deposit to or withdrawal from the master trust account with the amount deposited or withdrawn by the beneficiary. The report shall include aggregate amounts of deposits and withdrawals for each beneficiary.

(4) Transactions, as described in the division's instructions for the annual report, for the calendar year in which the transactions took place.

*b.* A financial institution shall submit a report annually that includes all of the following information relating to activities in the master trust:

(1) The aggregate amount of deposits made to the master trust account for each beneficiary during the calendar year.

(2) The aggregate amount of withdrawals made from the master trust account for each beneficiary during the calendar year.

(3) Transactions, as described in the division's instructions for the annual report, for the calendar year in which the transaction took place.

(4) A copy of the bank account statement for the master trust account.

ITEM 4. Adopt the following **new** paragraph **100.33(1)"f"**:

*f. Record of sales agents.* A preneed seller shall maintain a list of all sales agents who sold purchase agreements on behalf of the preneed seller during each calendar year. The records shall include the license number of each sales agent and the dates of the sales agent's employment. Upon the commissioner's request, these records shall be provided to the commissioner.

ITEM 5. Amend **191—Chapter 100**, implementation sentence, as follows:

These rules are intended to implement Iowa Code chapter 523A ~~as amended by 2015 Iowa Acts, House File 632.~~