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August 28, 2012

NOTICE **Preneed Funeral Contract Law Amendments**

In the 2012 session, the General Assembly amended the Preneed Funeral Contract Law, which became effective June 18 when signed by the Governor. The changes affect five areas of the Preneed Funeral Contract Law: **Definitions, Transfer of Contracts, Licensing, The Loss Reimbursement Fund and Penalties.** All are outlined in this notice.

Definitions §32-7-10

Three new definitions were added: *“At need”*, *“At preneed”*, *“Funeral Service”* and *“Trust Account”*. *“At need”* and *“At preneed”* are included in the same definition. They were added because they affect transfers. *“Funeral Service”* is not as broad as the definition in the Funeral Services Act, because it is limited to determining when preneed activity is occurring for licensing purposes. *“Trust account”* was added to make it clear that preneed funds are not to be paid out until the financial institution receives a certificate of death and a certified statement that the services have been performed.

Transfer of Contracts §32-7-35

This change clarifies that a preneed contract can only be transferred to a funeral home licensed to sell preneed funeral contracts *“at preneed”*. However, a preneed funeral contract can be transferred to any licensed funeral home *“at need”*.

Licensing §32-7-50

A provision was added to make the \$250 initial license fee a part of the statute. Licensees will now be required to renew the Preneed Funeral Contract License by September 30th of each odd-numbered year. The renewal fee is \$200. The first renewal of the Preneed Funeral Contract License is **September 2013**.

The Loss Reimbursement Fund §32-7-60(B)

The maximum limit of \$500,000 has been removed. At this time the loss reimbursement fund has about \$250,000, and we anticipate claims of about \$360,000. Half of the renewal fee

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(discussed above) will be deposited into the Loss Reimbursement Fund, which should help increase the amount of the fund.

Penalties §32-7-100

This change added two felony levels for violations of the Preneed Funeral Contract Law concerning misappropriated or mishandled funds, with the highest level carrying up to ten years. The phrase "*other action of the department*" was clarified to indicate what disciplinary actions the Department may take.

SCDCA Staff Change

In conclusion, there has been a recent staff change at the Department. The Preneed Funeral Contract Program Coordinator is now Matalie L. Mickens: phone number is 803-734-4291 and email address is mmickens@scconsumer.gov.

Should you have any questions regarding this letter, please don't hesitate to contact Matalie L. Mickens, Program Coordinator or Danny R. Collins, Deputy for Regulatory Enforcement at 803-734-4240 or dcollins@scconsumer.gov. You may also visit the Department's website at www.consumer.sc.gov.

Best Regards,

Danny R. Collins

Deputy for Regulatory Enforcement