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### Bulletin 15-02

To: All Preneed Sellers & Sales Agents Selling Preneed Funeral Services in the State of Iowa  
From: Nick Gerhart, Iowa Insurance Commissioner and  
Dennis Britson, Director, Regulated Industries Unit  
Regarding: Conversion of Funding Method for a Preneed Purchase Agreement  
Date: March 3, 2015

### Background

The Securities and Regulated Industries Bureau (SRIB) of the Iowa Insurance Division (IID) is charged with regulation of preneed sellers and sales agents under Iowa Code Chapter 523A, the *Iowa Cemetery and Funeral Merchandise and Funeral Services Act*. The SRIB has determined that additional guidance is needed when licensees make changes in funding methods for a prepaid purchase agreement. This bulletin provides guidance on how these transactions should be administered and recorded by preneed sellers and sales agents.

#### A. Change in Funding of a Prepaid Purchase Agreements

Under Iowa law a purchase agreement for cemetery merchandise, funeral merchandise, and funeral services may be amended, revoked or cancelled by the purchaser.

When an individual wants to change the funding source for a purchase agreement from a bank-funded account to an insurance or annuity product, the IID considers this change as an amendment and not a cancellation of the original prepaid purchase agreement. The contract may be amended with an addendum that describes the change in funding. The contract may also be amended to make minor updates to the Statement of Goods and Services.

Preneed Sellers should record an amendment on the Annual Report as a reduction in cash accounts and an increase in insurance accounts. The Preneed Seller should not assign a new contract number. The original contract number must be retained.

The Preneed Seller should also obtain and retain a signed statement from the owner of the Purchase Agreement which demonstrates that the owner understood the transaction. This is particularly important if the change in funding will result in a shift from a guaranteed to a non-guaranteed plan.

Special care should be exercised if the change in funding is a change from one insurance company to another. Under Iowa law, insurance producers are required to demonstrate why such a change was in the consumer's best interest. Preneed Sellers should document their reasoning for recommending a change among insurers.

## **B. Cancellation of a Prepaid Purchase Agreement**

If the effect of a proposed amendment is to make more than minor changes to the substance of the original purchase agreement, Preneed Sellers should carefully consider whether the transaction should be recorded instead as a cancellation. A request by a purchaser to cancel an existing prepaid purchase agreement must be in writing and must be retained as a business record. The cancellation of the prepaid purchase agreement must be reported to the Iowa Insurance Division on the preneed seller's annual report.

When a cancellation occurs, the Preneed Seller has specific requirements to refund or transfer the purchase price. A deduction can be taken for any actual expenses incurred by the seller pursuant to the purchase agreement. The deduction for actual expenses is limited to ten percent of the purchase price of the applicable items or services. A deduction may be taken for services already received or for warehoused merchandise. For specific guidance, see Iowa Code section 523A.602.

## **C. Conversion of Trust-funded Benefits to Insurance or Annuity-funded Benefits**

Special rules also apply when a purchaser makes a written request to convert an existing prepaid purchase agreement funded with trust-funded benefits to a prepaid purchase agreement funded with insurance or annuity funded benefits. See Iowa Code section 523A.401(6).

Generally, the amount transferred must equal the amount that was deposited as trust principal plus all net earnings. No deductions are allowed from this amount. There are requirements for the minimum face amount of a life policy.

The transaction must be reported to the Iowa Insurance Division on the preneed seller's annual report, as both a withdrawal from trust and an addition of insurance or annuity. Specific instructions will accompany the Annual Report form. The insurance policy or annuity is considered as a new insurance policy or annuity contract and all general recordkeeping and reporting requirements apply.

A request by a purchaser to convert an existing prepaid purchase agreement must be in writing and must be retained as a business record.

## **D. Conclusion**

For questions or clarification regarding this Bulletin, please contact the SRIB by email at [dennis.britson@iid.iowa.gov](mailto:dennis.britson@iid.iowa.gov). Please check our website periodically for information.