

BULLETIN

TO: All Preneed Providers
FROM: Walter A. Bell, Commissioner
DATE: January 28, 2005
RE: Surrenders or Transfers of Preneed Certificates of Authority

The Alabama Department of Insurance (ADI) has received notifications of sales, surrenders and transfers of funeral home's and cemetery's certificates of authority and branch registrations. This Bulletin will set forth rules governing future sales, surrenders and transfers of certificates of authority and branch registrations.

The ADI must be notified in advance of any sale, surrender or transfer of a certificate of authority or branch registration. The sale, surrender or transfer may not be accomplished or be effective without the prior approval of the Commissioner of Insurance. The sale, surrender or transfer must comply with all applicable statutes and any regulations promulgated by the ADI.

Any surrender of a certificate of authority or branch must comply with the requirements of Section 27-17A-16(b).

Before the ADI will approve the sale or transfer of a certificate of authority or branch registration, the seller shall provide evidence to the ADI that the required percentages of purchase price or cost, as applicable, (for funeral merchandise and services - 75% for funeral services and merchandise, 60% for outer burial containers, 100% for cash advance items; for cemetery merchandise and services - 110% of the wholesale cost of cemetery merchandise, 60% for outer burial containers and cemetery services, 100% for cash advance items) have been turned over to the buyer or transferee. These amounts to be turned over to the buyer or transferee are not the required deposits into the trust fund within 30 days after the calendar month in which the preneed contract is paid in full, but the percentages shown above of the actual amounts collected.

Before an endowment care cemetery can be sold or transferred, proof must be provided to the ADI that all payments required to be paid to the endowment care trust fund have been paid and that the amount required to be in the endowment care trust fund as of the date of sale or transfer comply with Section 27-17A-49. Any additional amounts held by the endowment care trust must continue to be held by the trust after the sale or transfer. No funds held by the endowment care trust may be withdrawn.

For those certificate holders that are selling or transferring their preneed entity and are utilizing a surety bond or letter of credit to fund preneed sales, contact the ADI for instructions on how to accomplish the sale or transfer.

Section 27-17A-17 prohibits a certificate holder from declaring bankruptcy. Any dissolution or liquidation of a certificate holder shall be deemed to be the liquidation of an insurance company and shall be conducted under the supervision of the Commissioner of Insurance, rather than a Federal or state court.