

§1264. Trust funds for services or property

1. Trust accounts. Pre-need funds received for cemetery or crematory services or property to be delivered at or after the date of death must be placed in a cemetery or crematory trust account in a bank, trust company, credit union or savings institution. For purposes of this subsection, "pre-need funds" means all money paid during a person's lifetime to a cemetery or crematory by that person or by another person on that person's behalf under an agreement that services will be performed or property will be delivered in connection with the disposition of that person's body after that person's death. [PL 1995, c. 474, §1 (NEW).]

2. Trust agreement. A trust agreement setting forth the following information must be signed by the payor and the payee and the original agreement must be given to the payor and a copy of that agreement must be given to the payee:

A. The name and address of the individual for whose benefit services or property will be delivered; [PL 1995, c. 474, §1 (NEW).]

B. The name of the entity acting as trustee; [PL 1995, c. 474, §1 (NEW).]

C. The name and address of the payor; [PL 1995, c. 474, §1 (NEW).]

D. The services or property that will be provided by the payee; [PL 1995, c. 474, §1 (NEW).]

E. Statements that a full refund of the principal of the funds placed in trust must be made by the payee upon written request of the payor, the payor's attorney-in-fact or the payor's personal representative and that, in the absence of such a request, the payee may withdraw the funds only upon the death of the person for whose benefit the funds were paid and shall use the funds in accordance with the purposes identified in the trust agreement; and [PL 1995, c. 474, §1 (NEW).]

F. A statement that interest on funds placed in trust will not be paid to the payor in the event of a refund of principal of trust funds and any interest that may accrue remains with the payee. [PL 1995, c. 474, §1 (NEW).]
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3. Services and property covered. This section applies to cemetery or crematory services such as cremation fees, grave opening and closing charges and inscription of death dates. This section does not apply to the sale of cemetery lots or plots, monuments and memorials, garden crypts, lawn crypts, mausoleum crypts, cremation urns and niches, vaults, liners and similar tangible personal property if title to and physical possession of the specific property has passed to the buyer. Any funds expended to purchase tangible personal property when that personal property is held by the payee until the time of need are not considered funds that must be placed in the trust account. [PL 1995, c. 474, §1 (NEW).]

4. Refund provisions. A full refund of the principal of the funds placed in trust must be made by the payee upon written request of the payor, the payor's attorney-in-fact or the payor's personal representative. In the absence of such a request, the payee may withdraw the funds only upon the death of the person for whose benefit the funds were paid and shall use the funds in accordance with the purposes identified on the trust agreement. [PL 1995, c. 474, §1 (NEW).]

5. Administrative fees. The payee may not charge the payor, the payor's attorney-in-fact or the payor's personal representative an administrative fee for funds or tangible personal property held in trust. [PL 1995, c. 474, §1 (NEW).]

6. Application. The provisions of this section apply only to funds received by a payee of a trust account after the effective date of this section. [PL 1995, c. 474, §1 (NEW).]

SECTION HISTORY

PL 1995, c. 474, §1 (NEW).

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