

CR 91-76

CERTIFICATE

STATE OF WISCONSIN

DEPARTMENT OF REGULATION AND LICENSING

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, Marlene A. Cummings, Secretary of the Wisconsin Department of Regulation and Licensing and custodian of the official records of the Department, do hereby certify that the annexed rules were duly approved and adopted by the Department of Regulation and Licensing on the 30th day of September, 1992.

I further certify that said copy has been compared by me with the original on file in this office and that the same is a true copy thereof, and of the whole of such original.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the department at 1400 East Washington Avenue, Madison, Wisconsin this 30th day of September, 1992.



Marlene A. Cummings
Secretary
Department of Regulation
and Licensing

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12-1-92

STATE OF WISCONSIN
DEPARTMENT OF REGULATION AND LICENSING

IN THE MATTER OF RULE-MAKING : ORDER OF THE
PROCEEDINGS BEFORE THE : DEPARTMENT OF REGULATION AND LICENSING
DEPARTMENT OF REGULATION : ADOPTING RULES
AND LICENSING : (CLEARINGHOUSE RULE 91-76)

ORDER

An order of the Department of Regulation and Licensing to create chapters RL 52 and 53 of the administrative code relating to the standards for approval of warehouses storing cemetery merchandise and changing the trustee of care funds and preneed trust funds.

Analysis prepared by the Department of Regulation and Licensing.

ANALYSIS

Statutes authorizing promulgation: ss. 227.11 (2), 157.19 (2) (d) and 440.92 (7), Stats.

Statutes interpreted: ss. 157.11, 157.19 (2) (b) to (d) and 440.92 (7), Stats.

In this order the Department of Regulation and Licensing creates rules relating to the standards for approval of warehouses storing cemetery merchandise, and changing the trustee of care funds and preneed trust funds. These rules are the result of changes made in the law by 1989 Wisconsin Act 307 which both vest regulatory authority in the department in these areas and require that the department promulgate rules. The proposed rules also respond to changes made in the law by 1991 Wisconsin Act 269.

Chapter RL 52 sets forth the procedures and requirements for out-of-state and in-state warehouses to obtain approval from the department to store cemetery merchandise under a preneed sales contract, as required by s. 440.92 (7), Stats.

Chapter RL 53 lists the procedures and requirements for certain cemetery authorities and preneed sellers who have not been exempted from care fund and preneed trust fund deposit requirements to obtain approval to change the trustee of care funds and preneed trust funds, as required under s. 157.19 (2) (d), Stats.

TEXT OF RULE

SECTION 1. Chapters RL 52 and 53 are created to read:

CHAPTER RL 52 (title)

WAREHOUSES STORING CEMETERY MERCHANDISE
SOLD UNDER A PRENEED SALES CONTRACT

RL 52.01 AUTHORITY. This chapter is adopted pursuant to ss. 227.11 and 440.92 (7), Stats.

RL 52.02 APPLICATIONS. (1) FORMS. Applications for approval of a warehouse to store cemetery merchandise sold under a preneed sales contract shall be made on forms provided by the department and shall be delivered through the mails or otherwise to the department's office.

NOTE: Application forms may be obtained upon request from the Department of Regulation and Licensing, Bureau of Direct Licensing and Real Estate, 1400 East Washington Avenue, P.O. Box 8935, Madison, Wisconsin 53708.

(2) COMPLETE ANSWERS; CERTIFICATION. No application shall be processed until all questions appearing on the application are fully completed, certified as accurate, and sworn to before a notary public, and all required documents are received by the department.

(3) DETERMINATION OF APPROVAL. The department shall provide the applicant with its determination upon the application within 60 days after receipt of the completed application and required documents.

RL 52.03 APPROVAL OF WAREHOUSES LOCATED IN THIS STATE. The department shall approve a warehouse located in this state only if the person who operates the warehouse is licensed as a public warehouse keeper by the department of agriculture, trade and consumer protection under ch. 99, Stats. Proof of licensure as a public warehouse keeper shall be made through the submission of a copy of the current license with the application.

RL 52.04 APPROVAL OF WAREHOUSES LOCATED OUTSIDE THIS STATE. The department shall approve a warehouse located outside this state upon the following conditions:

(1) Submission of proof that the warehouse is authorized to store cemetery merchandise within its state of location. Proof of such authorization may be made through the submission of a copy of the current license, permit, certificate, registration or other document issued by the agency regulating warehouses in that state, or through the submission of such other information or statements acceptable to the department.

(2) (a) The filing with the department of a bond furnished by a surety company authorized to do business in this state in an amount that is sufficient to guarantee the delivery of cemetery merchandise to purchasers under preneed sales contracts.

(b) The bond shall be payable to the state for the benefit of purchasers of stored property or their assignees.

(c) The amount of the bond shall be in an amount approved by the department, and in no case less than 100% of the wholesale value of the cemetery merchandise that is stored and to be transported to this state as of the date of the application.

RL 52.05 TERM OF APPROVAL. An approval of a warehouse by the department entitles the warehouse to store cemetery merchandise sold under a preneed sales contract for a period of one year following the issuance of the approval.

RL 52.06 CANCELLATION OF APPROVAL. (1) Any approval previously granted by the department may be cancelled upon the occurrence of any of the following:

(a) The failure to maintain the license in this or any other state necessary to operate a warehouse.

(b) The failure of a warehouse located outside this state to maintain the bond required under this chapter. When the department determines that a bond is insufficient, or if the bond lapses or is canceled, the warehouse shall correct the defect within 30 days after written notice from the department and, if the defect is not corrected within that period, the approval of the warehouse automatically rescinds at the expiration of the 30 day period.

(2) The owner or operator of a warehouse shall notify the department within 30 days after the occurrence of any of the events described in sub. (1).

NOTE: A current list of the names and addresses of all approved warehouses may be obtained from the department's Bureau of Direct Licensing and Real Estate, 1400 East Washington Avenue, P.O. Box 8935, Madison, Wisconsin 53708.

CHAPTER RL 53 (title)

CHANGE OF TRUSTEE OF CARE FUNDS AND PRENEED TRUST FUNDS

RL 53.01 AUTHORITY. This chapter is adopted pursuant to ss. 157.11, 157.19 and 227.11, Stats.

RL 53.02 CHANGE OF TRUSTEE; APPLICATIONS. (1) APPROVAL REQUIRED. A cemetery authority or preneed seller who deposits care funds in a financial institution pursuant to s. 157.19 (2) (a), Stats., shall obtain written approval of the department before changing the trustee of a care fund or preneed trust fund.

(2) FORMS. Requests for approval of change of trustee shall be made on forms provided by the department and shall be delivered through the mails or otherwise to the department's office.

NOTE: Forms may be obtained upon request from the Department of Regulation and Licensing, Bureau of Direct Licensing and Real Estate, 1400 East Washington Avenue, Madison, Wisconsin 53708.

(3) COMPLETE ANSWERS; CERTIFICATION. No request for approval shall be processed until all questions appearing on the application are fully completed, certified as accurate, and sworn to before a notary public, and all required documents are received by the department.

(4) DETERMINATION OF APPROVAL. The department shall provide the applicant with its determination upon the request within 60 days after receipt of the completed application and required documents.

RL 53.03 STANDARDS FOR APPROVAL. (1) CARE FUNDS. The department may grant approval for a change of trustee of a care fund to a cemetery authority applying for the change of trustee if the cemetery authority submits evidence that the rights and interests of the beneficiary of the care fund will be adequately protected if the change is approved. Such evidence shall include, but is not necessarily limited to:

(a) The names and addresses of the financial institutions from whom and to whom the care fund is to be transferred.

(b) A statement of the reason for requesting the change of trustee.

(c) The amount to be transferred, the manner or instrument by which the transfer is to be made, and the anticipated date the transfer is to be effectuated.

(d) An affidavit from an officer or director of the financial institution to whom the transfer is requested that it is authorized to act as a financial institution, and is in good standing, in this state.

(e) A statement of any costs which will accrue to the balance of the care fund upon the change of trustee, as well as a statement of the nature and anticipated amounts of any service charges, administrative fees or other costs which will be imposed against the care fund by the proposed trustee.

(2) PRENEED TRUST FUNDS. Preneed sellers applying for the change of trustee of a preneed trust fund shall submit evidence that the rights and interests of the purchaser under the preneed sales contract will be adequately protected if the change is approved, including but not necessarily limited to:

(a) The names and addresses of the financial institutions from whom and to whom the preneed trust fund is to be transferred.

(b) A statement of the reason for requesting the change of trustee.

(c) The amount to be transferred, the manner or instrument by which the transfer is to be made, and the anticipated date the transfer is to be effectuated.

(d) An affidavit from an officer or director of the financial institution to whom the transfer is requested that its license is in good standing in this state.

(e) A statement of any costs which will accrue to the balance of the preneed fund upon the change of trustee, as well as a statement of the nature and anticipated amounts of any service charges, administrative fees or other costs which will be imposed against the care fund by the proposed trustee.

RL 53.04 COMPLIANCE WITH TERMS OF APPROVAL. The department may approve a change of trustee upon such terms and conditions as deemed necessary to assure that the rights and interests of the beneficiary or purchaser will be adequately protected.

RL 53.05 VERIFICATION OF DEPOSIT. Within 30 days after the transfer of the care fund or preneed trust fund, the trustee shall submit information to the department verifying the transfer, including the amount deposited, the date the deposit was made, and the account number of the fund.

The rules adopted in this order shall take effect on the first day of the month following publication in the Wisconsin administrative register, pursuant to s. 227.22 (2) (intro.), Stats.

Dated 10/1/92

Agency Marlene A. Cummings
Marlene A. Cummings, Secretary
Department of Regulation
and Licensing

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CORRESPONDENCE/MEMORANDUM

STATE OF WISCONSIN

DATE: October 2, 1992

TO: Gary Poulson
Assistant Revisor of Statutes

FROM: Pamela Haack, Administrative Assistant
Department of Regulation and Licensing

SUBJECT: Final Rulemaking Order

RECEIVED

OCT 2 1992

**Revisor of Statutes
Bureau**

Agency: DEPARTMENT OF REGULATION AND LICENSING

Clearinghouse Rule: 91-76

Attached is a copy and a certified copy of a final order adopting rules.
Would you please publish these rules in the code.

Please stamp or sign a copy of this letter to acknowledge receipt.

Thank you.