

523A.204 Establishment annual reporting requirements.

1. An establishment shall file with the commissioner not later than March 1 of each year an annual report on a form prescribed by the commissioner containing all of the following:

a. The seller's name and address and the name and address of the establishment that will provide the cemetery merchandise, funeral merchandise, funeral services, or a combination thereof.

b. The balance of each trust account as of the end of the preceding calendar year, identified by purchaser or beneficiary name.

c. A report of any amounts withdrawn from the trust account including the reason for each withdrawal.

d. A detailed listing of the insurance funding outstanding at the end of the preceding calendar year, identified by the name of the purchaser or the beneficiary.

e. A complete inventory of the cemetery merchandise, funeral merchandise, or a combination thereof delivered in lieu of trust fund requirements under section 523A.401, including the following:

(1) The location of the merchandise.

(2) Merchandise serial numbers or warehouse receipt numbers identified by the name of the purchaser or the beneficiary.

(3) A verified statement of a certified public accountant on a form prescribed by the commissioner that all of the following have occurred:

(a) A physical inventory of the cemetery merchandise or funeral merchandise has been conducted.

(b) Each item of that merchandise is in the seller's possession at the specified location.

f. The purchaser and beneficiary names, the amount of each purchase agreement made in the preceding year, and the date the purchase agreement was made.

g. A summary of any purchase agreements converted from trust-funded benefits to insurance-funded or annuity benefits during the preceding year which shall include, as of the conversion date, the following information, as well as aggregated totals for each of the following categories of information, if appropriate:

(1) Insured's name.

(2) Insured's policy number.

(3) Original prepaid purchase agreement amount.

(4) Amount paid in.

(5) Unpaid balance of the prepaid purchase agreement.

(6) Unpaid balance of the purchase agreement.

(7) Amount retained by the establishment.

(8) Amount applied to the purchase of the insurance policy or annuity.

(9) Initial cash surrender value and initial death benefit under the insurance policy.

The establishment shall include a notarized statement attesting that the insurance policies or annuities have been issued and funded on behalf of the purchasers listed in the summary and that all notices required under this section have been given.

h. A summary of any purchase agreements converted from trust-funded benefits to a surety bond during the preceding year which shall include, as of the conversion date, the following information, as well as aggregated totals for each of the following categories of information, if appropriate:

- (1) Name of the purchaser and beneficiary.
- (2) Original prepaid purchase agreement amount.
- (3) Amount paid in.
- (4) Unpaid balance of the prepaid purchase agreement.
- (5) Unpaid balance of the purchase agreement.
- (6) Amount retained by the establishment.
- (7) Amount applied to the purchase of the surety bond.
- (8) A description of the surety bond and the applicable amount of coverage.

i. Any other information the commissioner deems necessary for the administration of this chapter.

2. A person holding multiple establishment permits may elect to file only one annual report after noting all establishments on the report.

3. An establishment shall make a good faith effort to complete the annual report. The establishment shall note on the annual report any information not reasonably available to the establishment as an exception or variance. Account balances within twelve months of the date of the filing of the annual report shall be accepted if the actual date of the account balances is noted.

4. In lieu of the annual report form described in subsection 1, the commissioner may authorize an establishment to file a short form annual report on a form prescribed by the commissioner. The short form annual report may incorporate by reference information readily available to the establishment. The commissioner may certify and decertify establishments authorized to file the short form based upon:

a. The establishment's recordkeeping system.

b. The number of purchase agreements which the establishment has sold that are subject to regulation under this chapter.

c. The availability and accessibility of information at the establishment for purchase agreements subject to regulation.

d. Whether the establishment places one hundred percent of funds received pursuant to its purchase agreements in trust.

e. The findings of the commissioner concerning audits and consumer complaints.

The commissioner shall retain the authority to require establishments permitted to file the short form annual report to provide all of the information required in the annual report form required by subsection 1 for audit purposes or otherwise.

5. An establishment filing an annual report shall pay a filing fee of ten dollars per purchase agreement sold during the year covered by the report. The fee does not apply to any of the following:

a. A purchase agreement where the beneficiary dies in the same year the agreement was sold.

b. Any modifications or additions, such as payments, for an existing purchase agreement sold in a previous year.

c. An additional agreement purchased and already reported to the commissioner by the purchaser.

d. A purchase agreement canceled or revoked in the same year it was sold.

All purchase agreement changes for which a filing fee is not required must be reported to the commissioner on the annual report for the year covered.

6. As part of the annual filing with the commissioner, an establishment shall file an authorization for the commissioner or a designee to investigate, audit, and verify all funds, accounts, safe deposit boxes, and other evidence of establishment trust funds held by or in a financial institution.

7. Forms may be obtained at cost from the commissioner upon request. The commissioner may accept annual reports submitted in an electronic format, including but not limited to computer diskettes.

8. Notwithstanding chapter 22, all records maintained by the commissioner under this section shall be confidential and shall not be made available for inspection or copying except upon approval of the commissioner or the attorney general.

2001 Acts, ch 118, §22