

523A.207 Transfer of preneed purchase agreements — sale of a business or business assets.

1. A purchase agreement shall not be sold or transferred as part of the sale of a business, or of the assets of a business, until the seller of the business has provided all of the following to the buyer of the business:

- a. A copy of the most recent annual report filed with the commissioner by the seller.
- b. The aggregate amount of any interest income withdrawn to date from trust accounts pursuant to [section 523A.201, subsection 8](#).
- c. Copies of all purchase agreements to be assumed by the buyer.
- d. A list of the purchase agreements provided under paragraph “c” that includes all of the following:

- (1) The name of the purchaser and the name of the seller of each purchase agreement.
- (2) The total dollar amount of each purchase agreement.
- (3) The date each purchase agreement was executed.
- (4) Whether each purchase agreement is guaranteed, nonguaranteed, or mixed, and affirm or deny one hundred percent trusting of any guaranteed items and specify the lesser amount or percentage placed in trust, if applicable.

e. A list of insurance policies that are applicable to the purchase agreements provided under paragraph “c”. The list shall identify the purchase agreement to which each insurance policy applies, the named policyholder on each insurance policy, and the face amount of each insurance policy.

f. A list of trust fund beneficiaries and the amount in trust for each beneficiary.

g. A list that identifies and describes any items of presold merchandise that are not fully funded with insurance or trust funds in compliance with [this chapter](#), and the amount or percentage that is either unfunded or underfunded.

2. a. The seller of a business shall file a disclosure with the commissioner that contains the information required under [subsection 1](#), paragraphs “d” and “e”, at least thirty calendar days prior to the date of the transfer of any purchase agreements to the buyer.

b. If the seller fails to file the disclosure required under paragraph “a”, the commissioner may suspend the buyer’s preneed seller’s license, the seller’s preneed seller’s license, and the license of any sales agent authorized to sell for the buyer or seller until the disclosure is filed. In addition, the commissioner may assess a penalty against the buyer or seller in an amount up to one hundred dollars for each calendar day that the disclosure remains unfiled. The commissioner shall allow a thirty-day grace period after the date that a purchase agreement is sold or transferred before the commissioner suspends the preneed seller’s license of the buyer, seller, or of a sales agent authorized to sell for the buyer or seller, or assesses a penalty against the buyer or seller. Upon good cause, the commissioner may issue an order waiving the disclosure requirement.

3. All records maintained by the commissioner under [this section](#) shall be confidential pursuant to [section 22.7, subsection 58](#), and shall not be made available for inspection or copying except upon prior written approval of either the commissioner or the attorney general, or if sought by the preneed seller to whom the records relate. Such records shall be privileged and confidential in a judicial or administrative proceeding except for any of the following:

- a. An action commenced by the commissioner.
- b. An administrative proceeding brought by the division.
- c. An action or proceeding which arises out of the criminal provisions of the laws of this state or of the United States.
- d. An action brought by the division or the attorney general to recover moneys from embezzlement, misappropriation, or misuse of trust funds.

[2007 Acts, ch 175, §13; 2010 Acts, ch 1067, §2; 2015 Acts, ch 128, §32, 50, 51; 2016 Acts, ch 1073, §158; 2018 Acts, ch 1074, §7; 2022 Acts, ch 1047, §1, 8](#)

Referred to in [§22.7\(58\)](#), [523A.807](#)

2022 strike and rewrite of section applies to purchase agreements sold or transferred as part of the sale of a business, or the assets of a business, on or after July 1, 2022; 2022 Acts, ch 1047, §8

Section stricken and rewritten