

191—100.35(523A) Preneed seller's change of ownership and cessation of business operations.

100.35(1) *Sale or transfer of purchase agreements or of business.* A preneed seller shall not change ownership of a business, sell all or part of a business, cease business, or sell or transfer purchase agreements as part of the sale of a business or the assets of a business, unless:

a. The preneed seller has notified the commissioner of the change at least 90 days prior to the sale or transfer.

b. The person receiving assets and purchase agreements has an active preneed seller's license at the time of the sale or transfer.

c. A certified public accountant has performed and filed with the commissioner an agreed-upon procedures (AUP) report or other audit acceptable to the commissioner, as required by Iowa Code section 523A.207.

d. The commissioner has conducted an examination of the sales and market practices of the preneed seller, if the commissioner requests.

e. The preneed seller has provided the commissioner with any other information required for the commissioner to approve the sale or transfer.

100.35(2) *Cessation of business by a preneed seller.* At least 90 days prior to the cessation of business operations, if a preneed seller voluntarily or involuntarily ceases doing business, and the preneed seller's obligation to provide merchandise or services has not been assumed by another preneed seller holding an active preneed seller's license, the preneed seller shall:

a. Send a notice to the commissioner, in a manner as directed by the commissioner. Pursuant to subrule 100.10(3), the commissioner shall place the preneed seller's license on restricted status when the preneed seller ceases doing business.

b. Send written notice of the proposed cessation of business to the purchaser and beneficiary, if different than the purchaser, of each purchase agreement by certified mail, return receipt requested. The notice shall indicate the preneed seller's ability to transfer any trust funds and transfer the proceeds from any insurance to another licensed preneed seller.

c. During the 90 days prior to the cessation of business operations, the preneed seller shall work with financial institutions and insurance companies to modify the title to financial accounts and modify assignments and ownership of annuities and insurance policies as necessary or distribute trust funds to the purchaser or transfer to another licensed preneed seller.

100.35(3) *Failure to notify the commissioner of a change of ownership, sale of a business, or cessation of business.*

a. A preneed seller's failure to notify the commissioner, as set forth in this rule, of a change of ownership of a business, sale of all or part of a business, cessation of business, or sale or transfer of purchase agreements as part of the sale of a business or the assets of a business may be a ground for penalty under rule 191—100.40(523A) or 191—100.41(523A).

b. If trust funds are transferred without compliance with this rule or with Iowa Code sections 523A.207 and 523A.602, the commissioner may petition for the appointment of a receiver pursuant to Iowa Code section 523A.811.

100.35(4) *Annual reports.* A preneed seller holding a restricted license shall continue to file annual reports pursuant to Iowa Code section 523A.204 regarding any purchase agreement not transferred to another seller holding a current preneed seller's license through an assumption agreement or otherwise.

For purposes of this rule, the sale of a business shall include any change of controlling interest in any corporation or other business entity.

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