

523A.501 Preneed sellers — licenses.

1. A person shall not advertise, sell, promote, or offer to furnish cemetery merchandise, funeral merchandise, funeral services, or a combination thereof when performance or delivery may be more than one hundred twenty days following the initial payment on the account without a preneed seller's license.

2. An application for a preneed seller's license shall be filed on a form prescribed by the commissioner and be accompanied by a fifty dollar filing fee.

3. a. The commissioner shall request and obtain, notwithstanding section 692.2, subsection 5, criminal history data for any director of, or person with a financial interest in, a preneed seller who is an applicant for an initial license issued pursuant to this section, an applicant for reinstatement of a license issued pursuant to this section, or a licensee who is being monitored as a result of an order of the commissioner or agreement resolving an administrative disciplinary action, for the purpose of evaluating the applicant's or licensee's eligibility for licensure or suitability for continued practice as a preneed seller, as required by the commissioner by rules adopted pursuant to chapter 17A. The commissioner may limit this requirement to those persons who have the ability to control or direct control of trust funds under this chapter. The commissioner shall inform an applicant or licensee to whom the criminal history requirement applies and obtain a signed waiver from the applicant or licensee prior to submitting a criminal history data request.

b. A request for criminal history data shall be submitted to the department of public safety, division of criminal investigation, pursuant to section 692.2, subsection 1. The commissioner may also require such applicants or licensees to provide a full set of fingerprints, in a form and manner prescribed by the commissioner. Such fingerprints may be submitted to the federal bureau of investigation through the state criminal history repository for a national criminal history check. The commissioner may authorize alternate methods or sources for obtaining criminal history record information. The commissioner may, in addition to any other fees, charge and collect such amounts as may be incurred by the commissioner, the department of public safety, or the federal bureau of investigation in obtaining criminal history information. Amounts collected shall be considered repayment receipts as defined in section 8.2.

c. Criminal history information relating to an applicant or licensee obtained by the commissioner pursuant to this section is confidential. The commissioner may, however, use such information in a license denial proceeding.

4. The commissioner shall request and obtain a financial history for any director of, or person with a financial interest in, a preneed seller who is an applicant for an initial license issued pursuant to this section, an applicant for reinstatement of a license issued pursuant to this section, or a licensee who is being monitored as a result of an order of the commissioner or agreement resolving an administrative disciplinary action, for the purpose of evaluating the applicant's or licensee's eligibility for licensure or suitability for continued practice as a preneed seller, as required by the commissioner by rules adopted pursuant to chapter 17A. The commissioner may limit this requirement to those persons who have the ability to control or direct control of trust funds under this chapter. "Financial history" means the record of a person's current loans, the date of a person's loans, the amount of the loans, the person's payment record on the loans, current liens against the person's property, and the person's most recent financial statement setting forth the assets, liabilities, and the net worth of the person.

5. A preneed seller's license is not assignable or transferable. A licensee selling all or part of a business entity that has a preneed seller's license shall cancel the license, and the purchaser shall apply for a new license in the purchaser's name within thirty days of the sale.

6. If no denial order is in effect and no proceeding is pending under section 523A.503, the application becomes effective at noon of the thirtieth day after a completed application or an amendment completing the application is filed, unless waived by the applicant. The commissioner may specify an earlier effective date. Automatic effectiveness under this subsection shall not be deemed approval of the application. If the commissioner does not grant the license, the commissioner shall notify the person in writing of the reasons for the denial.

7. A preneed seller's license shall be renewed every four years by filing the form

prescribed by the commissioner under subsection 2, accompanied by a renewal fee in an amount set by the commissioner by rule.

8. The commissioner may by rule create or accept a multijurisdiction preneed seller's license. If the preneed seller's license is issued by another jurisdiction, the rules shall require the filing of an application or notice form and payment of the applicable filing fee of fifty dollars for an application. The application or notice form utilized and the effective dates and terms of the license may vary from the provisions set forth in this section.

9. Fees collected under this section shall be deposited as provided in section 505.7.

2001 Acts, ch 118, §33; 2002 Acts, ch 1119, §82; 2004 Acts, ch 1104, §2; 2004 Acts, ch 1110, §66; 2007 Acts, ch 175, §16; 2008 Acts, ch 1103, §5, 6; 2008 Acts, ch 1123, §47, 48; 2009 Acts, ch 181, §92

[T] 2011 repeal of subsection 9 stricken pursuant to 2011 Acts, ch 127, §57, 89

[T] Section not amended; footnote revised