

## ***CEMETERY MERCHANDISE TRUST FUND (MTF)***

### **Purpose**

The primary purpose of the cemetery merchandise trust fund is to maintain the corpus of the trust fund with the goal that the growth of the corpus will be at least equal to the wholesale costs of the preneed cemetery merchandise or preneed burial products or services, at the time of delivery or need.

### **Funding Requirement**

Cemeteries shall trust the portion of the purchase price equal to 50% of the retail price f.o.b. to the cemetery corporation of preneed cemetery merchandise, and 100% of the retail price of any preneed burial product or service.

### **Deposit Requirements**

Deposits to the cemetery merchandise trust fund shall be made within 15 days following the end of each calendar month after the moneys are received. The cemetery shall use a deposit form prescribed by the Secretary of State. (See Form CQ, Page 5)

### **Delivery of Merchandise**

Upon delivery of the preneed cemetery merchandise, or preneed burial products or services, the cemetery corporation shall present the trustee with a verified statement, in a form and manner approved by the secretary of state that delivery has been made. Upon such presentation the trustee shall pay the cemetery corporation an amount equal to the market value allocated to preneed cemetery merchandise or preneed burial products or services delivered. (See Form CQ, Page 5)

### **Quarterly Reports**

Quarterly reports will replace both the 2011 monthly and annual reports, starting in 2012.

Within 30 days following each quarter end, the cemetery corporation shall provide the trustee and the secretary of state a report of all sales, or no sales, of preneed cemetery merchandise, preneed burial products and preneed services and all verified deliveries, or no deliveries, of preneed cemetery merchandise, preneed burial products and preneed services along with any request for distribution from the trustee. The report shall be in a form and manner approved by the secretary of state. (See Form CQ)

### **Fees**

\$20 per preneed merchandise contract sold is due to the secretary of state with each quarterly report (See Form CQ).

### **Trustor and Trustee Requirements**

The cemetery corporation shall provide the secretary of state a copy of all trust instruments and shall obtain prior written approval from the secretary of state before the trust instrument shall be terminated, transferred, or amended. The cemetery corporation shall provide the secretary of state copies of any amendments to the trust instrument before the amendments shall become effective.

The cemetery, as trustor, must agree to the provisions of and sign "Cemetery Preneed Merchandise and Burial Products or Services Trust Agreement Provisions Attachment". (See Cemetery Preneed Merchandise and Burial Products or Services Trust Agreement Provisions Attachment)

Trustee must agree to the provisions of and sign “Cemetery Preneed Merchandise and Burial Products or Services Trust Agreement Provisions Attachment” and the “Addendum A”, if in a co-trustee relationship. Co-trustee must also sign “Addendum A.” (See Cemetery Preneed Merchandise and Burial Products or Services Trust Agreement Provisions Attachment and Addendum A)

At least within 60 days following December 31 of each year, the trustee shall report the allocation of distributable earnings to the secretary of state. At the request of the trustor, the trustee shall allocate distributable earnings on a regular basis more often than annually and in which case the calculation of the distributable earnings shall be filed quarterly on December 31, March 31, June 30, and September 30 of each year in a form and manner approved by the secretary of state. (See Form DE)

Within 30 days following the end of each quarter, the trustee shall submit a report of all deposits and distributions from the cemetery merchandise trust fund. The report shall be in a form and manner prescribed by the secretary of state. (See Form TMD)

### **Transition Requirements**

110% of wholesale costs for preneed merchandise and 100% of retail for preneed services and caskets as of December 31, 2011, for all existing preneed merchandise and service products sold on or prior to December 31, 2011, will need to be submitted to the secretary of state in a prescribed form and manner. (See Form CT) The cemetery will then be audited for compliance. This information may be submitted with the 2011 annual report (Form CAR) sent out in December 2011.

All existing preneed merchandise and service products sold on or prior to December 31, 2011, that are on payment plans will continue to make deposits made until the initial (110% of wholesale costs for preneed merchandise and 100% of retail for preneed services and caskets) minimum funding requirement has been deposited.

As of January 1, 2012, all preneed cemetery merchandise and preneed burial products and services will be withdrawn under the new law requirements and all new sales will fall under the new statutory requirements.