

**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

Contract and Document Records

A copy of each executed preneed contract, including any attachments, additions, or documents supplemental to the preneed contract;

Copies of agreements or contracts related to each source of preneed funding used by the seller, including any of the following:

- (1) Trust agreements;
- (2) trust administration agreements;
- (3) Investment advisory agreements
- (4) Seller/Provider agreements;
- (4) Preneed agent agreements,
- (6) Insurance broker agreements,
- (7) Insurance assignments;
- (8) Insurance beneficiary designations;

Consumer Payment Records

With regard to consumer funds received by the Seller, or the Seller's agent, the Seller shall create and maintain a monthly consumer payment report that reflects the following:

1. The purchaser's name;
2. The payor name if different than the purchaser;
3. The preneed contract number;
4. The date received;
5. The date the funds were submitted or forwarded to the funding agent;
6. The funding agent (if the consumer receipts journal is maintained for more than one funding agent);

In lieu of consumer payment reports, the seller may maintain individual preneed contract ledgers that reflect:

1. The purchaser's name;
2. The preneed contract number;
3. The date and amount of each payment;
4. The current payment balance;
5. The current trust balance;
6. Any amount requested as origination fee or sales expense from a payment;

Sellers that rely on consumer payment reports for compliance with this regulation shall create a report for every month including those months in which no payments were received.

The seller may, but is not required, to maintain a separate consumer receipts journal for each funding agent used.

The seller shall maintain a copy of each deposit form or report that reflects each consumer payment transmitted during the month. Nothing shall preclude the seller from using the consumer receipts report as its deposit form.

When accepting cash from a consumer, the seller shall provide the consumer a written receipt reflecting the amount and date received, and maintain a copy in the seller's records.

With regard to funds paid by the consumer directly to the Seller's trustee, the seller shall cause the trustee to provide a monthly report that reflects the following for each preneed contract receiving a payment:

1. The purchaser's name;
2. The preneed contract number;
3. The amount deposited to trust;
4. Any amount distributed to the seller as origination fee or sales expense;
5. The ending payment balance;
6. The ending trust balance;

If the Seller uses a commercial banking account to receive and transmit funds to a trustee or insurance company (a clearing account), the seller shall maintain all statements issued with regard to such account as a record required by this regulation.

Individual ledgers and consumer payment reports may be maintained in a paper format or an Excel format.

All records described in this regulation shall be maintained for a period of one year after the seller's most recent financial examination.

Serviced and Canceled Contracts

Copies of certificates of performance and each accompanying Statement of Goods and Services

Documentation of the receipt of funds from the preneed funding agent

Consumer letters of cancellation, and documentation showing the date, name of who is paid, the amount paid out and a description of the type of payment made to any purchaser or any other person upon cancellation of any preneed contract, and the name and address to whom the payments were made.

Funding Agent Reports

Copies of account statements for joint accounts, trust statements for trust accounts, and any statements received from insurance companies listing the insurance policies in effect and/or the status of any insurance policy that names the seller or the provider, on a preneed contract sold by the seller, as beneficiary or owner.

If the bank or insurance company maintains such statements in electronic, then the seller shall access those reports and retain them for access by the board.

Communications with the funding agent regarding specific preneed contracts, or the funding of the seller's contracts.