

**TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION**

Control 482 Department or Agency Department of Insurance*

Rule No. Chapter 482-3-005

Rule Title: Required Funeral and Cemetery Transaction Records

New Amend Repeal Adopt by Reference

Would the absence of the proposed rule significantly harm or endanger the public health, welfare, or safety? N/A*

Is there a reasonable relationship between the state's police power and the protection of the public health, safety, or welfare? N/A*

Is there another, less restrictive method of regulation available that could adequately protect the public? N/A*

Does the proposed rule have the effect of directly or indirectly increasing the costs of any goods or services involved and, if so, to what degree? N/A*

Is the increase in costs, if any, more harmful to the public than the harm that might result from the absence of the proposed rule? N/A*

Are all facets of the rulemaking process designed solely for the purpose of, and so they have, as their primary effect, the protection of the public? N/A*

Does the proposed rule have an economic impact? N/A*

If the proposed rule has an economic impact, the proposed rule is required to be accompanied by a fiscal note prepared in accordance with subsection (f) of Section 41-22-23, Code of Alabama 1975.

Certification of Authorized Official

I certify that the attached proposed rule has been proposed in full compliance with the requirements of Sections 27-2-17 and 27-7-43, Code of Alabama 1975, and that it complies with all applicable filing requirements of the Alabama Insurance Code.*

Signature of certifying officer Jim L. Ridling
Jim L. Ridling
Commissioner of Insurance

Date: September 19, 2014

*Note: *The Alabama Department of Insurance is exempt from the Alabama Administrative Procedures Act pursuant to Section 41-22-2(e), Code of Alabama 1975.*

Alabama Department of Insurance

NOTICE OF INTENDED ACTION

AGENCY NAME: Alabama Department of Insurance

RULE NO. & TITLE: Chapter 482-3-005: Required Funeral and
Cemetery Transaction Records

INTENDED ACTION: New rule.

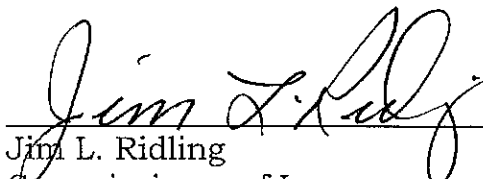
SUBSTANCE OF PROPOSED ACTION: The Commissioner of Insurance is proposing the adoption of a new regulation setting forth the standards and requirements relating to record keeping by preneed certificate holders and cemetery authorities operating endowment care cemeteries.

TIME, PLACE, MANNER OF PRESENTING VIEWS: Interested persons may submit data, views, or arguments in writing at any time prior to the date stated below to the Alabama Department of Insurance, Attention: Legal Division, Post Office Box 303351, Montgomery, Alabama 36130-3351, or orally by appearing at the public hearing, Suite 502, RSA Tower, 201 Monroe Street, Montgomery, Alabama, beginning at 10 a.m., November 13, 2014.

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE:

November 4, 2014

CONTACT PERSON AT AGENCY: Kathleen Healey
Associate Counsel



Jim L. Ridling
Commissioner of Insurance

ALABAMA DEPARTMENT OF INSURANCE
PRENEED REGULATION

CHAPTER 482-3-005

REQUIRED FUNERAL AND CEMETERY TRANSACTION RECORDS

TABLE OF CONTENTS

		Page
13	482-3-005-.01 Authority and Purpose.	2
14	482-3-005-.02 Records Availability.	2
15	482-3-005-.03 Preneed contract log; cemetery property sales log -	
16	required.	2
17	482-3-005-.04 Preneed contract log - required content.	4
18	482-3-005-.05 Cemetery property sales log - required content.	5
19	482-3-005-.06 Additional required preneed records.	6
20	482-3-005-.07 Required endowment care cemetery records.	9
21	482-3-005-.08 Severability and Effective date.	10
22		

1 **482-3-005-.01 Authority and Purpose.**

2 (1) This Chapter is adopted pursuant to Ala. Code §§ 27-2-17 and 27-
3 17A-1 to -57 (2014).

4 (2) This Chapter sets forth rules, standards and requirements relating
5 to record keeping by preneed certificate holders and cemetery authorities
6 operating endowment care cemeteries under the Alabama Preneed Funeral and
7 Cemetery Act of 2002, as amended. This Chapter operates in conjunction with
8 Chapter 482-3-002, 482-3-003, and 482-3-004.

9 **Author:** Commissioner of Insurance
10 **Statutory Authority:** Ala. Code §§ 27-2-17, 27-17A-1 to -57 (2014)
11 **History:** New _____; effective January 1, 2015

12 **482-3-005-.02 Records availability.** Certificate holders selling preneed
13 contracts for funeral and cemetery merchandise and services shall maintain
14 accurate and up-to-date types of records specified in this Chapter in a
15 manner so as to be readily retrievable and made available to the Commissioner
16 and his designees for examination or other purposes.

17 **Author:** Commissioner of Insurance
18 **Statutory Authority:** Ala. Code §§ 27-2-17, 27-17A-1 to -57 (2014)
19 **History:** New _____; effective January 1, 2015

20 **482-3-005-.03 Preneed contract log; cemetery property sales log - required.**

21 (1) Each certificate holder selling funeral preneed contracts shall
22 have and maintain a preneed contract log that includes the information set
23 forth in Rule 482-3-005-.04 for each preneed contract sold.

24 (2) Each certificate holder selling cemetery preneed contracts shall
25 have and maintain a cemetery property sales log that includes the information
26 set forth in Rule 482-3-005-.05 for each preneed contract sold.

1 (3) Each certificate holder offering both funeral and cemetery preneed
2 contracts shall have and maintain a preneed contract log and a cemetery
3 property sales log.

4 (4) Each log must be formatted so that:

5 (a) The company name is on each page of the log.

6 (b) Each page of the log is sequentially numbered at the bottom.

7 (c) The log is typed or printed legibly.

8 (d) If the log is not being created using a computer spreadsheet, all
9 contract items shall be completed using black or blue ink, except the columns
10 for the current payment status, amount in trust, and cumulative amount in
11 trust, may be written in pencil until the contract is paid in full.

12 (e) The log can be copied and scanned.

13 (5) Use of the Department's sample log forms published on the
14 Department's website will be deemed compliance with this Rule. The
15 certificate holder may create its own form of a log as long as all
16 information categories in Rule 482-3-005-.04 or Rule 482-3-005-.05, as
17 applicable, appear and the log is formatted as provided in paragraph (4).
18 The certificate holder shall perform such staff training and engage in such
19 oversight as may be necessary to reasonably assure that the log is maintained
20 accurately and updated.

21 (6) Each log must be readily accessible and updated to current status on
22 a not less than quarterly basis.

23 **Author:** Commissioner of Insurance

24 **Statutory Authority:** Ala. Code §§ 27-2-17, 27-17A-1 to -57 (2014)

25 **History:** New _____; effective January 1, 2015

1 **482-3-005-.04 Preneed contract log - required content.** If the Department's
2 sample log form is not used, any substitute form of preneed contract log
3 shall include the following information categories:

4 (a) Sequentially ordered contract number.

5 (b) Name of purchaser.

6 (c) Date of contract.

7 (d) Net amount of contract (contract price after insurance credits and
8 all discounts).

9 (e) Itemization of purchase price of merchandise and services collected
10 under the contract.

11 (f) Amount to be trusted (if applicable).

12 (g) Type of payments (paid-in-full or installments).

13 (h) Cumulative amount trusted for merchandise and services as of the
14 paid-in-full date.

15 (i) Face amount of insurance sold (if applicable).

16 (j) Paid-in-full amount or cumulative installment payments.

17 (k) Partial delivery (yes/no).

18 (l) Date delivered.

19 (m) Date of burial (at need).

20 (n) Date contract voided or cancelled.

21 (o) Last payment date.

22 **Author:** Commissioner of Insurance

23 **Statutory Authority:** Ala. Code §§ 27-2-17, 27-17A-1 to -57 (2014).

24 **History:** New _____; effective January 1, 2015

1 **482-3-005-.05 Cemetery property sales log - required content.** If the
2 Department's sample log form is not used, any substitute form of cemetery
3 property sales log shall include the following information categories:

- 4 (a) Sequentially ordered contract number.
- 5 (b) Property owner.
- 6 (c) Date of contract.
- 7 (d) Net amount of contract (contract price after all discounts; if
8 complimentary or free so designate on the log).
- 9 (e) Itemization of purchase price of merchandise and services collected
10 under the contract.
- 11 (f) Amount to be trusted (if applicable).
- 12 (g) Paid-in-full amount or cumulative installment payments.
- 13 (h) Paid-in-full date.
- 14 (i) Cumulative amount due endowment care trust.
- 15 (j) Cumulative amount of endowment care contributions.
- 16 (k) Date of endowment care contributions.
- 17 (l) Date of burial (at need).
- 18 (m) Date contract voided or cancelled.
- 19 (n) Last payment date.

20 **Author:** Commissioner of Insurance
21 **Statutory Authority:** Ala. Code §§ 27-2-17, 27-17A-1 to -57 (2014)
22 **History:** New _____; effective January 1, 2015

1 **482-3-005-.06 Additional required preneed records.**

2 (1) A certificate holder shall maintain detailed records for each preneed
3 contract written. The detailed records shall include, but not be limited to, a
4 preneed contract file that includes all supporting documentation, such as the
5 preneed contract; copies of insurance policies, annuity contracts or proof of
6 deposits in trust; copies of any documentation requesting or authorizing
7 withdrawals from a merchandise and services trust; notices of fulfillment and
8 cancellation; and all correspondence to and from the preneed entity to the
9 purchaser including copies of default notices or cancellation letters. The
10 certificate holder must have available this information on all preneed
11 contracts sold since May 1, 2002.

12 (2) Funeral merchandise and services certificate holders shall maintain
13 the following:

14 (a) The preneed contract log required in paragraph (1) of Rule 482-3-
15 005-.03.

16 (b) Preneed files and at-need files.

17 (c) Monthly death reports.

18 (d) Funeral services log or list.

19 (e) Manual cash receipts for preneed and at-need.

20 (f) Accounts receivable.

21 (g) The current and historical versions of the dated price lists of
22 available services and merchandise required by Ala. Code § 34-13-9 (2014).

23 (h) Advertising.

24 (i) Bank records and statements.

25 (j) Cash disbursement records.

- 1 (k) Balance sheet and financial records.
- 2 (l) Any changes in ownership and control.
- 3 (m) All wholesale price lists utilized.
- 4 (n) For funeral merchandise and services trusts:
 - 5 1. Quarterly trust statements.
 - 6 2. Trust transmittal records.
 - 7 3. Copy of merchandise and services trust agreement.
- 8 (o) For contracts secured under a surety bond:
 - 9 1. The bond(s).
 - 10 2. Detailed bond reports.
 - 11 3. Wholesale price of merchandise.
- 12 (p) For contracts funded by life insurance or annuities:
 - 13 1. Policy status reports.
 - 14 (3) Cemetery merchandise and services certificate holders shall
 - 15 maintain the following:
 - 16 (a) The cemetery property sales log required in paragraph (2) of Rule
 - 17 482-3-005-.03.
 - 18 (b) Preneed contract files and at-need files.
 - 19 (c) Interment log or list.
 - 20 (d) Manual cash receipts for preneed and at-need.
 - 21 (e) Plot maps/Cemetery rules and regulations.
 - 22 (f) Pre-construction plans and sales.

- 1 (g) The current and historical versions of the dated price lists of
2 available burial services and merchandise required by Ala. Code § 8-30-2
3 (2002).
- 4 (h) Advertising.
- 5 (i) Bank records and statements.
- 6 (j) Cash disbursement records.
- 7 (k) Balance sheet and financial records.
- 8 (l) Stored preneed merchandise.
- 9 (m) Any changes in ownership and control.
- 10 (n) All wholesale price lists utilized.
- 11 (o) For cemetery merchandise and services trusts:
- 12 1. Quarterly trust statements.
- 13 2. Trust transmittal records.
- 14 3. Copy of merchandise and services trust agreement.
- 15 (p) For contracts secured under a surety bond:
- 16 1. The bond(s).
- 17 2. Detailed bond reports.
- 18 3. Wholesale prices of merchandise.
- 19 (q) For contracts funded by life insurance or annuities:
- 20 1. Policy status reports.

21 **Author:** Commissioner of Insurance
22 **Statutory Authority:** Ala. Code §§ 27-2-17, 27-17A-1 to -57 (2014)
23 **History:** New _____; effective January 1, 2015

1 **482-3-005-.07 Required endowment care cemetery records.** In addition to
2 statutory requirements, endowment care cemeteries shall maintain the
3 following records:

4 (a) Cemetery property sales log as required in paragraph (2) of Rule
5 482-3-005-.03.

6 (b) At-need files.

7 (c) Interment log or list.

8 (d) Manual cash receipts.

9 (e) Plot maps/cemetery rules and regulations.

10 (f) Pre-construction plans and sales.

11 (g) The current and historical versions of the dated price lists of
12 available burial services and merchandise required by Ala. Code § 8-30-2
13 (2002).

14 (h) Advertising.

15 (i) Bank records and statements.

16 (j) Cash disbursement records.

17 (k) Balance sheet and financial records.

18 (l) Stored preneed merchandise.

19 (m) Any changes in ownership and control.

20 (n) Endowment care trust fund board members, if applicable.

21 (o) Bond records or exemption notice from the Commissioner, if
22 applicable.

23 (p) Quarterly trust statements.

24 (q) Trust transmittals.

1 (r) Copy of endowment care trust agreement(s).

2 **Author:** Commissioner of Insurance

3 **Statutory Authority:** Ala. Code §§ 27-2-17, 27-17A-1 to -57 (2014)

4 **History:** New _____; effective January 1, 2015

5 **482-3-005-.08 Severability and Effective date.**

6 (1) The provisions of this Chapter are severable. If any portion of this
7 Chapter or the application of a provision to any person or circumstance is held
8 invalid, the remainder of this Chapter, or the application of the provision to
9 a person or persons or circumstances other than those to which it is held
10 invalid, shall not be affected.

11 (2) This Chapter shall be effective January 1, 2015, upon its approval
12 by the Commissioner of Insurance and upon its having been on file as a public
13 document in the office of the Secretary of State for ten days.

14 **Author:** Commissioner of Insurance

15 **Statutory Authority:** Ala. Code §§ 27-2-17, 27-17A-1 to -57 (2014)

16 **History:** New _____; effective January 1, 2015