

MFDEA PRENEED CONCEPT

The consumer is given an option at start of process. Does the consumer wish to be able to change funeral homes at will with no penalty? Does the consumer wish to be able to cancel at any time with no penalty? Does the consumer want an arrangement where it is truly *their* money being put away *for them* and all of the principle and income belongs to them?

If so then the consumer can chose Option "A"

OPTION A

An account would be set up at a bank in the consumer's name Payable On Death to the Funeral Home. The consumer would be able to change the POD at any time. The consumer would be able to withdraw the funds at any time and would receive all of the funds plus all of the income. The consumer would also be responsible for paying any taxes on the income. A provision would have to be included (as it is now for joint accounts) that allows the fund to be made irrevocable. Upon death the funds would be paid to the funeral home

HOWEVER THERE WOULD BE NO "GURANTEED" CONTRACT UNDER THIS OPTION. The consumer may wish to pick out the funeral they would wish to have and fill out a goods and services statement, but just as with current non-guaranteed trusts or joint accounts, at-need prices would be charged at the time of death. If the funeral home works with and helps set up such an account for the consumer, it should be allowed to charge a small fee for this service that would be capped via rulemaking by the State Board.

If the consumer wishes to have a guaranteed contract where the prices are locked-in, does not want to have to pay taxes on the income or otherwise does not wish to own or control the funds, then Option "B" would be available.

OPTION B

This would be a Trust similar to what is currently in Chapter 436. The Seller would have the right to retain 20% (or perhaps 10% if that is the consensus) and would have the right to all income from the Trust. If the consumer cancels or wishes to change funeral homes, the consumer would get back 80 or 90% and would not be entitled to the interest/income. However, in this case, the contract could be "guaranteed" with locked-in prices.

The key is that it is made very clear to the consumer that, with Option B, what the consumer is doing is BUYING AND PREPAYING FOR A FUNERAL AT THIS FUNERAL HOME and that the money is *not* being placed into trust for the consumer but being invested to cover the seller's and provider's expenses and the risk of the guarantee. Very clear disclosures drafted by the State Board would make it clear to the consumer what the arrangement consists of and what happens if there is a cancellation or change in funeral home. The consumer would have to sign the disclosure statement.

It would not seem necessary with this arrangement that the current "Joint Account" provisions of 436 be retained, but that may be an item for discussion.