

~~and shall be transferred in the name of the trustee in trust for the planholders unless the seller/transferor is the pre-need company wherein an annotation to the TCT relative to the sale/transfer may be allowed. It shall be recorded at acquisition cost.~~

~~However, the real estate shall be appraised every three (3) years by a licensed real estate appraiser, accredited by the Philippine Association of Real Estate Appraisers, to reflect the increase or decrease in the value of the property. In case the appraisal would result in an increase in the value, only sixty percent (60%) of the appraisal increase is allowed to be recorded in the books of the trust fund but in case of decline in value, the entire decline shall be recorded. Appraisal increment should not be used to cover up the required monthly contribution to the trust fund.~~

~~The total recorded value of the real estate investment shall not exceed ten percent (10%) of the total trust fund amount of the pre-need company. In the event that the existing real estate investment exceeds the aforesaid limit, the same shall be leveled off to the prescribed limit within three (3) years from the effectivity of this Code.~~

~~Investment of the trust fund, which is not in accordance with the preceding paragraphs, shall not be allowed unless the prior written approval of the Commission had been secured: *Provided, further,* That no deposit or investment in any single entity shall exceed fifteen percent (15%) of the total value of the trust fund: *Provided, finally,* That the Commission is authorized to adjust the percentage allocation per category set forth herein not in excess of two percentage (2%) points upward or downward and no oftener than once every five (5) years. The first adjustment hereunder may be made no earlier than five (5) years from the effectivity of this Act. The pre-need company shall not use the trust fund to extend any loan to or to invest in its directors, stockholders, officers or its affiliates.~~

SEC. 35. *Valuation of Reserve Liabilities of the Pre-need Company.* - To determine the sufficiency and adequacy of the fund, an annual pre-need reserve valuation report establishing the reserve requirement and contractual

liabilities of the pre-need company shall be made and submitted to the Commission, within one hundred twenty (120) days from end of the calendar year. The valuation report shall contain the assumptions, methodology, formulas used, a summary of the pre-need plans that were subject of valuation and the results of such valuation.

The report shall be duly certified to by a professional as may be determined by the Commission. Upon approval by the Commission of the reserve computation, any deficiency in the fund shall be covered by the pre-need company, in the manner as may be prescribed by the Commission. In case of an excess of the fund over the reserve liability, the excess shall be credited for future deposit requirements.

SEC. 36. *Trust Fund Deficiencies.* — Upon approval by the Commission of the pre-need reserve computation submitted in the preceding section, any deficiency in the trust fund, when compared to the reserve liabilities as reported in the pre-need reserve valuation report, shall be funded by the pre-need company within sixty (60) days from such approval. Failure to cover the deficiency in an appropriate manner within the time required shall subject the pre-need company to the payment of a penalty, in addition to other remedies exercisable by the Commission, as provided for in this Code. Any excess of the trust fund over the actuarial reserve liabilities may be credited to future deposit requirements.

~~SEC. 37. *Liquidity Reserve.* — The trustee shall at all times maintain a liquidity reserve which shall be sufficient to cover at least fifteen percent (15%) of the trust fund but in no case less than one hundred twenty five percent (125%) of the amount of the availing plans for the succeeding year. For this purpose, the pre-need company shall timely submit to the trustee a summary of benefits payable for the succeeding year.~~

~~The following shall qualify as investments for the liquidity reserve:~~

~~(a) Loans secured by a hold-out on assignment or pledge deposits maintained either with the trustee or other banks,~~

~~or of deposit substitute of the trustee itself or mortgage and chattel mortgage bonds issued by the trustee;~~

~~(b) Treasury notes or bills, other government securities or bonds, and such other evidences or indebtedness or obligations the servicing and repayment of which are fully guaranteed by the Republic of the Philippines;~~

~~(c) Repurchase agreements with any of those mentioned in Item "b" above, as underlying instruments thereof; and~~

~~(d) Savings or time deposits with government-owned banks or commercial banks.~~

~~SEC. 38. Trustees. Upon approval of the Commission or when the Commission requires for the protection of planholders, the pre-need company shall entrust the management and administration of the trust fund to any reputable bank's trust department, trust company or any entity authorized to perform trust functions in the Philippines: *Provided*, That no director and/or officer of the pre-need company shall at the same time serve as director and/or officer of the affiliate or related trust entity: *Provided, further*, That no trust fund shall be established by a pre-need company with a subsidiary, affiliate or related trust entity. However, such may be allowed: *Provided*, That the following conditions are complied with:~~

~~(a) A written approval of the Commission has been previously obtained; and~~

~~(b) Public disclosure of the affiliation with the trust entity be included in all materials in whatever form.~~

~~The Commission shall have the authority to prescribe appropriate rules that shall ensure that the yield of the trust fund is maximized, consistent with the requirements of safety and liquidity.~~

## CHAPTER IX

### ACTUARIES FOR PRE-NEED COMPANIES

SEC. 39. *Required Actuarial Reports.* – The following documents which are from time to time submitted to the Commission by a pre-need company shall be duly certified by an Insurance Commission accredited actuary:

(a) Actuarial valuation of all liabilities pertaining to pre-need contracts;

(b) Asset share studies when applying for approval of new products or enhancement or repricing of existing products;

(c) Accounts in the financial statement of the pre-need company pertaining to actuarial reserve liabilities and other actuarial reserve items;

(d). Financial projections showing the probable income and reserve requirements, enumerating the actuarial assumptions and bases of projections; and

(e) Such other reports as may be required by the Commission.

It shall be the duty of an actuary to immediately report to the Commission any matter contained in, arising out of, or in relation to the above reports requiring intervention of the Commission to protect the interests of planholders: *Provided*, That the actuary shall not be liable to the pre-need company for any acts done under this paragraph, unless there is a clear showing of bad faith, malice or gross negligence.

SEC. 40. *Discreditation of an Actuary.* – An actuary shall be discredited by the Commission on the following grounds:

(a) Failure to adequately perform his required functions and duties under this Code;

(b) Failure to meet the requirements of Section 11 of this Code;

- (c) Failure to disclose conflict of interest;
- (d) Failure to comply with the Code of Conduct of the Actuarial Society of the Philippines; or
- (e) Such other grounds that may be determined by the Commission.

## ~~CHAPTER X~~

### ~~REPORTS AND EXAMINATION~~

~~SEC. 41. *Annual Pre-need Reserve Valuation Report.* -- Every pre-need company shall annually determine its reserve requirement and contractual liabilities, and submit to the Commission an annual pre-need reserve valuation report within one hundred twenty (120) days from the end of the fiscal year of the pre-need company. The valuation report shall contain the assumptions, methodology, formulas used, a summary of the pre-need plans that were the subject of the valuation and the results of such valuation. The report should be duly certified by an actuary accredited by the Commission in the case of contingent plans such as memorial/life plans and by the pre-need company's external auditors or by a qualified actuary in the case of scheduled benefit plans such as pre-need pension and education plans, the liabilities of which are not actuarial in nature. The reserving formula, bases and limits of the assumptions to be used in the valuation of reserves shall be prescribed by the Commission.~~

~~The Commission may require any pre-need company to submit an interim pre-need reserve valuation report if any of the following events occurred:~~

- ~~(a) When there is sufficient evidence that a subsequent event or transaction occurred after the end of the fiscal year and such event would materially affect the computation of the pre-need reserve valuation report submitted; and~~
- ~~(b) When the company ceased operation six (6) months after the end of the fiscal year.~~