

Insights | Funeral & Cemetery Trust

Welcome to Fall 2019!

By David Falconer, Senior Vice President, Funeral and Cemetery Trust Manager

Is it really fall? Time and business march on unimpeded. There is no doubt that taking care of your families and engaging the communities you serve keep you busy. Our job is to pay attention to the details of our clients' preneed/merchandise/and Perpetual Care trusts so they

can focus on the families they serve. We believe that when we are doing our job well, then we play a small role in helping your business succeed. On behalf of a team of 16 Regions associates dedicated to serving Death Care trusts that represent over \$4.2 billion, thank you for

the trust you have placed in us. We wish you the best of luck in closing out 2019 successfully, and we'd like to be one of the first to wish you a happy holiday season and a prosperous 2020.

Associate Spotlight – Edith J. Cannon

Edith J. Cannon is one of four trust assistants who work in the Funeral and Cemetery Trust Division in our Houston, Texas, office. Edith joined Regions in 2014 and supports two account officers. She has over 40 years of Trust experience, serving as Trust Operations Manager as well as in Compliance and Fiduciary Trust. She draws on her experience to ensure that her clients' accounts operate efficiently.



When she is not at work, Edith spends time volunteering at her church, Kashmere Gardens Church of Christ, and at Brookhollow Heights Rehabilitation Center. Edith enjoys visiting the beautiful Hill Country in Fredericksburg, Texas, with her friends.

A lover of fashion, Edith carefully maintains a collection of more than 50 designer hats.

“What is an acceptable proof of death?”

By Summer Bokhary, Vice President, Funeral and Cemetery Trust Legal Counsel

When a preneed contract seller has a contract that becomes at-need, how does the seller prove that the contract beneficiary has died, in order to withdraw the preneed funds?

Most states have specific requirements regarding the documents and information necessary to withdraw preneed funds when a contract becomes at-need. The majority of states require a certified death certificate and/or a form of a certificate of performance (or similar verified statement from the seller indicating that the terms and conditions of the agreement have been fully performed).

However, several states have vague language within their preneed statutes (i.e., “other acceptable proof of death”) or even no provision for withdrawal documents. Or perhaps the funeral service provider is not able to obtain a certified copy of the death certificate. In these cases, what can a seller provide to its trustee to prove the funeral services have been provided and that the seller is entitled to withdraw the preneed funds owed under the contract?

Continued

“What is an acceptable proof of death?” (continued)

Some states offer guidance on what the applicable regulatory authority will consider as “other acceptable proof of death.” For example, Indiana allows one of the following as acceptable proof of death in lieu of a death certificate:

- (1) Certification of proof of death from the coroner pending issuance of a death certificate, or
- (2) For burial purposes only, a burial permit.

(832 IAC 6-1-13(b))

Presentation of one of the following is deemed a satisfactory verification of performance of services:

- (1) In the event of a merchandise sale only, an invoice for merchandise that reflects the name of the purchaser or beneficiary and the contract number; or
- (2) Acknowledgment signed by the purchaser, next of kin, or a person who has authority to designate final disposition of remains, acknowledging that merchandise was delivered or services were performed.

(832 IAC 6-1-13(c))

Other states look to Chapter 17 of the Social Security Handbook, which suggests several methods of proof of death:

You can prove death by providing any of the following evidence:

- A. A certified copy of a public record of death;
- B. A statement of death by the funeral director;
- C. A statement of death by the attending physician or the superintendent, physician, or intern of the institution where the person died;
- D. A certified copy of the coroner’s report of death or the verdict of the coroner’s jury;
- E. A certified copy of an official report of death or finding of death made by an agency or department of the United States (U.S.) that is authorized or required to make such a report; or

- F. If death occurred outside the United States (U.S.), an official report of death by a U.S. Consul or other employee of the State Department; or a copy of the public record of death in the foreign country.

The common challenge facing the death care industry is determining what acceptable proof of death will satisfy the trustee’s fiduciary duties as being not only accurate and valid, but also easily obtained by the preneed contract seller. Maintaining a dialogue with your trustee about how you can work together to obtain an acceptable method of proof of death in those situations where you encounter a gray area will help make sure you each serve your common purpose: providing families with a level of trust in their preneed trust fund.

This article is intended as a general discussion and not as legal advice; funeral homes and cemeteries with specific factual situations should consult their attorneys before taking action.

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