

CHAPTER 101
TRUST DEPOSITS AND TRUST FUNDS

191—101.1(523A) Trust income withdrawals. Trust income may be withdrawn on purchase agreements executed on or after July 1, 2007, as set forth in this chapter, by any preneed seller that is a limited liability corporation that was formed in 2002 for the purpose of purchasing a cemetery from a foreign entity reorganizing under bankruptcy, if the corporation is comprised of six establishments all located within the same county.

191—101.2(523A) Amount of trust income withdrawn. The amount of income withdrawn pursuant to rule 101.1(523A) may not exceed the difference between the amount needed to adjust the trust funds for inflation, as set by the commissioner based on the consumer price index in rule 101.7(523A), and the interest or income earned during the preceding year but, in any event, may not exceed 50 percent of the total interest or income on a calendar-year basis. A portion of trust income must remain in trust and cannot be withdrawn by the preneed seller. This amount is the greater of the following: one-half of the aggregate income and interest credited to the trust during the preceding calendar year; or an amount equal to the consumer price index adjustment for the preceding year.

191—101.3(523A) Allocation of trust income to purchasers' accounts. Income distributions withdrawn from the trust shall be allocated to purchasers' accounts remaining in the trust at the end of the month in which the distribution was made and on the basis that each such account's income balance for that month bears to the aggregate income balances of all such accounts. By September 1, any income not withdrawn pursuant to this chapter shall be allocated to purchasers' accounts remaining in trust at the end of the month in which the allocations were made.

191—101.4(523A) Credit for trust income withdrawn. The early withdrawal of interest or income under this chapter does not affect the purchaser's right to a credit of such interest or income in the event of a nonguaranteed price agreement, cancellation of the purchase agreement, or nonperformance by the preneed seller.

191—101.5(523A) Time period during which trust income may be withdrawn. Income withdrawals permitted by this chapter shall be made no later than 180 days after the calendar year in which the income was earned.

191—101.6(523A) Application of contract law. In any situation in which this chapter and the terms and conditions of a purchase agreement do not conflict, the terms and conditions of the purchase agreement shall govern the withdrawal of trust income and interest. The ability to withdraw income and interest may be limited or prohibited by the terms of a purchase agreement. However, in the event of a conflict with the limitations set forth in this chapter, the preneed seller must comply with the requirements of this chapter.

191—101.7(523A) Consumer price index adjustment.

101.7(1) Pursuant to Iowa Code Supplement sections 523A.201(8) and 523A.602(2)“b”(1), the commissioner sets the following inflation adjustment factors for the years listed for the purposes of calculating the amount of interest or income earned on amounts deposited in trust that must remain trust funds as an adjustment for inflation or to adjust the purchase price of merchandise and services in order to calculate the amount of a cancellation refund.

2007	4.1%
2006	2.5%
2005	3.4%
2004	3.3%

2003	1.9%
2002	2.4%
2001	1.6%
2000	3.4%
1999	2.7%
1998	1.6%
1997	1.7%
1996	3.3%
1995	2.5%
1994	2.7%
1993	2.7%
1992	2.9%
1991	3.1%
1990	6.1%
1989	4.6%
1988	4.4%
1987	4.4%

101.7(2) The inflation adjustment factors for years 2008 and later will be set by the commissioner and posted on the commissioner’s Web site.

191—101.8(523A) Cancellation refunds. The requirement set forth in Iowa Code Supplement section 523A.602(2) “b”(1) applies to any purchase agreement executed on or after July 1, 2001.

These rules are intended to implement Iowa Code chapter 523A, 2007 Iowa Acts, Senate File 559, and 2008 Iowa Acts, Senate File 2349 and House File 2555.

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