**Section 610.40 Classification of Pre-Need Contract by Funding Methods**

a) For the purposes of this Part, pre-need contracts shall be classified as follows:

1) Pre-need contracts funded by trust deposits.

2) Pre-need contracts funded by life insurance or a tax-deferred annuity.

b) Pre-need contracts funded by trust agreements. In addition to complying with the requirements of Section 610.50, pre-need contracts funded by trust agreements must also contain:

1) Unless the pre-need contract has been made irrevocable, a statement that the purchaser, prior to the death of the persons for whose funeral or burial such funds were paid, has the right to cancel the pre-need contract and receive a refund as authorized or required by the Illinois Funeral or Burial Funds Act.

2) A statement that all refunds required under the Act will be made within 30 days after written demand.

c) Pre-need contracts funded by life insurance or tax-deferred annuity. In addition to complying with the requirements of Section 610.50, pre-need contracts funded by life insurance or a tax-deferred annuity must also contain:

1) A statement that the seller or provider may not be named as the owner or beneficiary of the policy or the annuity.

2) A statement that the assignment of the ownership of the insurance policy is revocable, except that a purchaser may irrevocably assign ownership of an insurance policy or annuity used to fund a guaranteed price pre-need contract to a person or trust for the purpose of obtaining favorable consideration for Supplemental Social Security Income benefits (SSI), Medicaid or other public assistance. For this purpose, the seller or contract provider may be named a nominal owner of the life insurance policy only for such time as it takes to immediately transfer the policy into trust. The assignment provision in the pre-need contract must contain the following statement on irrevocability in 12 point bold type:

*This assignment may be revoked by the assignor or assignor's successor or, if the assignor is also the insured and deceased, by the representative of the insured's estate before the rendering of the cemetery services or goods or funeral services or goods. If the assignment is revoked, the death benefit under the life insurance policy or annuity contract shall be paid in accordance with the beneficiary designation under the insurance policy or annuity contract.* [225 ILCS 45/2a(d)]

3) A statement that all refunds required under the Act will be made within 30 days after written demand.

(Source: Amended at 26 Ill. Reg. 5772, effective April 10, 2002)