

(changes to previous draft made following December, 2015 meeting in yellow)

**Title 20-DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND
PROFESSIONAL REGISTRATION
Division 2120-State Board of Embalmers and Funeral Directors
Chapter 3 – Preneed
PROPOSED RULE**

What Constitutes Adequate Records for a Seller

- 1. A seller shall maintain the basic financial and contract records with regard to all ~~trust and joint accounts~~ preneed contracts to include the standard books of account and the supporting records that are necessary to safeguard and account for the receipt and disbursement of preneed funds.**
- 2. Adequate records for a seller to maintain shall include, at a minimum:
 - (1) receipt and disbursement journals containing a record of deposits to and withdrawals from both preneed trusts and preneed joint accounts, specifically identifying the date, source, and description of each item deposited as well as the date, payee, and purpose of each disbursement;**
 - (2) ledger records for all preneed trust and preneed joint accounts showing, for each separate preneed contract, the source of all funds deposited, the amount of such funds, the descriptions and amounts of withdrawals, and the names of all persons or entities to whom such funds were disbursed;**
 - (3) preneed contracts, trust agreements, trust administration agreements, provider agreements, preneed agent agreements, and all correspondence related to the preneed contract;**
 - (4) accountings showing the disbursement of funds;**
 - (5) records showing disbursements;**
 - (6) the physical or electronic equivalents of all checkbook registers, bank statements, records of deposit, pre-numbered canceled checks, and substitute checks provided by a financial institution;**
 - (7) records of all electronic transfers from preneed trust or preneed joint accounts, including the name of the person authorizing transfer, the date of transfer, the name of the recipient and confirmation from the financial institution of the trust account number from which money was withdrawn and the date and the time the transfer was completed;**
 - (8) reconciliations of the preneed accounts;**
 - (9) those portions of preneed files that are reasonably related to account transactions;**
 - (10) records of credit card transactions related to any preneed transaction to the extent permitted by law and the payment card industry data security standard;**
 - (11) all information obtained by the seller related to any insurance policy used to fund any preneed contract that may include a copy of the insurance policy, any assignment or beneficiary****

designations, any statement showing any status of any insurance policy used to fund a preneed contract.

(12) any communications between the seller and the purchaser and/or beneficiary of the preneed contract related to the preneed contract;

(13) any written certificates of performance received by the seller.

3. No seller shall commingle personal funds or other funds in a preneed trust or a preneed joint account.

4. All records required to be maintained by a seller may be maintained in paper or electronic or a combination of paper and electronic formats, but shall be maintained in a manner such that the required information may be retrieved and provided to the board in a timely manner, upon request in accordance with the statutes and regulations governing the board.