

**Q Who oversees preneed contracts?**

A The North Carolina Board of Funeral Service, which for many years has licensed and regulated funeral homes, funeral directors and embalmers. Funeral homes and salespersons must obtain licenses from the Board in order to sell preneed contracts. In addition, insurance salespersons must obtain a license from the Department of Insurance. The Board audits funeral homes' preneed accounts and records. The North Carolina Board of Funeral Service's address is:

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**Q What happens if the funeral home, for any reason, is unable to perform?**

A The Board maintains a Recovery Fund to pay for losses caused by a Board licensee's business failure or misconduct. Some preneed contracts are revocable by their terms. Irrevocable preneed contracts can still be transferred to another funeral home, before or after death.

**Q Is there a fee for setting up a preneed contract?**

A Yes, \$20.00. Of that amount \$2.00 is placed into the Recovery Fund mentioned above and the remaining \$18.00 is used by the North Carolina Board of Mortuary Science for the expenses incurred for regulation of preneed funds.

**Q What does the Board's regulation of preneed accounts involve?**

A The law states that every preneed licensee shall keep for examination by the Board accurate accounts, books and records in this State for all preneed accounts, copies of all agreements, the

dates and amounts of payments made, names and addresses of the contracting parties and the financial institution or insurance company holding the preneed funds.

**Q What happens if death occurs in a place outside the service area of the funeral home?**

A The contract will usually provide for such a contingency. Added charges may be required for additional transportation. Also, as stated before, revocable contracts may be chosen, allowing the purchaser to revoke for any reason, including moving to another city. And in the case of irrevocable contracts, the purchaser (or after his death the beneficiary or his representative) can transfer the contract to a different funeral home whether or not death has occurred.

**Q Do most North Carolina funeral homes offer prearrangements?**

A Yes, funeral homes are responding to the ever-increasing interest in prearranged funerals.

**Q May I preplan without payment?**

A Yes, you may wish to ask the funeral director about recording your wishes with payment following death.

*Notice: Information contained in this brochure is intended as a public service and should not be considered as legal advice.*

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# IN THE PUBLIC INTEREST



## FUNERAL PREPLANNING

### WHEN QUESTIONS ARISE

This brochure is designed to answer some of the most frequently asked questions regarding preneed planning for funerals. Any additional questions can be answered by your local member of the North Carolina Funeral Directors Association.

## Prearranging a Funeral . . .

All during our lives we are called upon to make decisions, and to a great degree the outcome depends upon our emotions and time available to consider the various options. Making funeral arrangements may be one of the more difficult decisions one has to make.

Aside from the specific personal reasons for discussing funeral arrangements in advance of need, there are other advantages. Open discussions with a funeral director allows you the opportunity to share your thoughts about the decisions that must be made. Also, it enables a review of the current funeral costs and the assurance that your wishes will be carried out as desired.

The North Carolina Funeral Directors Association is dedicated to providing its member funeral homes with the most current information relating to compliance with the laws governing the practice of funeral service. Guided by the wishes of the family, the funeral director can draw upon his professional training and experience to assist the family regarding these important decisions. You will find the funeral director willing and qualified to review all of the important and necessary details of planning a funeral.

More and more North Carolina citizens are asking about funeral prearrangements, or “preneed arrangements” as they are often called. You may find some of the typical questions and answers helpful.

### Q What is a preneed contract?

A It is a written agreement under which the purchaser plans and pays for a funeral, for himself or for another person, before death. Most agreements permit installment payments. Prearrangements are governed by North Carolina law.

### Q What happens to the money paid?

A Under some plans, the money is placed in trust in a financial institution, and in other plans it is used to purchase an insurance policy. In a trust-funded plan, and upon disclosure to the purchaser, the funeral home (as trustee) may retain up to 10% of payments free of the trust

to assist with the cost incurred with setting up and maintaining the preneed records. If the funeral home performs the contract (that is, if the purchaser doesn't transfer it to another funeral home or revoke it), the funeral home will give credit for the 10% at time of death. Trust funds will remain in an insured account in a financial institution until the contract is revoked or until death.

### Q What are some other plan features?

A Revocable: The purchaser may revoke the contract and within 30 days obtain a refund, including the accrued interest on the trust fund but not including the up-to-10% permitted retention.

Irrevocable: The purchaser may not revoke. This feature may be attractive to a person obtaining public assistance such as Medicaid, because the money paid will not be counted as an asset. The law states that “irrevocable preneed funeral contracts may not be revoked nor any proceeds refunded except by order of a court of competent jurisdiction.”

Inflation Proof: The purchaser buys at today's prices. No additional payment is due at time of death, regardless of price increases, if the terms of the original contract is not changed.

Non Inflation Proof: The purchaser pays a sum which will be credited toward the cost of the funeral at the time of death.

Individual wishes and circumstances vary, and it should be noted that your funeral director will explain in detail all the options that you may choose to consider.

### Q Is there a penalty for early withdrawal of certain kinds of deposits from a financial institution?

A Banks and savings and loans pay deposits before maturity without a penalty upon the death of the owner of the deposit. However, a withdrawal

before death would result in a penalty for some types of accounts. Passbook accounts are not usually subject to an early withdrawal penalty in any event. The funeral home (as trustee) may choose the type of accounts for its trust deposits; however, the depositor may inquire about the options available.

### Q Who pays income tax on the interest paid on the trust funds?

A For federal and state purposes, the purchaser. However, the funeral home will report the income to the Internal Revenue Service and the North Carolina Department of Revenue and will send the purchaser an annual statement showing the amount reported. If taxes are due on the trust account, money may be withdrawn from the trust account without penalty for reimbursement of the amount paid.

### Q Couldn't a person make his own deposit without contacting a funeral home?

A Yes, but there would be no assurance that the funds would be used for the funeral. Also, should the person apply for public assistance, the funds would be subject to more rigid standards than if they were deposited pursuant to a preneed contract.

### Q Can the family change the terms of the agreement after the person who made it dies?

A North Carolina law provides that burial wishes expressed in a written will or pursuant to a preneed contract control over the wishes of the next of kin. If a decedent does not leave proper written authorization for burial wishes, the next of kin can authorize the type, method, place and disposition of the decedent's body. Some people making prearrangements indicate only general wishes, thereby leaving the next of kin to make the other decisions regarding disposition. Sometimes, the next of kin do not agree on the remaining decisions, so it is important to properly plan in advance for all aspects of the funeral.