

# TRUST FUNDED PRENEED PLANS

The Working Group approved the following **CONSENSUS RECOMMENDATIONS**:

1. **Trusting Structure:** Currently, a seller is authorized to retain 20% of the initial preneed payments for administrative expenses and is not required to deposit funds into trust until the seller has retained the allowed 20%. The Working Group recommended reversing the trusting structure to require the seller to deposit 100% of all contract payments into trust. After depositing, sellers should then be allowed to submit a request to the trustee for the allowed administrative expense. (see Allocation of Preneed Funds for recommended administrative expenses).

**! Comments:**

- Participants suggested that 100% initial funding would document proper accounting and allow for a more accurate examination/audit. APS confirmed they supported 100% trusting with up to a 20% administrative expense.
- Meierhoffer Funeral Chapel and Kutis Funeral Home suggested this change would create additional administrative expenses that could be passed onto the consumer and strongly recommended retaining the current process of allowing the seller to retain the first 20% of contract payments and to trust the remaining 80%. Meierhoffer indicated that there are also substantial costs to operate and maintain an active preneed staff for the consumer.
- Stalter Legal Services suggested that recommendations for 100% trusting without any permitted sales expense are "shortsighted and ignore the realities of other states' laws." Stalter indicated that income accrual issues are more important to consumer protection. Stalter commented that the recommendation exemplifies the current misunderstanding regarding sales expenses versus administrative expenses.

2. **Payment Allocation:** Regardless of the trusting structure, the seller's administrative expense should be payable from the initial payments received.
3. **Reporting:** Sellers should report the name and address of its trustee to the Board and should notify the Board in writing within 30 days of any amendments/changes.

The Working Group approved the following **CONSENSUS RECOMMENDATIONS**:

1. **Depositing:** Preneed contract payments should be deposited into trust within sixty-days of receipt by the seller.

**! Comments:**

- It was suggested that sixty-days would allow sufficient administrative time for processing, forwarding payments to the seller and for clearing payments made by check. However, other participants suggested that a 30-45 day deposit requirement would increase consumer protection.