

How Much Do You Know About Maryland's Pre-need Statute?

This course was revised to include information relative to the amended pre-need law effective July 1, 2014.



Online Continuing Education Course

Provided by the Maryland State Funeral Directors Association

1.0 CEU approved by the Maryland State Board of Morticians & Funeral Directors

Maryland's Pre-need Statute

- If you purchase a funeral home owned by another mortician, you must write a letter to all pre-need holders offering them the opportunity to keep the money at the funeral home, transfer the money to a new funeral home, or if revocable, reimburse their money with interest accrued.



Maryland's Pre-need Statute

- If a buyer wishes to move his/her money to another funeral home, the funeral establishment **may not** charge an early withdrawal fee if the bank charges an early withdrawal fee.



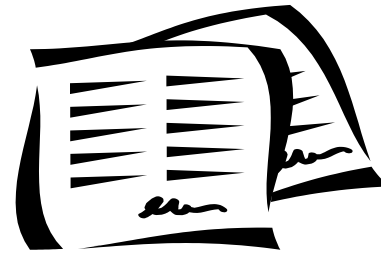
Maryland's Pre-need Statute

- The customer must be notified that you are changing funding vehicles from trusting to life insurance as long as the contract is still with the same funeral home. The customer must sign the insurance application and provide a notarized withdrawal request to authorize this change.



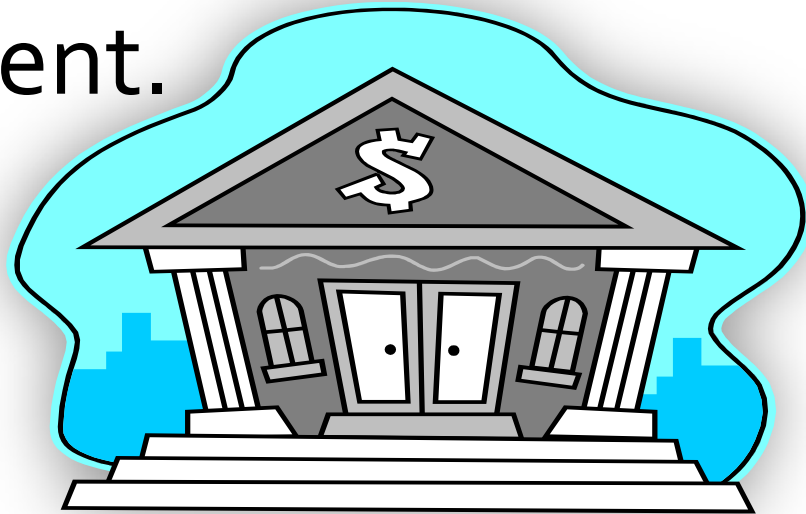
Maryland's Pre-need Statute

- Providing that certain disclosures are made, pre-need contracts may be guaranteed contracts, guaranteed in part contracts, or non-guaranteed contracts.



Maryland's Pre-need Statute

- Money must be deposited into an interest bearing escrow or trust account within **10 days** of a pre-need arrangement.



Maryland's Pre-need Statute

- To make pre-need arrangements using a life insurance policy or annuity, the Maryland State Board of Morticians & Funeral Directors mandates that you must be a life insurance agent licensed by the Maryland Insurance Commission, a mortician, a funeral director or a surviving spouse.



Maryland's Pre-need Statute

- When a funeral establishment has a service using a revocable trust account and the pre-need funds aren't completely expended, the law states that **the money belongs to the funeral establishment.**



Maryland's Pre-need Statute

- When a funeral establishment has a service using a life insurance policy and the pre-need funds aren't completely expended, the law states that all excess money should go back to the beneficiary under the insurance policy.



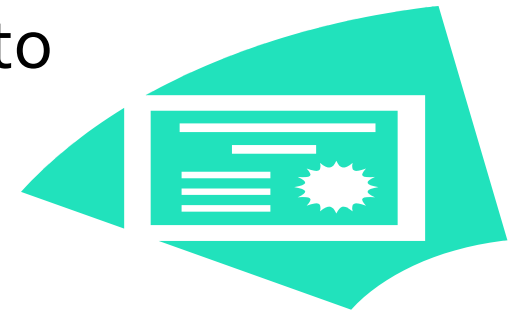
Maryland's Pre-need Statute

- Pre-need trust money must be deposited into a federally-insured (FDIC) account.



Maryland's Pre-need Statute

- Presenting a copy of a certified death certificate is one of **only** two conditions which allow a seller to withdraw pre-need money from a bank or savings and loan association that is holding a pre-need account. The other condition is to have a signed and notarized request from the buyer.



Maryland's Pre-need Statute

- A pre-need contract shall contain:
 - The name of the buyer and seller
 - Name of the beneficiary
 - Description of services and merchandise
 - Total price of merchandise and service agreed upon
 - Method of payment



Maryland's Pre-need Statute

- **100% of funds received for services** under the pre-need contract must be deposited.
- A **minimum of 80% of funds received for the casket or casket vault** under the pre-need contract must be deposited.
- **100% of funds received for other goods** (cash advance items) under the pre-need contract must be deposited.



Maryland's Pre-need Statute

- The interest or dividends earned by the escrow or trust account prior to services being rendered **belong to the buyer.**



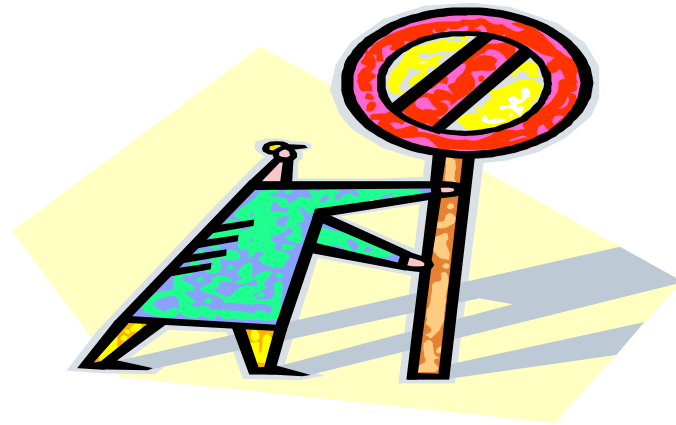
Maryland's Pre-need Statute

- An irrevocable trust goes into effect when the beneficiary applies for medical assistance.



Maryland's Pre-need Statute

- Beginning in 2009, it is no longer required to file a pre-need audit report.



Maryland's Pre-need Statute

- If a pre-need contract is funded with insurance and the buyer cancels the contract, the buyer would not be entitled to a full refund of money paid.



Maryland's Pre-need Statute

- Persons authorized to execute a pre-need contract:
 - Licensed mortician
 - Licensed funeral director
 - A holder of a surviving spouse license



Maryland's Pre-need Statute

- A pre-need contract may be funded by a life insurance policy or an annuity contract if the mortician, funeral director, or surviving spouse is not the owner of or beneficiary under the life insurance policy or annuity contract.



Maryland's Pre-need Statute

- Any benefits payable under the life insurance policy or annuity contract in excess of the amount necessary to pay the total price, as determined at the time of death of the insured, of the services and merchandise agreed upon in the pre-need contract are paid to the beneficiary under the life insurance policy or annuity contract.



Maryland's Pre-need Statute

- Every funeral establishment shall pay \$375 per year into the Family Security Trust Fund until the fund has accumulated \$1,000,000.



Maryland's Pre-need Statute

- A person may recover compensation from the Family Security Trust Fund for an actual pre-need trust fund loss that occurred on or after January 1, 2010.



Maryland's Pre-need Statute

- Effective July 1, 2014, a licensed mortician or licensed funeral director may write a pre-need contract that would include **guaranteeing or not guaranteeing** the cost of funeral service items only, the cost of merchandise only and the cost of cash advance items.



Maryland's Pre-need Statute

- The new pre-need law provides for full disclosure to the consumer as to which items, goods and services are guaranteed or not guaranteed in the pre-need contract.



Maryland's Pre-need Statute

- The guaranteed or not guaranteed disclosures must be made in **boldface** type above the relevant sections.



Maryland's Pre-need Statute

- The new pre-need law, effective July 1, 2014, applies to both money trusting and insurance funded contracts.



Maryland's Pre-need Statute

- The new pre-need law requires that the contract contain a line totaling the guaranteed amount paid and the amount of non-guaranteed items that are considered to be only a down payment toward future costs.



Maryland's Pre-need Statute

- The law for a single owner funeral establishment has been amended as it now requires, at the owner's death, the appointment of a pre-need trustee.



Maryland's Pre-need Statute

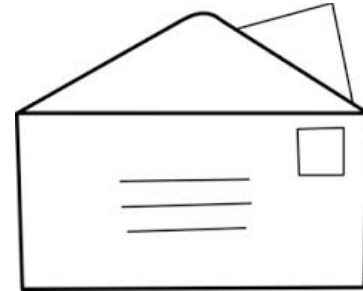


The pre-need trustee for a single owner establishment must be actively licensed, in good standing with the Board of Morticians for a minimum of five (5) years, and actively working in a facility that has accepted pre-need contracts.



Maryland's Pre-need Statute

- Within 90 days after the death of the single owner, the single owner pre-need trustee must notify, by letter, all pre-need contract holders advising them of their options available under the Maryland pre-need law.



Maryland's Pre-need Statute

- The pre-need trustee shall identify all pre-need trust money that has been deposited and provide that information to the Board of Morticians.



Maryland's Pre-need Statute

- The pre-need trustee will be authorized to make claim against the estate of the deceased single owner for pre-need trust funds to transfer those monies to the abandoned property office of the state in the proper name of the beneficiary or owner of the pre-need contract.

