

THIRTEENTH CONGRESS OF THE REPUBLIC)
OF THE PHILIPPINES)
First Regular Session)

04 JUN 30 P4:12

RECEIVED BY: Alu

S E N A T E

S. No. 328

Introduced by Senator S. R. Osmeña III

EXPLANATORY NOTE

Pension educational, memorial and other pre-need plans partake of the nature of insurance. These plans offer insurance benefits as part of the package and undertake to pay some obligation in the future. The fiduciary nature of pre-need plans involve the interest of the public which the calls for protection by the State.

This bill proposes a regulatory framework for pre-need companies under the supervision and administration of the Insurance Commission, which is deemed best equipped to exercise supervision over pre-need plan companies. Among other, this bill provides that every pre-need company must:

1. Have a minimum paid-up capital of at least P50 million;
2. Establish a trust fund which will finance all the guaranteed benefits and services, to be administered by a trustee bank authorizes to perform trust functions;
3. Utilize the services of duly accredited resident or consulting actuaries who will be responsible for the actuarial computations involved in their business transactions;
4. Publish the annual statement of its trust funds as approved by the Commission;
5. Render its financial statement in accordance with a uniform accounting system that may be prescribed by the Commission; and
6. Maintain a margin of solvency as may be required by the Commission;

This bill also provides guidelines and sanctions for claim settlements; procedures for the appointment of a conservators, and proceedings in cases of insolvency, consolidation and mergers of pre-need companies. It also provides for the creation of a Planholders' Protection Fund for the payment of claims against pre-need companies which remain unpaid by reason of insolvency on the part of the pre-need companies.

As of 1997, over 88 companies engaged in the sale of pre-need plans reported sales amounting to P9.0668 billion, with total trust fund amounting to some P13.8 billion. Pre-need plan companies, just like insurance companies perform the important function of pooling individual contributions to contribute to capital formation in the economy.

With the regulatory framework proposed in this bill, we hope to provide an environment marked with prudence and flexibility where pre-need companies will serve the needs of the public and perform their role in capital formation.

In view of the foregoing, early passage of this bill is earnestly requested.

A handwritten signature in black ink, appearing to read "S. Osmeña III", written in a cursive style.

SERGIO OSMEÑA III
Senator

THIRTEENTH CONGRESS OF THE REPUBLIC
OF THE PHILIPPINES
First Regular Session

04 JUN 30 P4:13

RECEIVED BY: Adla

SENATE

S. No. 328

Introduced by Senator S. R. Osmeña III

AN ACT
ESTABLISHING THE PRE-NEED PLAN CODE OF THE PHILIPPINES

Be it enacted by the Senate and House of Representatives of the Republic of the Philippines in Congress assembled:

SECTION 1. **Short Title.** - This Act shall be known as the "**Pre-Need Plan Code Of The Philippines.**"

SECTION 2. **Definition of Terms.** - Whenever used in this Act, the following terms shall have the respective meanings hereafter set forth or indicated, unless the context requires:

(a) "Commission" means the Insurance Commission.

(b) "Pre-Need Plans" are contracts which provide for the performance of future service/services or payment of monetary consideration at the time of actual need, payable either in cash or installment by planholders at prices stated in the contract, such as life/memorial plan, pension plan, education plan; cremation plan, interment plan and similar contracts and investments.

(c) "Pre-Need Company" means any company or corporation registered with the Commission who offers and/or sells pre-need plans.

(d) "Planholder" means any natural or juridical person, who purchases pre-need plans for whom or for whose beneficiaries future services/payments are to be rendered or made at the time of need or

1 payment benefits to be delivered as stipulated and guaranteed by the
2 pre-need company which sold or issued the plans at the time of need
3 or maturity of the contracted benefit.

4 (e) "Traditional actual cost plans" refer to such plans whose costs are
5 fixed at the time of purchase or inception but with its corresponding
6 benefits/services guaranteed in spite of increases in costs of such
7 benefits/services at the time of availment on account of the
8 contingencies of inflation and interest yield rate
9 fluctuations.

10 (f) "Fixed value plans" refer to plans whose benefits and costs are fixed
11 and pre-determined at the inception or purchase of the plan.

12 (g) "Sales Counsellors" means natural persons who are engaged in the
13 sale, whether on commission basis, of pre-need plans and contracts
14 upon authority of the pre-need company, registered and licensed by
15 the Commission to engage in the business of selling said pre-need
16 plans and contracts.

17 (h) "Trust Fund" means a fund set up, separate and distinct from the paid-
18 up capital of the pre-need company registered and licensed by the
19 Commission to engage in the business of selling pre-need plans and
20 contracts, from the planholders' payments, deposited with a trustee
21 bank under a trust agreement approved by the
22 Commission, to pay for annuities, services or property as provided for
23 in the contracts.

24 (i) "In Force Plan" means a plan, the installments of which are promptly
25 and regularly paid in accordance with the contract and remains to be
26 so up to the time the plan has been fully paid by the planholder.

27 (j) "Lapsed Plan" means a plan which is delinquent in payment of
28 installments, provided for in the contract, the delinquency of which
29 extends beyond the grace period provided for in the plan or contract

1 which shall not be less than two (2) months from the due date of the
2 last unpaid installment.

3 (k) "Cancelled Plan" means a plan which has remained lapsed for two (2)
4 years counted from the date of delinquency.

5 (l) "Liquidity Reserve Fund" means the amount representing at least ten
6 percent (10%) of the trust fund but in no case less than FIVE
7 HUNDRED THOUSAND PESOS (P500,000.00) set aside by the
8 trustee appointed by the pre-need company house in cash or short
9 term liquid investments, whichever is higher.

10 SECTION 3. **Supervision.** - All pre-need companies shall be under the
11 supervision and regulation of the Insurance Commission. The Commission shall
12 create a new department within its control, headed by a deputy commissioner to
13 regulate and supervise the operations and activities of pre-need plan companies
14 in the country.

15 SECTION 4. **Paid-Up Capital.** - A pre-need company shall have a paid-up
16 capital of at least **FIFTY MILLION PESOS (P50,000,000.00)** in cash or property,
17 provided that the commission may increase such minimum paid-up capital stock
18 under such terms and conditions it may impose, to an amount which on its
19 opinion, would reasonably assure the safety of the interest of the planholders and
20 the public. Pre-need companies who are currently licensed as such with paid-up
21 capital less than **FIFTY MILLION PESOS (P50,000,000.00)** may be allowed to
22 continue to operate as such but shall be required to build up such minimum paid-
23 up capital in accordance with the schedule prescribed by the Commission.

24 **CHAPTER I – REGISTRATION REQUIREMENTS FOR PRE-NEED**
25 **COMPANIES; CANCELLATION**

26 SECTION 5. **Cancellation** - *Registration requirements for pre-need*
27 *companies* – (a) Any pre-need company organized or otherwise created under
28 the laws of the Philippines may register for purposes of this Act by filing with the
29 Commission an application for registration under oath in such form as the

Commission by rule may prescribe. The application shall set forth the following:

(1) The names, addresses and business experience for the last five years, of the directors and officers of the pre-need company.

(2) A statement whether any of the persons referred to in paragraph (1) is subject to any disability enumerated in Section _____(a) of this Act.

(3) The Articles of Incorporation and By-Laws of the pre-need company.

(4) Evidence indicating that the pre-need company when registered, will comply with the structural and capital requirements set forth in this code.

(5) A statement of the capitalization of the pre-need company including the authorized and subscribed capital stock and the amount paid thereon; the number and classes of shares, the description of the respective rights, voting powers, preferences and restriction of the class.

(b) (1). Within sixty (60) days after the filing of such application for the registration the Commission shall, (a) by order grant registration, or (b) institute proceedings to determine whether to deny registration.

(2) The order of the Commission granting registration shall become effective after completion of publication thereof, at the expense of the registrant, once a week for two consecutive weeks in two newspapers of general circulation in the Philippines.

(c) The Commission may by order, after hearing, deny an application for registration as pre-need company if it finds that-

(1) The pre-need company made or caused to be made a materially false or misleading statement in its application for registration, or omitted to state in such application a material fact which was required to be stated therein.

(2) The pre-need company or any affiliated person thereof did not comply with the provisions of the Act or the rules of the Commission thereunder, or in the case of an affiliated person would be subject to a disability enumerated in Section _____(a) of this Act if such company

1 was a registered pre-need company.

2 3) The pre-need company has not paid the registration fee prescribed
3 by the Commission.

4 (d). Within a period of forty-five (45) days after the grant of registration, the
5 pre-need company shall file with the Commission a registration statement
6 pursuant to this Act and the rules of the Commission thereunder appertaining
7 to the registration statements of its pre-need plans containing such other
8 information and documents as the Commission may prescribe.

9 (e). The Commission, in the exercise of its sound judgment and discretion,
10 shall have power to limit the registration of pre-need companies to such
11 number as the market then obtaining would permit, to prevent industry
12 overcrowding and undue competition, and to allow the registration of new pre-
13 need companies only when the conditions warrant it.

14 (f) If it appears to the Commission that a registered pre-need company has
15 failed to file the registration statement required by this Section or a report
16 required pursuant to Section _____, has filed such registration statement or
17 report but omitted therefrom material facts required to be stated therein, or
18 has filed such a registration statement or report in violation of _____, the
19 Commission shall notify such company by registered mail of the failure to file
20 such registration statement or reports, or of the respects in which such
21 registration or report appears to be materially incomplete or misleading, as
22 the case may be, and shall fix a date which shall not earlier than thirty (30)
23 days after the mailing of such notice prior to which such company may file
24 such registration statement or report or correct the same. If such registration
25 statement or report is not filed or corrected within the time so fixed by the
26 Commission or any extension thereof, the Commission, after appropriate
27 notice and opportunity for hearing, upon such conditions and with such
28 exemptions as it deems appropriate for the protection of planholders may by
29 order, suspend the registration of such company until such statement or

1 report is filed or corrected, or may, by order, revoke such registration if the
2 evidence finds that such suspension or revocation is in the public interest.

3 (g) The Commission may by order, after hearing, revoke or cancel the
4 registration of a pre-need company if it finds that the pre-need company was
5 not so registered, its application for registration would be subject to denial
6 under subsection (c).

7 (h) Whenever the Commission, on its own motion or upon application, finds
8 that a registered need company has ceased to be a pre-need company, it
9 shall so declare by order and upon the effectivity of such order, the
10 registration of such company shall cease to be in effect. If necessary for the
11 protection of planholders, an order under this subsection may be made upon
12 appropriate conditions. (7a)

13 SECTION 6. ***Federation Membership.*** - All pre-need companies shall be
14 registered members of the federation of pre-need plan companies within one (1)
15 year from the approval of this Act. A newly licensed pre-need company shall be a
16 registered member of the Federation within sixty (60) days after the Commission
17 shall have its registration.

18 SECTION 7. ***Ineligibility of Certain Persons.*** -- (a) It shall be unlawful
19 for any of the following persons to serve or act in the capacity of officer,
20 employee, director, sales counsellors or solicitors for any pre-need company:

- 21 (1) any person who has been convicted of any felony or misdemeanor
22 involving the purchase or sale of any pre-need plan security, or
23 proprietary or non-proprietary membership certificate, commodity
24 futures contract, pre-need plan, pension plan, or life plan, or out of
25 such person's conduct as underwriter, broker, dealer, investment
26 company manager, investment adviser, futures commission
27 merchant, commodity trading advisor, floor broker, or as an
28 affiliated person, salesman, or other employee of any of the
29 foregoing;

1 (2) any person who, by reason of any misconduct, is permanently or
2 temporarily enjoined by order, judgment, or decree or any court or
3 quasi-judicial of competent jurisdiction from acting as an underwriter,
4 broker, dealer, investment company manager, investment adviser,
5 futures commission merchant, commodity trading advisor, floor broker,
6 or as an affiliated person, salesman, or other employee of any of the
7 foregoing, from engaging in or continuing any conduct or practice in
8 connection with any such activity or in connection with the purchase or
9 sale of any plan or security.

10 (3) any person found guilty of an offense involving moral turpitude or
11 involving fraud, or embezzlement, theft, estafa or other fraudulent acts
12 or transactions;

13 (4) any person found to have wilfully violated, or wilfully aided, abetted,
14 counselled, commanded, induced, or procured the violation of this Act,
15 Insurance Code, the Revised Securities Act, or any other laws and any
16 Commission rules or orders thereunder, or who has filed a materially
17 false or misleading application, report or registration statement with the
18 Commission required to be filed under this Act, the Revised Securities
19 Act, or other laws;

20 (5) any person judicially declared to be insolvent, or incapacitated to
21 contract;

22 (6) any person found guilty by a foreign court or equivalent financial
23 regulatory authority of the acts or violations similar to any of the acts or
24 misconduct enumerated in paragraphs (1) to (5) above.

25 The Commission may, by rule or regulation, require other matters to be
26 set forth in the application.

27 CHAPTER II – LICENSING

28 SECTION 8. *Licensing of Pre-Need Companies.* - Any pre-need
29 company shall be required to be licensed by the Commission as such and

1 comply with all the provisions thereof.

2 The pre-need company must post a surety bond from a bonding company
3 acceptable to the Commission in the amount of Three Hundred Thousand Pesos
4 (P300,000.00) in favor of the Government of the Philippines and conditioned
5 upon faithful compliance with the provisions of this Act. The Commission may
6 require additional surety bond depending on the volume of sales of the pre-need
7 company.

8 Every license under this Section shall expire every thirty-first day of
9 December, but new registration for the succeeding year shall be issued upon
10 application and payment of the fee, without filing of further statements or
11 furnishing any further information unless specifically required by the Commission.
12 Application for renewals must be made not less than thirty (30) days before the
13 first day of the ensuing year, otherwise, they shall be treated as original
14 applications.

15 The fee for original application and every renewal thereof shall be
16 prescribed by the Commission.

17 **SECTION 9. *Licensing of Salesmen, Counsellors or Solicitors.*** - No
18 sales counsellors shall be allowed to solicit, sell or offer to sell pre-need plans
19 under this Act, without being licensed as such by the Commission. License shall
20 be issued upon certification under oath by the pre-need company that the sales
21 counsellor has been duly trained. Provided, that said training program has been
22 approved by the Commission.

23 Such license shall automatically cease upon the termination of the agency
24 contract of such sales counsellor by the pre-need company, provided that it may
25 be renewed for the ensuing year in accordance with the third paragraph of the
26 preceding section.

27 The fee for original application and every renewal thereof shall be
28 prescribed by the Commission.

29 **SECTION 10. *Qualifications of a Licensee.*** - An applicant for a license

1 as sales counsellor must be of good moral character and must not have been
2 convicted of any crime involving moral turpitude. He must satisfactorily show to
3 the Commissioner that he has undergone extensive training in pre-need plans
4 under a training program approved by the Commission.

5 **SECTION 11. *Refusal, Suspension, Revocation of a License of a***
6 ***Sales Counsellor.*** An application for the issuance or renewal of a license to act
7 as sales counsellor may be refused, or such license, if already issued or
8 renewed, shall be suspended or revoked if the Commissioner finds that the
9 applicant for, or holder of, such license:

- 10 (a) has wilfully violated any provision of this Code; or
- 11 (b) has intentionally made a material misstatement in the application to
12 qualify for such license; or
- 13 (c) has obtained or attempted to obtain a license by fraud or
14 misrepresentation;
- 15 (d) has been guilty of fraudulent or dishonest practices; or
- 16 (e) has misappropriated or converted to his own use or illegally
17 withheld moneys required to be held in fiduciary capacity; or
- 18 (f) has not demonstrated trustworthiness and competence to transact
19 a business as a plan adviser in such manner as to safeguard the
20 public; or
- 21 (g) has materially misrepresented the terms and conditions of pre-need
22 plan which he seeks to sell or has sold.

23 **CHAPTER III – SUSPENSION / REVOCATION OF LICENSE**

24 **SECTION 12. *Suspension of License or Permit.*** If, at any time the
25 information contained in the plan agreement or prospectus has been found to be
26 misleading, incorrect, inadequate or incomplete or the sale or offering for sale of
27 the plans or contracts may work or tend to work a fraud, the Commission may
28 require from the person filing such statement further information as may, in its
29 judgment, be necessary to enable the Commission to ascertain whether the

1 registration of such security should be revoked on any ground specified in
2 Section _ of this Act, and the Commission may also suspend the right to sell such
3 plan pending further investigation, by entering an order specifying the grounds for
4 such action with due notice expressly or by personal service, on the person filing
5 such statement and every broker who shall have notified the Commission of an
6 intention to sell such plan. Refusal to furnish information required by the
7 Commission within a reasonable time to be fixed by the Commission, may be a
8 proper ground for the entry of such order of suspension. Upon entry of such
9 order of suspension, no further sales of such plan shall be made until the
10 Commission orders otherwise.

11 Upon entry of such order of suspension, the Commission shall conduct a
12 hearing with proper notice to the parties to determine whether the sale of any
13 such plan should, be revoked on any ground under Section _ of this Act. It shall
14 make the necessary findings and enter a final order prohibiting the sale of such
15 plans or contracts is not fraudulent nor will result in fraud, it shall forthwith enter
16 an order revoking the suspension.

17 **SECTION 13. *Grounds for Revocation of Permit or License [of a Pre-***
18 ***Need Company.***

19 (a) The Commission may, after due notice and hearing, revoke the permit
20 to sell plans by issuing an order to such effect, setting forth its findings in respect
21 thereto, if upon examination it shall appear that the pre-need company:

- 22 (1) Is insolvent;
- 23 (2) Has violated any of the provisions of this Act, or the rules
24 promulgated pursuant thereto, or any order of the Commission of
25 which the pre-need company had notice;
- 26 (3) Has been or is engaged or is about to engage in fraudulent
27 transactions;
- 28 (4) Has made fraudulent representation in any prospectus, circular,
29 literature or other form of broadcast or media communication

1 concerning its plans; or

2 (5) Does not conduct its business in accordance with law.

3 The Commission may compel the production of all books and records of
4 the pre-need company, and may administer oaths and examine the officers or
5 employees of the pre-need company.

6 Failure by the pre-need company to submit the statements or books
7 required or refusal to permit any examination thereof by the Commission shall be
8 proper grounds for the revocation of the registration of and permit to sell its pre-
9 need plans.

10 If the Commission deems it necessary, it may issue an order suspending
11 the right to sell plans pending any investigation stating the grounds therefore.
12 Upon the issuance thereof, no further sale of such pre-need plan shall be made
13 until the suspension order is lifted or set aside by the Commission. Any such
14 sales in the interim shall be void.

15 Notice of such suspension order or lifting thereof shall be made expressly
16 or by personal service upon the pre-need company who shall have notified the
17 Commission of his intention to sell such pre-need plan.

18 (b) A registration statement may be revoked by the Commission upon
19 petition made for its withdrawal by the pre-need company as herein provided. An
20 application for the withdrawal of a registration statement should be accompanied
21 by the following:

22 (1) Petition or application withdrawal of the License/Permit to Sell
23 Plans to the Public, stating the reasons therefore;

24 (2) Proof of publication of Notice to Planholders of said
25 revocation/withdrawal;

26 (3) Board of Resolution approving such application for withdrawal
27 certified under oath by the Corporate Secretary and attested to by
28 the President;

29 (4) List of all Planholders;

1 (5) A certification under oath by the Treasurer attested to by the
2 President that the planholders' contribution were refunded and their
3 claims fully settled;

4 (6) A joint and several assumption of liability executed by the President
5 and Treasurer of the pre-need company for settlement of all for
6 proved claims that may arise as a result of said withdrawal; and

7 (7) Sufficiency of trust fund to cover payment of cash
8 surrender/termination values.

9 Upon payment of filing fee of 1,000.00, the petition shall be published by
10 the Commission, at the expense of the issuer in two (2) newspapers of general
11 circulation, once a week for two (2) consecutive weeks, with notice to the general
12 public, planholders, stockholders or other persons affected by said withdrawal,
13 who may file their claims with the pre-need company and the Commission.

14 After publication and upon the findings of the Commission that the petition
15 with all papers and documents attached thereto is on its face complete and that
16 no party stands to suffer damage thereby, it shall issue an ORDER revoking said
17 Registration/License or Permit to Sell Plans to the public.

18 CHAPTER IV - CONTRACTS AND FORMS

19 SECTION 14. **Approval of Contracts.** – Pre-need contracts of certificate
20 shall be issued or delivered within the Philippines unless in the form previously
21 approved by the Commissioner, and no application form shall be used with, and
22 no rider, clause, warranty or endorsement shall be attached to, printed or
23 stamped upon such contract or certificate unless the form of such application,
24 rider, clause, warranty or endorsement has been approved by the Commissioner.

25 SECTION 15. **Amendments to the Plan Agreement or other**
26 **Documents** - No plan agreement, trust agreement, contract or other documents
27 pertinent to the plan, shall be amended or modified without the prior approval of
28 the Commission, and such amendment or modification shall either affect
29 adversely the planholders thereof nor impair any term or condition in the plan or

1 other related documents.

2 CHAPTER V - TRUST FUND

3 SECTION 16. **Trust Fund.** - To guarantee the delivery of property or
4 performance of services in the future, a portion of the installment collected should
5 be deposited by the pre-need company with a trustee or trustee bank, the
6 amount of which will be determined by an actuary sufficient to pay the benefits
7 promised under the contract. For fully paid plans in cash, the amount contributed
8 to the trust fund should be no less than forty per centum (40%) of the gross pre-
9 need price of the plan. For plans sold on installment basis, the actuary shall
10 likewise determine the trust fund contribution rates required to sufficiently pay for
11 the benefits contracted for but in no case lower than the following schedule:

12

13 Collections on the 1st 20% of Gross Pre-Need Price.....	5%
14 Collections on the 2nd 20% of Gross Pre-Need Price.	5%
15 Collections on the 3rd 20% of Gross Pre-Need Price.....	60%
16 Collections on the 4th 20% of Gross Pre-Need Price.....	65%
17 Collections on the 5 th 20% of Gross Pre-Need Price.....	65%

18 The minimum trust fund contribution as prescribed above should be
19 deposited within sixty (60) days following the end of each quarter of the fiscal
20 year of the pre-need company.

21 SECTION 17. **Actuarial Valuation of the Trust Fund-** An actuarial
22 valuation to determine all contractual liabilities of the pre-need company shall be
23 made and submitted to the Commission within one hundred twenty (120) days
24 from the end of the fiscal year of the pre-need company. The actuarial valuation
25 report containing the actuarial assumption, methodology, and results should be
26 certified by the actuary accredited by the Commission. Upon approval by the
27 Commission of the actuarial computation, any deficiency in the trust fund shall be
28 covered through additional deposit according to the schedule approved by the
29 Commission may allow. After receipt of notice of deficiency from the Commission

1 and in the process of filling up such deficiency, the current year's pay put from
2 the trust fund must be deposited in the form of cash and/or liquid securities upon
3 submission of the valuation report. Projected deficiency beyond the current year's
4 requirements may be filled up by additional deposits and/or performance bond
5 acceptable to the Commission. Any excess of the trust fund shall be credited for
6 future deposit requirements.

7 SECTION 18. **Administration of Trust Fund.** - The trust fund (inclusive
8 of earnings) shall be administered and managed by a trustee bank authorized to
9 perform trust functions in the Philippines. The trustee shall perform and exercise
10 the functions, cares and duties of a TRUSTEE with the utmost good faith, care
11 and prudence required by a fiduciary relation.

12 No withdrawal shall be made from the trust fund except for paying the cost
13 of services rendered or property delivered, bank charges and investment
14 expenses in the operation of the trust fund, planholders' insurance premiums,
15 expenses in the delivery of the benefits or services, cash surrender/termination
16 values payable to the planholders, annuities, contributions to the fund of
17 cancelled plans, taxes on trust funds, and other costs necessary to insure the
18 delivery of benefits or services.

19 SECTION 19. **Trust Agreement.** - The Trust Agreement shall be
20 submitted for approval of the Commission and shall contain, among others, the
21 following provisions:

- 22 (a) Manner in which the trust fund is to be operated;
- 23 (b) Investment powers of the trustee with respect to the trust deposits,
24 including the character and kind of investment;
- 25 (c) Allocation, apportionment, distribution dates of income, profits and
26 losses;
- 27 (d) Terms and conditions governing the admission and withdrawal of
28 investment or participation in the fund;
- 29 (e) Auditing and settlement of accounts of the trustee with respect to

the fund:

- (f) Basis upon which the fund may be terminated;
- (g) Provisions for withdrawal of the fund;
- (h) Such other matters as may be necessary or proper to define clearly the rights of the issuer with regard to the trust fund.

SECTION 20. ***Investment Powers of Trustee.*** - The TRUSTEE shall, from time to time, invest and reinvest the FUND and keep the same invested, in its sound discretion without distinction between principal and income in any property, real, personal, or mixed, or any share or part thereof, or part interest therein, including but not being limited to: capital, common and preferred stocks, personal, corporate and government obligations, secured mortgages, leaseholds, fees and other interests in listed companies whether in realty, rights, royalties, payments or other interests in such property contracts, conditional sale agreements, chooses in action, trust and. Participation certificates, or other evidences of ownership, interest or part interest including participation in common trust funds; and in making such investment and reinvestments, the TRUSTEE shall not be limited as to the amount or type of any investment in relation to the FUND as a whole. Provided further, that investments in any property, real, personal or mixed shall have the prior approval of the Commission.

SECTION 21. ***Investment Policy and Objective.***- That as a matter of investment policy and objective, the TRUSTEE shall direct the investment of the FUND taking the following factors into consideration: security of the principal, growth, yield or income and liquidity in the order of priority.

SECTION 22. ***Powers and Authorities of Trustee.*** - Without any sense limiting the general powers granted to the TRUSTEE, the TRUSTEE shall manage, improve, protect and maintain the FUND with full power and authority:

- (a) to treat all amounts in, or payments made to, the FUND as one aggregate amount for purposes of investment, and to deposit all or

1 any part thereof with a reputable bank or trust company including
2 the TRUSTEE's own bank either on current account or
3 otherwise;

- 4 (b) to pay all costs, expenses and charges incurred in connection with
5 the administration, preservation, maintenance and protection of the
6 FUND or any part thereof and for this purpose, to employ or appoint
7 such agents or employees as the said TRUSTEE may deem
8 necessary and proper, and to determine whether such payments
9 shall be charged against principal or income; with solely in
10 accordance with the expressed provisions of this code.

11 SECTION 23. ***Liquidity Reserve Fund.*** - At least ten percent (10%) of the
12 trust fund but in no case less than P500,000.00 or any amount as may be
13 prescribed by the Commission, must be set aside and maintained as a liquidity
14 reserve fund. The reserve fund shall be invested only in the following
15 transactions;

- 16 (a) loans secured by a hold-out on assignment or pledge deposits
17 maintained either with the TRUSTEE or other banks, or of deposit
18 substitute of the TRUSTEE itself or mortgage and chattel mortgage
19 bonds issued by the TRUSTEE;

- 20 (b) treasury notes or bills, Central Bank Certificates of indebtedness
21 which are short-term and other government securities or bonds,
22 and such other evidences or indebtedness or obligations the
23 servicing and repayment of which are fully guaranteed by the
24 Republic of the Philippines;

- 25 (c) repurchase agreements with any of those mentioned in Item "b"
26 above, as underlying instruments thereof;

- 27 (d) savings or time deposits with government-owned banks or
28 commercial banks; provided, that in no case shall any such savings
29 or time deposit account be accepted or allowed under a "Bearer",

1 "Numbered Account" or other similar arrangements; and

2 (e) other investments as the Commission may allow.

3 SECTION 24. ***Limitation of Trust Fund Investment.*** - The Trust Fund
4 shall not be invested in any financing or investment company wherein a majority
5 of the outstanding shares of stock is owned by The TRUSTOR or its directors.

6 CHAPTER VI - MINIMUM STANDARD OF VALUATION FOR PRE-NEED

7 COMPANIES

8 SECTION 25. ***Annual Valuation.*** - Every pre-need company shall
9 annually make a valuation of all pre-need plans in order to determine its financial
10 stability and solvency. All such valuation shall be made by an accredited actuary
11 in accordance with actuarially sound and accepted principles and subject to the
12 minimum standard of valuation and guidelines set by the Commission.

13 CHAPTER VII - ACTUARIES FOR PRE-NEED COMPANIES

14 SECTION 26. ***Required Actuary.*** - No pre-need company shall be
15 licensed to do business in the Philippines nor shall any pre-need company doing
16 business in the Philippines be allowed to continue doing such business unless
17 they shall engage the services of either a resident or consulting actuary duly
18 accredited with the Commission who shall, during his tenure of office, be directly
19 responsible for the direction and supervision of all actuarial work connected with
20 or that may be involved in the business of the pre-need company.

21 SECTION 27. ***Qualifications of the Actuary.*** - A person shall be
22 officially accredited by the Commission to act as an Actuary in any pre-need
23 company authorized to do business in the Philippines upon application therefore
24 and the payment of the corresponding fee hereinafter prescribed, provided that:
25 (1) he is a fellow of good standing of the Actuarial Society of the Philippines at
26 the time of his appointment and remains in such good standing during the tenure
27 of his engagement; or (2) in the case of one who is not a fellow of the Actuarial
28 Society of the Philippines, he should meet all the requirements of the said society
29 for accreditation as a fellow of the Society.

1 SECTION 28. **Renewal of Certificates.** - No certificate of registration
2 issued under this chapter shall be valid after the thirtieth day of June of the year
3 following its issuance unless it has been renewed by the Commission.

4 SECTION 29. **Required Reports.** - The following documents, which are
5 from time to time submitted to the Commission by a pre-need company
6 authorized to do business in The Philippines shall be duly certified by an
7 accredited actuary employed by such company:

8 a) Actuarial valuation of all liabilities pertaining to pre-need contracts
9 issued.

10 b) Statement of asset share studies when applying for approval of
11 new product or enhancement of existing products.

12 c) Annual financial statement of the pre-need company pertaining to
13 valuation of liabilities and other reserve items.

14 d) Sufficiency and accuracy of the asset share studies used in the
15 pricing of a pre-need product. These are necessary for approval of
16 a new product, for reporting of an existing product, or an
17 enhancement of an existing product.

18 e) Valuation of trust funds.

19 SECTION 31. **Exception.** - Any pre-need company authorized to do
20 business in the Philippines may employ any person who is not officially
21 accredited under either of the qualifications for any kind of actuarial work,
22 provided that he shall not, at any time, have the Authority to certify to the
23 correctness of the foregoing documents.

24 CHAPTER VIII - ANNUAL STATEMENT

25 SECTION 31. **Annual Statement.** - Every pre-need company doing
26 business in the Philippines shall terminate its fiscal period on the thirty-first day of
27 December every year, or its chosen fiscal year, and within one hundred twenty
28 (120) day after the calendar or fiscal year shall annually render to the
29 Commission a statement signed and sworn to by the chief Officer of such

company in accordance with a uniform accounting system that may be prescribed by the Commission, showing in such form and details as may be prescribed by the Commission, the exact condition of its affairs within ninety (90) days after the calendar or fiscal year. Any entry in the statement which is found to be false shall constitute a misdemeanor and the officer signing such statement shall be subject to the penalty provided for under this code.

SECTION 32. ***Filing of Annual Statement.*** - Every pre-need company shall annually file with the Commission annual statement of its trust fund. Such statement shall be on a form prescribed or approved by the Commission and shall include details as the income, disbursements, assets and liability items of and associated with the said trust fund accounts. Said statement shall be under oath of two officers of the company and shall be filed simultaneously with the annual statement required by the preceding section.

SECTION 33. ***Publication of Annual Statement.*** - Within thirty (30) days after the receipt of the annual statement approved by the Commission, every pre-need company doing business in the Philippines shall publish in two newspapers of general circulation a full synopsis of its annual financial statement showing fully the conditions of its business, and setting forth its resources and liabilities.

CHAPTER IX - ASSETS

SECTION 34. **Admitted Assets.** - In any determination of the financial condition of any pre-need company doing business in the Philippines, there shall be allowed and admitted as assets only such assets owned by the pre-need company concerned and which consist of:

1. Cash in the possession of the pre-need company or in transit under its control, and the true and duly verified balance of any deposit of such company in a financially sound commercial bank or trust company.
2. Investments in securities, including money market instruments, and in real property acquired or held in accordance with and subject to

the applicable provisions of this Code and the income and unrealized therefrom or accrued thereon.

3. Loans granted by the pre-need company concerned to the extent of that portion thereof adequately secured by non-speculative assets with readily realizable values in accordance with the subject to the limitations imposed by applicable provisions of this Act.

4. Loans and other assets and liens on pre-need contracts or certificates of a pre-need company, in an amount not exceeding trust fund reserves and other plan liabilities carried on Each individual pre-need contract or certificate.

5. Deposits or amounts recoverable from underwriting associations, syndicates and reinsurance funds, or from any suspended banking institution, to the extent deemed by the Commissioner to be available for the payment of losses and claims and values to be Determined by him.

6. Electronic data processing machines, as may be authorized by the Commissioner to be acquired by the pre-need company concerned, the acquisition cost of which to be amortized in equal annual amounts within a period of five years from the date of acquisition Thereof.

7. Other assets, not inconsistent with the provisions or paragraphs 1 to 9 hereof, which are deemed by the Commissioner to be readily realizable and available for the payment of Losses and claims at values to be determined by him.

SECTION 35. **Non-Admitted Assets.** - In addition to such assets as the Commissioner may from time to time determine to be non-admitted assets pre-need companies doing business in the Philippines, the following assets shall in no case be allowed as admitted assets of a pre-need company doing business in the Philippines, in any determination of its financial condition:

1. Goodwill, trade names, and other like intangible assets.
2. Prepaid or deferred charges for expenses and commissions paid by such pre-need Company.
3. Advances to officers, which are not adequately secured and which are not previously authorized by the Commissioner, as well as advances to employees, Agents and other persons on mere personal security.
4. Shares of stock of such pre-need company, owned by it, or any equity therein as well as loans secured thereby, or any proportionate interest in such shares of stock through the ownership by such pre-need company of an interest in another Corporation or business unit.
5. Furniture, furnishings, fixtures, safes, equipment, library, stationery, literature, and Supplies.
6. Items of bank credits representing checks, drafts or notes returned unpaid after the date of statement.
7. The amount, if any, by which the aggregate value of investments as carried in the ledger assets of such pre-need company exceeds the aggregate value thereof as determined in Accordance with the provisions of this Act and/or rules of the Commissioner.

All non-admitted assets and all other assets of doubtful value or character included as ledger or non-ledger assets in any statement submitted by a pre-need company to the Commissioner, or in examiner's report to him, shall also be reported, to the extent of the value disallowed as deductions from the gross assets of such pre-need company, except where the Commissioner permits a reserve to be carried among the liabilities of such pre-need company in lieu of any such deduction.

CHAPTER X - MARGIN OF SOLVENCY

SECTION 37. *Margin of Solvency.* - A pre-need company doing business

1 in the Philippines shall at all times maintain a margin of solvency which shall be
2 an excess of the value of its admitted assets exclusive of its paid-up capital, over
3 the amount of its liabilities. Whenever the aforementioned margin be found to be
4 less than that herein required to be maintained, the Commissioner shall forthwith
5 direct the company to make good any such deficiency by cash, to be contributed
6 by all stockholders or record in proportion to their respective interest, and paid to
7 the treasurer of the company, within fifteen days from receipt of the order;
8 Provided, That the company in the interim shall not be permitted to take any new
9 risk of any kind or character unless and until it make good any such deficiency;
10 Provided, further, that a stockholder who aside from paying the contribution due
11 from him, pays the contribution due from another stockholder by reason of the
12 failure of refusal of the latter to do so, shall have a lien on the certificates of stock
13 on the pre-need company concerned appearing in its books in the name of the
14 defaulting stockholder on the date of default, as well as on any interests or
15 dividends that have accrued or will accrue to the said certificates of stock, until
16 the corresponding payment or reimbursement is made by the defaulting
17 stockholder.

18 SECTION 37. ***Distribution of Profits.*** - No pre-need company shall
19 declare or distribute any dividend on its outstanding stocks except from profits
20 attested in a sworn statement to the Commissioner by the president or treasurer
21 of the corporation to be remaining on hand after retaining unimpaired:

- 22 (a) Ten percent (10%) of the capital stock;
- 23 (b) The margin of solvency required by Section 36;
- 24 (c) A sum sufficient to pay all net losses reported, or in the course of
25 settlement, and all liabilities for expenses and taxes.

26 Any dividend declared or distributed under the preceding paragraph shall
27 be reported to the commissioner within 30 days after such declaration or
28 distribution.

29 If the Commissioner finds that any such corporation has been declared or

distributed any such dividend in violation of this section, he may order such corporation to cease and desist from doing business until the amount of such dividend or the portion thereof in excess of the amount allowed under this section has been restored to said corporation.

CHAPTER XI - CLAIMS SETTLEMENT

SECTION 38. (1) No pre-need company doing business in the Philippines shall refuse, without just cause to payor settle claims arising under coverages provided by its plans, nor shall any such company engage in unfair claim settlement practices. Any of the following acts by a pre-need company, if committed without just cause and performed with such frequency as to indicate a general business practice, shall constitute unfair claim settlement practices:

- (a) knowingly misrepresenting to claimants pertinent facts or plan provisions relating to coverages at issue;
- (b) failing acknowledge with reasonable promptness communications with respect to claims arising under its plan;
- (c) failing to adopt and implement reasonable standards for the prompt investigation of claims arising under its plan;
- (d) not attempting in good faith to effectuate prompt, fair and equitable settlement of claims submitted in which liability has become reasonably clear; or
- (e) compelling planholders to institute suits or recover amounts due under its plan by offering without justifiable reason substantially less than the amounts ultimately recovered in suits brought by them.

(2) Evidence as to numbers and types of valid and justifiable complaints to the Commissioner against a pre-need company shall be admissible in evidence in an administrative or judicial proceeding brought under this section.

(3) If it is found, after notice and an opportunity to be heard, that a pre-need company has violated this section, each instance of non-compliance with

1 paragraph (1) may be treated as a separate violation of this section and shall be
2 considered sufficient cause for the suspension or revocation of the company's
3 license to operate.

4 SECTION 39. The proceeds of the plan shall be paid immediately upon
5 maturity of the policy, unless such proceeds are made payable in installments or
6 as an annuity, in which case the installments, or annuities shall be paid as they
7 become due: Refusal or failure to pay the claim within the time prescribed herein
8 will entitle the beneficiary to collect interest on the proceeds of the plan for the
9 duration of the delay at the prevailing interest rate unless such failure or refusal
10 to pay is based on the ground that the claim is fraudulent.

11 SECTION 40. In case of any litigation for the enforcement of any pre-
12 need contract, it shall be the duty of the Commissioner or the Court, as the case
13 may be, to make a finding as to whether the payment of the claim of the
14 planholder has been unreasonably denied or withheld; and in the affirmative
15 case, the pre-need company shall be adjudged to pay damages which shall
16 consist of attorney's fees and other expenses incurred by the planholder or his
17 beneficiary by reason of such unreasonable denial or withholding of payment
18 plus interest of the amount of the claim due the planholder or his beneficiary,
19 from the date the plan is filed until the claim is fully satisfied; Provided, That the
20 failure to pay any such claim within the time prescribed in said sections shall be
21 considered prima facie evidence of unreasonable delay in payment.

22 CHAPTER XII - EXAMINATION OF PRE-NEED COMPANIES

23 SECTION 41. ***Keeping of Records.*** - The Commissioner shall require
24 every pre-need company doing business in the Philippines to keep its books,
25 records, accounts and vouchers in such manner that he or his authorized
26 representatives may readily verify its annual statements and ascertain whether
27 the company is solvent and has complied with the provisions of this Code or the
28 circulars, instructions, rulings or decisions of the Commissioner.

29 SECTION 42. ***Examination.*** - The Commissioner shall at least once a

1 year and whenever he considers the public interest so demands, cause an
2 examination to be made into the affairs, financial condition and method of
3 business of every pre-need company authorized to transact business in the
4 Philippines and of any other person, firm or corporation managing the affairs
5 and/or property of such pre-need company. Such company, as well as such
6 managing person, firm or corporation, shall submit to the examiner all such
7 books, papers and securities as he may require and such examiner shall also
8 have the power to examine the officers of such company under oath touching its
9 business and financial condition, and the authority to transact business in the
10 Philippines of any such company shall be suspended by the Commissioner if
11 such examination is refused and such company shall not thereafter be allowed to
12 transact further business in the Philippines until it has fully complied with the
13 provisions of this section.

14 **CHAPTER XIII- PLANHOLDERS' PROTECTION FUND**

15 **SECTION 43.** There is hereby created a Planholders' Protection Fund,
16 hereinafter referred to as Fund, which shall be used for the payment of claims
17 against a pre-need company authorized to transact business in the Philippines
18 remaining unpaid by reason of insolvency of such company. No payment on
19 anyone claim shall exceed Fifty Thousand Pesos (50,000.00)

20 **SECTION 44. THE FUND** - The fund shall consist of all payments made
21 thereto by pre-need companies authorized to do business in the Philippines. The
22 Fund shall be held and administered by the Philippine Federation of Pre-Need
23 Plan Companies, Inc. in accordance with the provisions of this chapter.

24 **SECTION 45. CONTRIBUTIONS TO FUND; DISBURSEMENT.** - All pre-
25 need companies doing business in the Philippines shall contribute to the Fund,
26 the aggregate amount of Ten Million Pesos. The contributions of the pre-need
27 companies shall be in direct proportion to the ratio between a particular pre-need
28 company's total sale and the aggregate sales of all pre-need companies as
29 shown in their latest sales reports to the Commission, equivalent to one tenth of

one percent of the pre-need price of plans sold. This proportion applied to the Ten Million Pesos shall be the contribution of a particular company of the Fund.

SECTION 46. The amount of Ten Million Pesos shall be in the form of a revolving trust fund. The respective contributions of the companies shall remain as assets in their books and any disbursements therefrom shall be deducted proportionately from the contributions of each company which will be allowed as deduction for income tax purposes. Any earnings of the Fund shall be turned over to the contributing companies in proportion to their contributions.

SECTION 47. In case of any disbursements from the Fund as provided in the preceding paragraph, the pre-need companies shall replenish the amount disbursed in direct proportion to the individual company's sale of the pre-need companies as the case may be. However, in no case shall the Fund exceed the aggregate amount to Ten Million Pesos.

SECTION 48. Should the FUND be inadequate as provided for, the pre-need companies shall contribute to the Fund their respective shares in the proportion previously mentioned.]

CHAPTER XIV - SUSPENSION OR REVOCATION OF AUTHORITY

SECTION 49. **Suspension; Grounds.** - If the Commissioner is of the opinion upon examination or other evidence that any pre-need company is in an unsound condition, or that it has failed to comply with the provisions of the law or regulations obligatory upon it, or that its condition or method of business is such as to render its proceedings hazardous to the public or to its planholders, or that its paid-up capital stock, is impaired or deficient, or that the margin of solvency required of such company is deficient, the Commissioner is authorized to suspend or revoke all certificates of authority granted to such pre-need company, its officers and agents, and no new business shall thereafter be done by such company or for such company by its agent in the Philippines while such suspension, revocation or disability continues or until its authority to do business is restored by the Commissioner. Such suspension or revocation of license shall

1 be done by the Commission after due hearing called for the purpose. Before
2 restoring such authority, the Commissioner shall require the company concerned
3 to submit to him a business plan showing the company's estimated receipts and
4 disbursements, as well as the basis therefore, for the next succeeding three
5 years.

6 CHAPTER XV - APPOINTMENT OF CONSERVATOR

7 SECTION 50. **Conservator.** - If at any time before, or after, the
8 suspension or revocation of the certificate of authority of the pre-need company
9 as provided in the preceding chapter, the Commissioner finds that such
10 company is in a state of continuing inability or unwillingness to maintain a
11 condition of solvency or liquidity deemed adequate to protect the interest of
12 planholders and creditors, he may appoint a conservator to take charge of the
13 assets, liabilities, and the management of such company, collect all moneys and
14 debts due said company and exercise all powers necessary to preserve the
15 assets of said company, reorganize the management thereof, and restore its
16 viability. The said conservator shall have the power to overrule or revoke the
17 actions of the previous management and board of directors of the said company,
18 any provision of law, or of the articles of incorporation or by-laws of the company,
19 to the contrary notwithstanding, and such other powers as the Commissioner
20 shall deem necessary.

21 The conservator may be another pre-need company doing business in the
22 Philippines, any officer or officers of such company, or any other competent and
23 qualified person, firm or corporation. The remuneration of the conservator and
24 other expenses attendant to the conservation shall be borne by the pre-need
25 company concerned. The conservator shall be subject to any action, claim or
26 demand by, or liability to, any person in respect of anything done or omitted to be
27 done in good faith in the exercise or in connection with the exercise, of the
28 powers conferred on the conservator.

29 The conservator appointed shall report and be responsible to the

Commissioner until such time as the Commission is satisfied that the pre-need company can continue to operate on its own and the conservatorship shall likewise be terminated should the Commissioner, on the basis of the report of the conservator or of his own findings, determine that the continuance in business of the pre-need company would be hazardous to planholders and creditors, in which case the provisions of Chapter 15 apply.

CHAPTER XVI-PROCEEDINGS UPON INSOLVENCY

SECTION 51. ***Cease and Desist Order.*** - Whenever, upon examination or other evidence, it shall be disclosed that the condition of any pre-need company doing business in the Philippines is one of insolvency, or that its continuance in business would be hazardous to its planholders and creditors, the Commissioner shall forthwith order the company to cease and desist from transacting business in the Philippines and shall designate a receiver to immediately take charge of its assets and liabilities, as expeditiously as possible collect and gather all the assets and administer the same for the benefit of its planholders and creditors, and exercise all the powers necessary for these purposes including, but not limited to, bringing suits and foreclosing mortgages in the name of the pre-need company.

The Commissioner shall thereupon determine within thirty (30) days whether the pre-need company may be reorganized or otherwise place in such condition so that it may be permitted to resume business with safety to its planholders and creditors and shall prescribe the conditions under which such resumption of business shall take place as well as the time for fulfilment of such conditions. In such case, the expenses and fees in the collection and administration of the pre-need company shall be determined by the Commissioner and shall be paid out of the assets of such company.

If the Commissioner shall determine and confirm within the said period that the pre-need company is insolvent, as defined hereunder, or cannot resume business with safety to its planholders and creditors, he shall, if the public

1 interest requires, order its liquidation, indicate the manner of its liquidation and
2 approve a liquidation plan and implement it immediately. The Commissioner shall
3 designate a competent and qualified person as a liquidator who shall take over
4 the functions of the receiver previously designated and, with all convenient
5 speed, reinsure all its outstanding pre-need contracts, convert the assets of the
6 pre-need company to cash, or sell, assign or otherwise dispose of the same to
7 the planholders, creditors and other parties for the purpose of settling the
8 liabilities or paying the debts of such company and he may, in the name of the
9 company, institute such actions as may be necessary in the appropriate Court to
10 collect and recover accounts and assets of the pre-need company, and to do
11 such other acts as may be necessary to complete the liquidation as ordered by
12 the Commissioner.

13 The provisions of any law to the contrary notwithstanding, the actions of
14 the Commissioner under this Section shall be final and executory, and can be set
15 aside by the Court upon petition by the company and only if there is convincing
16 proof that the action is plainly arbitrary and made in bad faith. The
17 Commissioner, through the Solicitor General, shall then file the corresponding
18 answer reciting the proceeding taken and praying the assistance of the Court in
19 the liquidation of the company. No restraining order or injunction shall be issued
20 by the Court enjoining the Commissioner from implementing his actions under
21 this Section, unless there is convincing proof that the action of the Commissioner
22 is plainly arbitrary and made in bad faith and the petitioner or plaintiff files with
23 the Clerk or judge of the Court in which the action is pending a bond executed in
24 favor of the Commissioner in an amount to be fixed by the Court. The restraining
25 order or injunction shall be refused or, if granted, shall be dissolved upon filing by
26 the Commissioner, if he so desires, of a bond in an amount twice the amount of
27 the bond of the petitioner or plaintiff conditioned that it will pay the damages
28 which the petitioner or plaintiff may suffer by the refusal or the dissolution of the
29 injunction, The provisions of Rule 58 of the New Rules of Court insofar as they

are applicable shall govern the issuance and dissolution of the restraining order or injunction contemplated in this Section.

All proceeding under this Chapter shall be given preference in the Courts. The Commissioner shall not be required to pay any fee to any public officer for filing, recording, or in any manner authenticating any paper or instrument relating to the proceedings.

As used in this Chapter, the term "Insolvency" shall mean the inability of pre-need company to pay its lawful obligations as they fall due in the usual and ordinary course of business as may be shown by its failure to maintain the margin of solvency required under Section 36 of this Act.

SECTION 52. Liquidation. - In case of liquidation of a pre-need company, after payment of the cost of the proceedings, including reasonable expenses and fees incurred in the liquidation to be allowed by the Court, the Commissioner shall pay all allowed claims against such company, under order of the Court, in accordance with their legal priority.

SECTION 53. Receiver. - The receiver or the liquidator, as the case may be, designated under the provisions of this chapter shall not be subject to any action, claim or demand by, or liability to, any person in respect of anything done or omitted to be done in good faith in the exercise, or in connection with the exercise, of the powers conferred on such receiver or liquidator.

CHAPTER XVII - CONSOLIDATION AND MERGER OF PRE-NEED COMPANIES

SECTION 54. Mergers. - Upon prior notice to the Commissioner, two or more domestic pre-need companies, acting through their respective board of directors, may negotiate to merge into a single corporation which shall be one of the constituent corporations, or consolidate into a single corporation which shall be a new corporation to be formed by the consolidation. A common agreement of the proposed merger or consolidation shall be drawn up for submission to the stockholders or members of the constituent companies for adoption and approval

1 in accordance with the provisions of the respective by-laws of the constituent
2 companies and all existing laws that may be pertinent.

3 **SECTION 55. *Agreements; Contents Thereof*** - Such agreement shall
4 include, aside from the proposed merger or consolidation, provisions relative to
5 the manner of transfer of assets to and assumption of liabilities by the absorbing
6 or acquiring company from the absorbed or dissolved company or companies;
7 the proposed articles of merger or consolidation and by-laws of the surviving or
8 acquiring company; the corporate name to be adopted which should not be that
9 of any other existing company transacting similar business or one so similar as to
10 be calculated to mislead the public; the rights of the stockholders or members of
11 the absorbed or dissolved companies; date of effectivity of the merger or
12 consolidation; and such particulars as may be necessary to explain and make
13 manifest the objects and purposes of the absorbing or acquiring company.

14 **CHAPTER XVIII - ADMINISTRATIVE SANCTIONS**

15 **SECTION 56. *Administrative Sanctions.*** -If, after proper notice and
16 hearing, the Commission finds that there is a violation of the provision of this Act,
17 or that any pre-need company has, in a registration statement and its supporting
18 papers and other reports required to be filed with the Commission, made any
19 untrue statement of a material fact, or omitted to state any material fact required
20 to be stated therein or necessary to make the statements therein not misleading,
21 or refused to permit any lawful examination into its affairs, it shall, in its
22 discretion, impose any or all of the following sanctions:

23 (a) Suspension or revocation of its certificate of registration and permit to
24 offer securities;

25 (b) A fine of no less than Two Hundred Pesos (P200.00) nor more than
26 Fifty Thousand Pesos (P50,000.00) for each day of continuing
27 violation;

28 (c) Disqualification from being an officer, member of the board of directors
29 or principal stockholders of a pre-need company; and

1 (d) Other penalties within the power of the Commission under existing
2 laws.

3 The imposition of the foregoing administrative sanctions shall be without
4 prejudice to the filing of criminal charges against the individual responsible for the
5 violation.

6 SECTION 57. ***Jurisdiction Over Cases.*** - All complaints filed by
7 planholders, plan advisors, solicitors and pre-need companies against one
8 another shall be referred for appropriate action to the federation of pre-need
9 companies. The Commission shall assume jurisdiction over the complaint upon
10 certification from the federation that the parties have chosen to invoke the
11 jurisdiction of the Commission.

12 CHAPTER XIX – TAXES

13 SECTION 58. ***Exemption From Certain Tax.*** - Payments for pre-need
14 plans shall be exempted from the expanded value-added tax (EV AT) and other
15 documentary stamp tax. Any gain and benefit derived from pre-need plans
16 purchased by planholders from pre-need companies by way of pension benefit,
17 educational benefit, cash benefit, travel benefit, memorial service benefit, shall
18 be exempted from income tax. Payments made by companies or corporations for
19 pre-need education plans, pension plans and memorial plans as part of the
20 benefits shall be considered expenses deductible from income for tax purposes.

21 CHAPTER XX - MISCELLANEOUS PROVISIONS

22 SECTION 59. ***Transitory Provisions.*** - Any pre-need company who at
23 the time of the effectivity of this Act has been registered and licensed to sell pre-
24 need plans and similar contracts, shall be considered registered and licensed
25 under the provision of this Act and its implementing rules and regulations and
26 shall be subject to and governed by the provisions hereof.

27 SECTION 60. ***Implementing Rules and Regulations.*** - The Commission
28 shall adopt such rules and regulations for the proper and effective
29 implementation of this Act within sixty (60) days from approval hereof. The

1 Commission shall publish once a week for two (2) consecutive weeks in two
2 newspapers of general circulation the rules and regulations promulgated
3 pursuant to the preceding section.

4 SECTION 61. ***Effect on Existing Laws.*** - The rights and remedies
5 provided by this Act shall be in addition to any and all other rights and remedies
6 that exist under existing laws.

7 SECTION 62. ***Repealing Clause.*** - All acts, laws, executive orders and/or
8 rules and regulations or any part thereof which are inconsistent with the
9 provisions of this Act are hereby repealed or modified accordingly.

10 SECTION 63. ***Effectivity Clause.***- This Act shall take effect upon its
11 approval.

Approved,