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**BULLETIN**

**TO: Preneed providers holding certificates of authority under the  
Alabama Preneed Funeral and Cemetery Act**

**Insurers authorized to write life insurance in Alabama**

**FROM: Walter A. Bell  
Commissioner of Insurance**

**DATE: August 1, 2008**

**RE: Compliance with Alabama insurance laws in connection with preneed sales**

Preneed providers holding certificates of authority to engage in preneed sales of funeral and cemetery merchandise and services and insurance companies engaged in the business of writing life insurance policies intended to fund preneed contracts are reminded that the offering and sale of life insurance in connection with the sale of a preneed contract must comply with all applicable sections of the Alabama Insurance Code [Ala. Code Tit. 27] and implementing insurance regulations. Compliance includes, but is not limited to, the following:

1. The Alabama Preneed Funeral and Cemetery Act, Ala. Code §§ 27-17A-1 *et seq.*, allows for life insurance funding of preneed contracts for funeral or cemetery merchandise and services as an alternative to the requirement that certain portions of the preneed contract purchase price be deposited in a merchandise and services trust.

2. Life insurance may only be offered through insurance companies authorized by the Commissioner of Insurance to engage in the business of life insurance in Alabama. All policy and related forms must have been submitted to and approved by the Department of Insurance before use.

3. Any registered preneed sales agent or other employee of a preneed provider who engages in the solicitation, negotiation, or sale of an individual life insurance policy incident to the sale of a preneed contract must be properly licensed as an insurance producer, must be properly appointed by the insurance company whose product is being offered, and must otherwise comply with the requirements in Ala. Code Tit. 27, chapters 7 and 8A, and implementing regulations. A preneed provider that is an artificial legal entity may hold a business entity producer license, but at least one employee of that entity must hold an individual producer license and be designated by the entity as the person responsible for the entity's compliance with the insurance laws. Appropriate licensing is a pre-condition to payment and receipt of commissions for the sale of insurance.

4. A registered preneed sales agent or other employee of a preneed provider need not hold an insurance producer license if (i) the life insurance product being offered is group life insurance, (ii) the agent's or employee's insurance-related activity is strictly limited to obtaining information needed to enroll a preneed contract beneficiary in a group insurance plan or to issue that person a certificate of insurance under a group insurance plan, and (iii) the agent or employee is not paid a commission for such activity.

5. Life insurance sold to fund a preneed contract must cover, at a minimum, the retail amount of the preneed contract at the time of the preneed contract's purchase. Ala. Code § 27-17A-3.

6. The disclosure requirements in Insurance Regulation 482-1-131-.06 apply to individual and group life insurance offered as a preneed contract funding mechanism.

7. The requirements of Alabama Insurance Regulation chapter 482-1-078 apply to sale of individual or group life insurance incident to a preneed contract. Premium payments for life insurance must be to the order of the insurance company, not the preneed provider. If payment is tendered to the preneed provider, the provider must furnish a receipt complying with 482-1-078-.05.

8. A preneed provider may be designated as a beneficiary of life insurance coverage but should not ordinarily be granted ownership or control rights over the coverage. The coverage or coverage plan should permit a preneed contract beneficiary to transfer the coverage or its financial equivalent to another preneed provider in the event the preneed contract is cancelled or the original provider is unable or unwilling to perform the preneed contract.

9. A life insurance-funded preneed contract shall not state, represent, or tend to cause confusion that the contract is trust-funded or that the preneed provider will be placing any portion of the contract's purchase price in a trust.

WAB/JFM/bc