

# STATE OF COLORADO

DEPARTMENT OF REGULATORY AGENCIES

## DIVISION OF INSURANCE

1560 Broadway, Suite 850  
Denver, Colorado 80202



### Bulletin No. B-2.9

#### Concerning the Use of Authorized Examiners for the Examination of Preneed Contract Sellers and Appeal Process for Examination Expenses

##### I. Background and Purpose

The purpose of this bulletin is to provide preneed contract sellers a process to appeal the amount of fees, costs, and expenses charged by an authorized examiner for the examination of a preneed contract seller's books, records, and accounts.

Bulletins are the Division's interpretations of existing insurance law or general statements of Division policy. Bulletins themselves establish neither binding norms nor finally determine issues or rights.

##### II. Applicability and Scope

This bulletin applies to all licensed preneed contract sellers that have not voluntarily or involuntarily discontinued the sale of preneed contracts.

##### III. Division Position

Existing law requires the Commissioner of Insurance to examine the books, records, and accounts of a preneed contract seller at least once every five years. That law also allows the Commissioner to designate a qualified person who is not an employee of the Division of Insurance to examine any contract seller, and the reasonable expenses and charges of such examiner shall be paid directly by the contract seller to any such authorized examiner. The examinee may contest the amount of fees, costs, and expenses charged to it by the authorized examiner by filing an objection with the Commissioner that sets forth the charges the examinee considers to be unreasonable with the basis for such claim of unreasonable charges.

The Division of Insurance will use the following appeal process when determining if any disputed charges are reasonable or unreasonable;

- Prior to an examination, the Commissioner or his/her designee shall provide the contract seller to be examined with an estimate of costs, fees and/or expenses for the investigation
- Whenever a contract seller considers the charges billed by an authorized examiner to be unreasonable, the contract seller may contest the amount of the fees, costs, and expenses by filing an appeal with the Commissioner within ten (10) calendar days after receipt of the authorized examiners bill. Such appeal must set forth the fees, costs, and expenses that are considered unreasonable and the basis for the claim. The contract seller shall simultaneously mail a copy of the appeal to the authorized examiner.
- The contract seller shall not delay payment of uncontested fees, costs, and expenses pending the outcome of the appeal.

- The authorized examiner may provide a written response to the Commissioner, with a copy to the contract seller, no later than thirteen (13) calendar days after receiving their copy of the contract seller's appeal. Failure to file a response shall not be considered an admission by the authorized examiner of the allegations raised in the contract seller's appeal.
- The Commissioner shall review the appeal from the contract seller and any authorized examiner response within ten (10) calendar days after the last date for the authorized examiner to file a response. The Commissioner shall notify both parties in writing of the appeal decision.
- If the Commissioner determines that some or all of the disputed charges are reasonable, the contract seller shall promptly pay the authorized examiner all disputed charges approved by the Commissioner.

#### **IV. Additional Division Resources**

##### **A. For More Information**

Colorado Division of Insurance  
Corporate Affairs  
1560 Broadway, Suite 850  
Denver, CO 80202  
Tel. 303-894-7499  
Internet: <http://www.dora.state.co.us/insurance>

##### **B. Related DOI Regulations**

Colorado Insurance Regulation 6-3-1; Concerning the Use of Independent Market Conduct Examiners and Appeal Process for Expenses

Colorado Insurance Regulation 6-3-2; Concerning the Use of Independent Contractors for Informal Investigations and Appeal Process for Expenses

##### **V. History**

- Issued October 1, 2010