

§ 90-210.68. Licensee's books and records; notice of transfers, assignments and terminations.

(a) Every preneed licensee shall keep for examination by the Board accurate accounts, books, and records in this State of all preneed funeral contract and prearrangement insurance policy transactions used to fund preneed funeral contracts, copies of all agreements, insurance policies, instruments of assignment, the dates and amounts of payments made and accepted thereon, the names and addresses of the contracting parties, the persons for whose benefit funds are accepted, and the names of the financial institutions holding preneed funeral trust funds and insurance companies issuing insurance policies used to fund preneed funeral contracts. The Board, its inspectors appointed pursuant to G.S. 90-210.24 and its examiners, which the Board may appoint to assist in the enforcement of this Article, may during normal hours of operation and periods shortly before or after normal hours of operation, investigate the books, records, and accounts of any licensee under this Article with respect to trust funds, preneed funeral contracts, and insurance policies used to fund preneed funeral contracts. Any preneed licensee who, upon inspection, fails to meet the requirements of this subsection or who fails to keep an appointment for an inspection shall pay a reinspection fee to the Board in an amount not to exceed one hundred dollars (\$100.00). The Board may require the attendance of and examine under oath all persons whose testimony it may require. Every preneed licensee shall submit a written report to the Board, at least annually, in a manner and with such content as established by the Board, of its preneed funeral contract sales and performance of such contracts. The Board may also require other reports.

(a1) On or before March 31, each preneed licensee shall prepare and submit an annual report on its preneed funeral contract sales and submit the report to the Board in a manner and form prescribed by the Board.

(b) A preneed licensee may transfer preneed funds held by it as trustee from the financial institution which is a party to a preneed funeral contract to a substitute financial institution that is not a party to the contract. Within 10 days after the transfer, the preneed licensee shall notify the Board, in writing, of the name and address of the transferee financial institution. Before the transfer may be made, the transferee financial institution shall agree to make disclosures required under the preneed funeral contract to the Board or its inspectors or examiners. If the contract is revocable, the licensee shall notify the contracting party of the intended transfer.

(c) If any preneed licensee transfers or assigns its assets or stock to a successor funeral establishment or terminates its business as a funeral establishment, the preneed licensee and assignee shall notify the Board at least 30 days prior to the effective date of the transfer, assignment or termination: provided, however, the successor funeral establishment must be a preneed licensee or shall be required to apply for and be granted such license by the Board before accepting any preneed funeral contracts, whether funded by trust deposits or preneed insurance policies. Provided further, a successor funeral establishment shall be liable to the preneed funeral contract purchasers for the amount of contract payments retained by the assigning or transferring funeral home pursuant to G.S. 90-210.61(a)(2).

(d) Financial institutions that accept preneed funeral trust funds and insurance companies that issue or assign insurance policies that are used to fund preneed funeral contracts shall, upon request by the Board or its inspectors or examiners, disclose any information regarding preneed funeral trust accounts held or any insurance policies used to fund a preneed funeral contract.

Financial institutions that accept preneed funeral trust funds and insurance companies that issue or assign insurance policy proceeds or designate a preneed funeral establishment as a policy beneficiary or owner shall also forward an account balance to the contracting preneed funeral establishment at the end of each calendar year.

(d1) When a preneed funeral establishment license lapses or is terminated for any reason, the preneed licensee shall immediately divest of all the unperformed preneed funeral contracts

and shall transfer them and any amounts retained under G.S. 90-210.61(a)(2) to another preneed funeral establishment licensee pursuant to the procedures of subsection (e) of this section.

(e) In the event that any preneed licensee is unable or unwilling or is for any reason relieved of its responsibility to perform as trustee or to perform any preneed funeral contract, the Board shall order the contract and any amounts retained pursuant to G.S. 90-210.61(a)(2) to be assigned to a substitute preneed licensee provided that neither the substitute preneed licensee or preneed contract purchaser, or after the death of the preneed contract purchaser, the preneed contract beneficiary or his or her legal representative, shall be obligated to perform the agreement without executing a new preneed funeral contract. Any lapse or transfer of a preneed contract pursuant to this section shall not be grounds to revoke an irrevocable preneed funeral contract.

(f) The substitute preneed licensee under subsections (d1) and (e) of this section shall be liable to the preneed funeral contract purchasers for the amount of contract payments that had been retained by, and that the substitute preneed licensee has received from, the assigning preneed licensee. (1969, c. 187, s. 6; 1983, c. 657, ss. 4, 5; 1985, c. 12, s. 1; 1991 (Reg. Sess., 1992), c. 901, s. 2; 1993, c. 164, s. 3; 1997-399, s. 28; 2007-531, ss. 13, 14; 2018-78, s. 11.)