

62-5-408. Management of funeral contract trust. — [Effective January 1, 2008. See the Compiler's Notes.]

(a) Moneys held in a pre-need funeral contract trust shall be held in trust, both as to principal and income earned on the principal, and shall remain intact, except that the trustee shall have the right to use trust fund income to pay applicable taxes and reasonable expenses related to the administration of the trust, including reasonable trustee's fees for services rendered pursuant to the terms of the applicable trust agreement or to others for the preparation of fiduciary tax returns. In no event shall the principal be diminished.

(b) The pre-need seller shall be liable to the trustee and to third parties to the extent that income from the trust is not sufficient to pay the expenses of the trust.

(c) The trustee shall make regular valuations of assets it holds in trust and provide a report of the valuations to the pre-need seller at least annually.

(d) The trustee shall:

(1) Invest at least fifty percent (50%) of the moneys paid and placed in a pre-need funeral contract trust after January 1, 2008, in the following:

(A) Demand deposits;

(B) Savings accounts;

(C) Certificates of deposits; or

(D) Other accounts issued by financial institutions if the amounts deposited in those accounts are fully covered by federal deposit insurance.

(2) For all investments, invest as prescribed in this section and in so investing, the trustee shall exercise the judgment and care under the circumstances then prevailing, that persons of prudence, discretion and intelligence exercise in the management of their own affairs, not in regard to speculation, but in regard to the permanent disposition of their funds, considering the probable income as well as the probable safety of their capital.

(e) Except as otherwise provided by this part, all payments made by the purchaser of a pre-need funeral contract shall remain trust funds with a trustee or as paid insurance premiums with an insurance company, as the case may be, until the death of the pre-need funeral contract beneficiary and until full performance of the pre-need funeral contract.

[Acts 2007, ch. 592, § 9.]