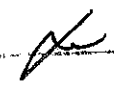


FOURTEENTH CONGRESS OF THE )  
REPUBLIC OF THE PHILIPPINES )  
FIRST REGULAR SESSION )

B FEB 13 P4:05

SENATE


RECEIVED BY: 

---

COMMITTEE REPORT NO. 39

Submitted jointly by the Committee on Banks, Financial Institutions and Currencies  
and the Committee on Trade and Commerce on FEB 13 2008

RE : Senate Bill No. 2077

Prepared by the Committee on Banks, Financial Institutions & Currencies and the  
Committee on Trade and Commerce 

Recommending its approval in substitution of Senate Bill Nos. 64, 105, and 1094.

Sponsor : Senator Angara

---

Mr. President

The Committees on Banks, Financial Institutions and Currencies; and Trade  
and Commerce to which were referred Senate Bill No. 64 introduced by Senator  
Angara, entitled;

**"AN ACT TO REGULATE THE PRE-NEED PLANS INDUSTRY OF THE  
PHILIPPINES",**

Senate Bill No. 105, introduced by Senator Mar Roxas, entitled;

**"AN ACT TO REGULATE THE PRE-NEED PLANS INDUSTRY OF THE  
PHILIPPINES",**

Senate Bill No. 1094, introduced by Senator Loren B. Legarda, entitled:

**"AN ACT ESTABLISHING THE PRE-NEED PLAN SECURITIES CODE"**

have considered the same and have the honor to report them back to the Senate with  
the recommendation that the attached Senate Bill No. 2077 prepared by  
the Committees, entitled:

**"AN ACT ESTABLISHING THE PRE-NEED CODE OF 2008"**

be approved in substitution of Senate Bill No. 64, 105 and 1094 with Senators Angara, Roxas, Legarda and the members of the Committees on Banks, Financial Institutions and Currencies; Trade and Commerce as authors thereof.

**Respectfully Submitted:**

**MAR ROXAS**

*Chairman*

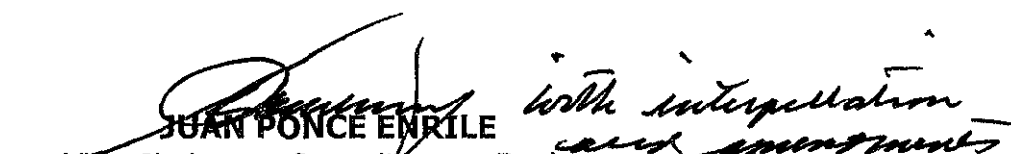
Committee on Trade and Commerce  
Member, Committee on Banks  
Financial Institutions and Currencies



**EDGARDO J. ANGARA**

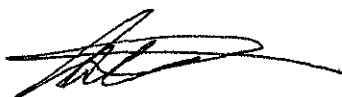
*Chairman*

Committee on Banks, Financial  
Financial Institutions and Currencies



**JUAN PONCE ENRILE** *with interpellation and amendments*  
Vice-Chairman, Committee on Banks,  
Financial Institutions and Currencies  
Member, Committee on Trade and Commerce

**Members:**

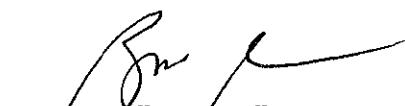


**ALAN PETER COMPAÑERO S. CAYETANO**

Committee on Banks, Financial  
Institutions and Currencies

**RICHARD J. GORDON**

Committee on Banks, Financial  
Institutions and Currencies  
Committee on Trade and Commerce



**RAMON "BONG" B. REVILLA JR.**

Committee on Banks, Financial  
Institutions and Currencies



**MIRIAM DEFENSOR SANTIAGO**

Committee on Banks, Financial  
Institution and Currencies  
Committee on Trade and Commerce

**PANFILO "PING" LACSON**

Committee on Banks, Financial  
Institutions and Currencies

**LOREN B. LEGARDA**

Committee on Banks, Financial  
Institutions and Currencies

**COMPAÑERA PIA S. CAYETANO**


Committee on Trade and Commerce



**MANUEL "LITO" M. LAPID**

Committee on Trade and Commerce

**FRANCIS "CHIZ" G. ESCUDERO**  
Committee on Trade and Commerce



**RODOLFO G. BIAZON**  
Committee on Trade and Commerce

**M.A. MADRIGAL**  
Committee on Trade and Commerce  
**Ex-Officio Members:**

**AQUILINO Q. PIMENTEL JR.**  
*Minority Leader*



**FRANCIS N. PANGILINAN**  
*Majority Leader*

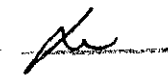


**JINGGOY EJERCITO ESTRADA**  
*President Pro-Tempore*

**HONORABLE MANNY VILLAR**  
*Senate President*  
Senate of the Philippines  
Pasay City

14TH CONGRESS OF THE REPUBLIC)  
OF THE PHILIPPINES )  
First Regular Session )

8 FEB 13 P4:05

RECEIVED BY: 

**S E N A T E**

**S. No. 2077**

(In substitution of Senate Bill Nos. 64, 105 and 1094)

---

Prepared and submitted jointly by the Committee on Banks, Financial Institutions  
and Currencies; and Trade and Commerce

---

**AN ACT  
ESTABLISHING THE PRE-NEED CODE OF 2008**

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

**CHAPTER 1 – GENERAL PROVISIONS**

1 Section 1. **Short Title.** - This Act shall be known as the "Pre-Need  
2 Code of 2008."

3

4 Section 2. **Declaration of Policy.** – It is hereby declared the policy of  
5 the State to regulate the establishment of pre-need companies and to place their  
6 operation on sound efficient and stable basis to derive the optimum advantages  
7 from them in the mobilization of savings and to prevent and mitigate, as far as  
8 practicable, practices prejudicial to public interest and the protection of  
9 planholders.

10 The State shall hereby regulate, through an empowered agency, Pre-Need  
11 Companies based on prudential principles to promote soundness, stability and  
12 sustainable growth of the pre-need industry.

13

1           Section 3.    **Construction.** - Any doubt in the interpretation and  
2 implementation of any provision in this Code shall be interpreted in favor of the  
3 rights and interests of the Planholder.

4           Section 4.    **Definition of Terms.** - Whenever used in this Code, the  
5 following terms shall have the respective meanings hereafter set forth or  
6 indicated, unless the context requires otherwise:

7 (a) "Commission" refers to the Insurance Commission (IC).

8 (b) "Pre-Need Plans" are contracts, agreements, deeds or plans for the benefit of  
9 the Planholders which provide for the performance of future service/s,  
10 payment of monetary considerations or delivery of other Benefits at the time  
11 of actual need or agreed maturity date, as specified therein, in exchange for  
12 cash or installment amounts with or without interest or insurance coverage  
13 and includes life, pension, education, interment, and other plans,  
14 instruments, contracts or deeds as may in the future be determined by the  
15 Commission.

16 (c) "Pre-Need Company" refers to any corporation registered with the  
17 Commission and authorized/licensed to sell or offer to sell Pre-Need Plans.

18           Except as used in Sections 7, 8, 9, 44 and 45 of this Code, the term  
19 "Pre-Need Company" shall also refer to schools, memorial chapels, banks,  
20 non-bank financial institutions and other entities that sell or offer to sell Pre-  
21 Need Plans insofar as their Pre-Need activities or business are concerned.

22 (d) "Planholder" refers to any person, natural or juridical, who purchases a Pre-  
23 Need Plan from a Pre-Need Company for whom or for whose beneficiaries  
24 Benefits are to be delivered as stipulated and guaranteed by the Pre-Need  
25 Company. The term includes the assignee, transferee, and any successor in  
26 interest of such Planholder.

27 (e) "Beneficiary" refers to the person designated by the Planholder as the  
28 recipient of the Benefits in the Pre-Need Plan.

- 1 (f) "Contract Price" refers to the stipulated price in the Pre-Need Plan.
- 2 (g) "Benefits" refer to the payment of monetary considerations and/or  
3 performance of future services which the Pre-Need Company undertakes to  
4 deliver either to the Planholder or his beneficiary at the time of actual need or  
5 agreed maturity date, as specified in the Pre-Need Plan.
- 6 (h) "Sales Counselor" refers to a natural person engaged in the sale, whether on  
7 commission or salary basis, of Pre-Need Plans upon authority of a registered  
8 Pre-Need Company and registered by the Commission to engage in the  
9 business of selling Pre-Need Plans.
- 10 (i) "Trust Fund" refers to a fund set up from Planholders' payments, separate  
11 and distinct from the paid-up capital of a Pre-Need Company, established  
12 with a Trustee under a trust agreement approved by the Commission, to  
13 guarantee the delivery of Benefits.
- 14 (j) "Liquidity Reserve" refers to a portion of the Trust Fund set aside by the  
15 Trustee to cover the Benefits due to Planholders for the ensuing year.
- 16 (k) "Actuarial Reserve Liability" (ARL) is the measure of liabilities of the Pre-  
17 Need Company for its Pre-Need Plans outstanding as of valuation date.

18

19 **CHAPTER 2 – AUTHORITY OF THE COMMISSION**

20 Section 5. ***Supervision and Regulation.*** - Pre-Need Companies shall  
21 be under the supervision and regulation of the Commission. The Commission is  
22 hereby authorized to provide for its reorganization, to streamline its structure  
23 and operations, upgrade its human resource component to enable it to  
24 effectively and efficiently perform its functions and exercise its powers under this  
25 Code.

26 All positions of the Commission shall be governed by compensation and  
27 position classification systems and qualification standards approved by the  
28 Commission based on a comprehensive job analysis and audit of actual duties

1 and responsibilities. The compensation plan shall be comparable with the  
2 prevailing compensation plan in the *Bangko Sentral ng Pilipinas* (BSP) and other  
3 government financial institutions and shall be subject to periodic review by the  
4 Commission no more than once every two (2) years without prejudice to yearly  
5 merit reviews or increases based on productivity and efficiency. The Commission  
6 shall, therefore, be exempt from laws, rules, and regulations on compensation,  
7 position classification and qualification standards. The Commission shall,  
8 however, endeavor to make its system conform as closely as possible with the  
9 principles under the Compensation and Position Classification Act of 1989.

10 Section 6. ***Powers and Functions of the Commission.*** - The  
11 Commission shall, at all times, act with transparency and dispatch and shall  
12 have, among others, the following powers and functions:

- 13 1. Have primary and exclusive jurisdiction and supervision over all Pre-Need  
14 Companies;
- 15 2. Approve, amend, renew or deny any license, registration or certificate  
16 issued under this Code;
- 17 3. Fix and assess fees and/or charges as it may find reasonable in the  
18 exercise of regulation;
- 19 4. Regulate, supervise and monitor the operations and management of Pre  
20 Need Companies to ensure compliance with the provisions of this Code,  
21 existing laws, rules and regulations, including but not limited to:
  - 22 a. Revoke or nullify investments made and/or entered into by a Pre-  
23 need Company or a Trustee which are contrary to existing laws and  
24 regulations;
  - 25 b. Demand for the conversion of the investments made by the Trustee  
26 to cash or other liquid assets to protect the interest of the  
27 Planholders;
  - 28 c. Regulate, investigate or supervise activities of Pre-Need

- 1                   Companies, their officers, employees, Sales Counselors, consultants  
2                   or agents;
- 3       5. Issue cease and desist orders to prevent fraud and injury to the investing  
4       public;
- 5       6. Issue subpoena duces tecum and ad testificandum, order the  
6       examination, search and seizure of documents, papers, files, tax returns,  
7       books of accounts and other records, in whatever form, of any entity or  
8       person under investigation;
- 9       7. Punish for contempt of the Commission, both direct and indirect, in  
10      accordance with the pertinent provisions of and penalties prescribed by  
11      the Rules of Court;
- 12      8. Impose sanctions, institute cases and/or prosecute offenders for violation  
13      of this Code, related laws, rules, regulations and orders issued pursuant  
14      thereto;
- 15      9. Suspend or revoke licenses;
- 16      10. Enlist the aid and support of and/or deputize any and all enforcement  
17      agencies of the Government in the implementation of its powers and  
18      exercise of its functions under this Code;
- 19      11. Take over Pre-Need Companies which fail to comply with this Code,  
20      related laws, rules, regulations and orders issued pursuant thereto, either  
21      through the appointment of a conservator, receiver or liquidator;
- 22      12. Prepare, approve, amend or repeal rules, regulations and orders, and  
23      issue opinions and provide guidance on and supervise compliance with  
24      such rules, regulations and orders;
- 25      13. Formulate policies and recommendations on issues concerning the pre-  
26      need industry including proposed legislation;
- 27      14. Retain and utilize, in addition to its annual budget, an amount equal to  
28      twenty percent (20%) of the fees, charges and other income derived from



1 the regulation of Pre-Need Companies or one hundred million pesos (P  
2 100,000,000.00), whichever is higher;

3 15. Exercise such other powers as may be provided by law as well as those  
4 which may be implied from, or which are necessary or incidental to carry  
5 out of, the express powers granted the Commission to achieve the  
6 objectives and purposes of the law.

7  
8 **CHAPTER 3 – ORGANIZATION, LICENSING AND MANAGEMENT OF PRE-  
9 NEED COMPANIES**

10 Section 7. ***Pre-requisites to incorporation.*** - Except upon favorable  
11 recommendation of the Commission, the Securities and Exchange Commission  
12 shall not accept or approve the articles of incorporation and by-laws of any Pre-  
13 Need Company.

14 A foreign corporation may be allowed to engage in a pre-need business in  
15 the Philippines, *Provided*, that it shall comply with the pertinent laws and  
16 regulations.

17 Section 8. ***Amendment of the Articles of Incorporation and By-  
18 Laws.*** - Amendments to the articles of incorporation and by-laws of a Pre-Need  
19 Company, including merger, consolidation and dissolution, shall not be  
20 approved by the Securities and Exchange Commission without the favorable  
21 recommendation from the Commission.

22 Section 9. ***Paid-Up Capital.*** –A Pre-Need Company incorporated  
23 after the effectivity of this Code shall have a minimum paid-up capital of One  
24 Hundred Million Pesos (P100, 000,000.00). Existing Pre-Need Companies shall  
25 comply with the following minimum unimpaired paid-up capital:

- |                              |             |
|------------------------------|-------------|
| 26 (a) With three-type plans | 100,000,000 |
| 27 (b) With two-type plans   | 75,000,000  |

1 (c) With one-type plan 50,000,000;

2 Provided, that existing Pre-Need Companies with traditional **education** plans  
3 shall have a minimum unimpaired paid-up capital of P100,000,000.

4 *Provided, further,* that the Commission may adopt risk-based principles on  
5 capital adequacy based on internationally accepted standards. In the exercise of  
6 its authority under this paragraph, the Commission may prescribe a higher  
7 minimum unimpaired paid-up capital for Pre-Need Companies.

8 Section 10. **Licensing of Pre-Need Companies.** – No person shall  
9 operate as a Pre-Need Company or engage in the business of a Pre-Need  
10 Company unless licensed by the Commission in accordance with this Code.

11 Every license under this Section shall expire every thirtieth day of June, or  
12 such date of every year as may be fixed by the Commission. The license may be  
13 renewed upon compliance with the prescribed requirements.

14 Section 11. **Fit and Proper Rule.** - To maintain the quality of  
15 management of Pre-Need Companies and afford better protection to Planholders  
16 and beneficiaries, the Commission shall prescribe, pass upon and review the  
17 qualifications and disqualifications of individuals elected or appointed directors or  
18 officers of Pre-Need Companies, including its actuaries, and disqualify those  
19 found unfit. The Commission may disqualify, suspend or remove any director or  
20 officer who commits or omits an act which renders him unfit for the position.

21 In determining whether an individual is fit and proper to hold the position of a  
22 director or officer of a Pre-Need Company, regard shall be given to his integrity,  
23 experience, education, training, and competence, provided, however that the  
24 following persons, and those determined by the Commission to be unfit, shall in  
25 no case be allowed to serve or act in the capacity of officer, employee, director,  
26 consultant, Sales Counselor of any Pre-Need Company:

27 1. any person convicted of any crime involving any Pre-Need Plan, security  
28 or financial product,

- 1           2. any person convicted of an offense involving moral turpitude or  
2           involving fraud, or embezzlement, theft, estafa or other fraudulent acts  
3           or transactions;
- 4           3. any person who, by reason of any misconduct, is enjoined by order,  
5           judgment, or decree by any court, quasi-judicial body or administrative  
6           agency of competent jurisdiction from acting as a director, officer,  
7           employee, consultant, agent or occupying any fiduciary position.
- 8           4. any person found by the Commission to have wilfully violated, or  
9           wilfully aided, abetted, counselled, commanded, induced, or procured  
10          the violation of this Code, Insurance Code, the Securities Regulation  
11          Code, or any related laws and any rules or orders thereunder;
- 12          5. any person judicially declared to be insolvent, or incapacitated to  
13          contract;
- 14          6. any person found guilty by a foreign court, regulatory authority or  
15          government agency of the acts or violations similar to any of the acts or  
16          misconduct enumerated in the foregoing paragraphs.

17          Provided, that, conviction in the first instance shall be considered as  
18          sufficient ground for disqualification.

19          Section 12. ***Independent Directors.*** – The independent directors of a  
20          Pre-need Company shall be at least two (2) or twenty percent (20%) of the  
21          members of the board, whichever is higher. For this purpose, an "independent  
22          director" shall refer to a person other than an officer, employee or any person  
23          having a fiduciary relation to the Pre-Need Company, its parent or subsidiaries,  
24          or any other individual having a relationship therewith, which may interfere with  
25          the exercise of independent judgment in carrying out the responsibilities of a  
26          director.

27

28

## CHAPTER 4 – LICENSING OF SALES COUNSELORS

1           Section 13. ***Licensing of Sales Counselors.*** - No Sales Counselor shall  
2 be allowed to solicit, sell or offer to sell Pre-Need Plans under this Code, without  
3 being licensed as such by the Commission.

4           No license shall be issued unless the following qualifications have been  
5 complied with:

- 6           1. The applicant must be of good moral character and must not have  
7           been convicted of any crime involving moral turpitude.
- 8           2. The applicant has undergone a training program approved by the  
9           Commission and such fact has been certified under oath by a duly  
10          authorized representative of a Pre-Need Company;
- 11          3. The applicant has passed a written examination administered by  
12          the Commission. Provided, that the administration of the  
13          examination may be delegated to an independent organization  
14          under the supervision of the Commission.

15          Such license shall automatically expire every thirtieth day of June, or such  
16 date of every year as may be fixed by the Commission and may be accordingly  
17 renewed.

18          Section 14. ***Denial, Suspension, Revocation of License.*** - An  
19 application for the issuance or renewal of a license to act as Sales Counselor may  
20 be denied, or such license, if already issued, shall be suspended or revoked  
21 based on the following grounds :

- 22          (a) materially misrepresented statements in the application  
23          requirements;
- 24          (b) obtained or attempted to obtain a license by fraud or  
25          misrepresentation;
- 26          (c) materially misrepresented the terms and conditions of Pre-Need  
27          Plan which he sold or offered to sell;
- 28          (d) terminated for cause from another Pre-Need Company;

- 1 (e) Similar grounds found in Section 11 of this Code; or
- 2 (f) Analogous circumstances.

#### 3 4 **CHAPTER 5– REGISTRATION OF PRE-NEED PLANS**

5 Section 15. **Registration of Pre-Need Plans.**– No Pre-Need Company  
6 shall sell or offer to sell Pre-Need Plans unless such plans are registered with the  
7 Commission. The Commission shall have the authority to determine the number  
8 of Pre-Need Plans to be sold under each certificate of registration.

9 Section 16. **Registration Requirements.** – The Commission shall set  
10 forth the requirements for registration of Pre-Need Plans and shall require the  
11 following documents, among others:

- 12 (a) Duly accomplished Registration Statements;
- 13 (b) Board resolution authorizing the registration of applicant's Pre-  
14 Need Plans;
- 15 (c) Opinion of independent counsel on the legality of the issue;
- 16 (d) Audited financial statements;
- 17 (e) Viability study with certification, under oath, of pre-need actuary  
18 accredited by the Commission;
- 19 (f) Copy of the proposed Pre-Need Plan; and
- 20 (g) Sample of sales materials.

21 Section 17. **Approval of Forms.** – All forms, including amendments  
22 thereto, relating to the Pre-Need Plans shall be approved by the Commission.

23 Section 18. **Advertising of Pre-Need Plans.** – All advertisements or  
24 information disseminated to the public involving Pre-Need Plans and/or Pre-Need  
25 Companies shall be approved by the Commission. The lapse of twenty (20)  
26 working days from submission or request for approval without action from the  
27 Commission shall be deemed an approval.

28

1  
2           **CHAPTER 6 - DEFAULT AND TERMINATION BY PLANHOLDERS**

3  
4           Section 19. ***Default; Reinstatement Period.*** – A Pre-Need Company  
5 shall provide a grace period of at least sixty (60) days within which to pay unpaid  
6 installments on Pre-Need Plans. The said grace period shall be counted from the  
7 due date of the first unpaid installment. Non-payment beyond the grace period  
8 shall render the Pre-Need Plan without further force and effect but the  
9 Planholder shall be allowed a period of not less than two (2) years from the lapse  
10 of the grace period within which to reinstate his plan. The Pre-Need Company  
11 shall not cancel the Pre-Need Plan within the reinstatement period, during which,  
12 such Pre-Need Plan shall still be considered as outstanding. The Pre-Need  
13 Company must give written prior notice to the Planholder that his Pre-Need Plan  
14 will lapse if no payment is received within the grace period or that his Plan will  
15 be cancelled if not restored within the reinstatement period.

16           Section 20. ***Termination of Pre-Need Plans.*** – A Planholder may  
17 terminate his Pre-Need Plan at any time by giving written notice to the issuer.

18           A Pre-Need Plan shall contain a schedule of termination values to which  
19 the Planholder is entitled to upon termination. Such schedule of termination  
20 value shall be required for all outstanding Pre-Need Plans and shall be fair,  
21 equitable and in compliance with the Commission issuances. The termination  
22 value of the Pre-Need Plan shall be computed at the end of each anniversary  
23 year and pre-determined by the actuary of the Pre-Need Company upon  
24 application for registration of the Pre-Need Plans with the Commission.

25  
26           **CHAPTER 7 - CLAIMS SETTLEMENT**

27           Section 21. ***Unfair Claim Settlement Practices.*** - (1) No Pre-Need  
28 Company shall refuse, without just cause to pay or settle claims and/or Benefits  
29 arising from the Pre-Need Plans, nor shall any such company engage in dilatory

1 acts or practices prejudicial to the settlement of the claim. Any of the following  
2 acts by a Pre-Need Company, when performed with such frequency as to  
3 indicate a general business practice, shall constitute unfair claim settlement  
4 practices:

- 5 (a) knowingly misrepresenting to claimants pertinent facts or plan  
6 provisions relating to coverages at issue;
- 7 (b) failing to acknowledge communications with respect to claims  
8 arising under its plan with reasonable promptness;
- 9 (c) failing to adopt and implement reasonable standards for the  
10 prompt investigation of claims arising under its plan;
- 11 (d) failing to effect prompt, fair and equitable settlement of claims  
12 submitted in which liability has become reasonably clear; or
- 13 (e) offering, without justifiable reason, amount and/or services not in  
14 accordance with the Pre-Need Plans, thereby compelling  
15 Planholders to resort to court action.

16 (2) If it is found that a Pre-Need Company has violated this section, each  
17 instance of non-compliance with paragraph (1) may be treated as a separate  
18 violation of this section and shall be considered sufficient cause for the  
19 suspension or revocation of the Pre-Need Company's license to operate.

20 Section 22. **Payment of Plan Proceeds.** – The proceeds of the Pre-  
21 Need Plan shall be paid immediately upon maturity of the contract, unless such  
22 proceeds are made payable in installments or as an annuity, in which case the  
23 installments or annuities shall be paid as they become due. Refusal or failure to  
24 pay the claim within fifteen (15) days from maturity or due date will entitle the  
25 beneficiary to collect interest on the proceeds of the plan for the duration of the  
26 delay at the rate twice the legal interest unless such failure or refusal to pay is  
27 based on the ground that the claim is fraudulent. Provided, that the planholder  
28 has duly complied with the documentary requirements of the Pre-Need Company

1 as approved by the Commission.

2 Section 23. ***Consequences of delay or default.*** - In case of any  
3 litigation for the enforcement of any Pre-Need Plan, it shall be the duty of the  
4 Commission to determine whether the payment of the claim of the Planholder  
5 has been unreasonably denied or withheld. If found to have unreasonably denied  
6 or withheld the claim, the Pre-Need Company shall be liable to pay damages,  
7 consisting of actual damages, attorney's fees and legal interest to be computed  
8 from the date the claim is made until it is fully satisfied; Provided, That the  
9 failure to pay any such claim within the time prescribed in the preceding section  
10 shall be considered prima facie evidence of unreasonable delay in payment.

11

12

## CHAPTER 8 - TRUST FUND

13 Section 24. ***Trust Fund.*** - To guarantee the delivery of property or  
14 performance of services in the future, a portion of the installment payment  
15 collected shall be deposited by the Pre-Need Company in the appropriate Trust  
16 Fund, the amount of which will be determined by an actuary and shall be  
17 sufficient to pay the Benefits promised under the Pre-Need Plan.

18 Should the Commission, based on its experience in implementing the  
19 Trust Fund framework, determine that the admitted asset framework will better  
20 protect the interests of the Planholders, it may instead adopt such framework as  
21 provided in the Insurance Code.

22 In such case that the Commission adopt the admitted asset framework, it  
23 shall likewise have the authority to prescribe appropriate rules for registration of  
24 Pre-Need Plans.

25 Section 25. ***Contributions to the Trust Fund.*** - The minimum limits  
26 of the deposit contribution to the Trust Fund shall be 45% of the amount  
27 collected for life plans and 51% of the total amount collected for Pre-Need Plans  
28 other than life plans unless a higher deposit contribution is determined by the



1   actuary and duly approved by the Commission

2           In case of installment payments, the minimum limits, unless the actuary  
3   and the Commission determine otherwise, of the deposit contributions to the  
4   Trust Fund shall be in accordance with the following schedule:

Payment Received	Life Plan	Other Plan
Collection of the 1st 20% of Contract Price	10%	10%
Collection of the 2nd 20% of Contract Price	20%	20%
Collection of the 3rd 20% of Contract Price	70%	80%
Collection of the 4th 20% of Contract Price	70%	80%
Collection of the 5th 20% of Contract Price	70%	80%

5

6           All Pre-Need Companies shall incorporate in the Pre-Need Plan the  
7   schedule of the minimum Trust Fund contribution. Likewise, each Pre-Need  
8   Company shall inform the Planholders of the annual actual contributions to the  
9   Trust Fund.

10          Trust Fund Contributions shall not form part of the income or gross  
11   receipts of the Pre-Need Company and therefore, not available for dividend  
12   declaration or payment to creditors.

13          No withdrawal shall be made from the Trust Fund except for payment of  
14   Benefits, cost of other services related to the delivery of Benefits and investment  
15   expenses in the operation of the Trust Fund, including trust fees and bank  
16   charges.

17          Section 26. ***Terms and Conditions of a Trust Fund.*** – A Trust Fund  
18   must be established separately for each type of Pre-Need Plan with the trust  
19   department of a trust company, bank or investment house doing business in the  
20   Philippines. No Trust Fund shall be established by a Pre-Need Company with an  
21   affiliate trust entity. However, such may be allowed provided the following  
22   conditions are complied with:

23           (1) A written approval of the Commission has been previously obtained;

24           (2) Public disclosure of the affiliation with the trust entity be included in

1 all sales materials, in whatever form; and

2 (3) No director and/or officer of the Pre-Need Company shall at the same  
3 time serve as director and/or officer of the affiliate or related trust  
4 entity.

5 The Trust Agreement shall be submitted to the Commission for approval  
6 before execution and shall contain the following salient provisions, among  
7 others:

- 8 (a) The manner in which the Trust Fund is to be operated;
- 9 (b) Investment powers of the trustee with respect to trust deposits,  
10 including the character and kind of investment;
- 11 (c) Auditing and settlement of accounts of the trustee with respect to  
12 the Trust Fund;
- 13 (d) Basis upon which the Trust Fund may be terminated;
- 14 (e) Provisions for withdrawal of the Trust Fund;
- 15 (f) That the trustee shall submit to the power of the Commission to  
16 examine and verify the Trust Fund;
- 17 (g) An undertaking by the Trustee that it shall abide by the rules and  
18 regulations of the Commission with respect to the Trust Fund; and
- 19 (h) An undertaking by the Trustee that it shall submit such other data  
20 or information as may be prescribed by the Commission.

21 Section 27. ***Responsibilities of the Trustee.*** – The trustee shall:

- 22 (a) Administer and manage the Trust Fund with utmost good faith, care  
23 and prudence required by a fiduciary relationship;
- 24 (b) The Trustee shall have the exclusive management and control over the  
25 funds and the right at any time to sell, convert, invest, change,  
26 transfer or otherwise change or dispose of the assets comprising the  
27 funds; and

1 (c) Not use the Trust Fund to invest in or extend any loan or credit  
2 accommodation to the Pre-Need Company, its directors, officers,  
3 stockholders, and related interests as well as to persons or enterprises  
4 controlling, owned or controlled by, or under common control with said  
5 company, its directors, officers, stockholders and related interests.

6 Section 28. ***Investment of the Trust Fund.*** – All investments of the  
7 Trust Fund/s of a Pre-Need Company shall be limited to the following and subject  
8 to limitations to wit:

9 (1) Fixed Income Instruments. These may be classified into short term  
10 and long term instruments. The instrument is short term if the  
11 maturity period is three hundred sixty five (365) days or less. This  
12 category includes:

- 13 a. Government securities;
- 14 b. Savings/time deposits with a commercial bank with satisfactory  
15 examination rating as of the last examination by the Bangko Sentral  
16 ng Pilipinas;
- 17 c. Commercial papers duly registered with the Commission with a  
18 credit rating of "1" for short term and "AAA" for long term based on  
19 the rating scale of an accredited Philippine Rating Agency or its  
20 equivalent at the time of investment; and
- 21 d. Direct loans to corporations which are financially stable, profitable  
22 for the last three (3) years and have a good track record of paying  
23 their previous loans from the Trust Fund of Pre-Need Companies.

24 These loans shall be fully secured by a real estate mortgage up  
25 to the extent of sixty per cent (60%) of the appraised value of the  
26 property at the time the loan was granted.

1           The property shall be covered by a Transfer Certificate of Title  
2           registered in the name of the mortgagor and free from liens and  
3           encumbrances.

4           (2) *Mutual Funds duly registered with the Securities and Exchange*  
5           *Commission and/or Unit Investment Trust Fund (UITF) of any trust*  
6           *entity, where such funds are invested only in fixed income instruments*  
7           *and blue chip securities subject to the limitations prescribed by law,*  
8           *rules and regulations.*

9           (3) Investments in equities shall be limited to stocks listed on the Main  
10          board of a local Stock Exchange.

11          In determining these investments, compliance to certain standards  
12          such as good track record, financial stability and history of dividend  
13          declaration and payment over the past three years shall be considered.

14          (4) Real Estate. These shall include prime real estate properties located in  
15          cities and first class municipalities free from liens and encumbrances at  
16          the time of investment. The Commission shall set the allowable level of  
17          investments in the above-enumerated assets, *Provided* that no  
18          investment in any single entity, except for investment in government  
19          securities, shall exceed twenty five percent (25%) of the total value of  
20          the Trust Fund.

21          The Commission may adopt the same investment guidelines as provided  
22          in the Insurance Code, for Pre-Need Companies and its trust funds.

23          Section 29. ***Valuation of Actuarial Reserve Liabilities (ARL).*** – To  
24          determine the sufficiency and adequacy of the Trust Fund to guarantee the  
25          delivery of future Benefits stipulated in the Pre-Need Plan, an annual valuation of  
26          Actuarial Reserve Liabilities as of valuation date shall be made and submitted to  
27          the Commission within one hundred five (105) days from the end of the calendar  
28          year. The actuarial valuation report containing the actuarial assumption,

1 methodology, and results should be certified by the actuary accredited by the  
2 Commission in accordance with actuarially sound and accepted principles and  
3 subject to the minimum standard of valuation and guidelines set by the  
4 Commission. Upon approval by the Commission of the actuarial computation, any  
5 deficiency in the Trust Fund shall be covered by the Pre-Need Company through  
6 additional deposit within thirty (30) days from submission of the actuarial  
7 valuation report or from notice of deficiency whichever is earlier. Any excess of  
8 the Trust Fund shall be credited for future deposit requirements.

9 Section 30. **Liquidity Reserve.** – The trustee shall at all times maintain  
10 a Liquidity Reserve which shall be sufficient to cover at least fifteen percent  
11 (15%) of the Trust Fund but shall in no case be less than the amount of the  
12 Benefits payable for the succeeding year. For this purpose, the Pre-Need  
13 Company shall timely submit to the Trustee a summary of Benefits payable for  
14 the succeeding year.

15 The following shall qualify as investments for the Liquidity Reserve:

- 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, other government securities or bonds, and  
21 such other evidences or indebtedness or obligations the servicing  
22 and repayment of which are fully guaranteed by the Republic of the  
23 Philippines;
- 24 (c) Repurchase agreements with any of those mentioned in Item "b"  
25 above, as underlying instruments thereof; and
- 26 (d) Savings or time deposits with government-owned banks or  
27 commercial banks.

28 Section 31. **Distribution of Profits.** - A Pre-Need Company may

1 declare dividend provided that the following shall remain unimpaired, as certified  
2 under oath by the President and the Treasurer:

- 3 (a) One hundred percent (100%) of the capital stock;
- 4 (b) An amount sufficient to pay all net losses reported, or in the course  
5 of settlement, and all liabilities for expenses and taxes.

6 Any dividend declared under the preceding paragraph shall be reported to  
7 the Commission within thirty (30) days after such declaration.

8

## 9 **CHAPTER 9 - ACTUARIES FOR PRE-NEED COMPANIES**

10 Section 32. ***Required Actuary.*** - No Pre-Need Company shall be  
11 licensed to do business in the Philippines nor shall any Pre-Need Company doing  
12 business in the Philippines be allowed to continue doing such business unless  
13 they shall engage the services of an actuary duly accredited with the Commission  
14 who shall, during his tenure of engagement, be directly responsible for the  
15 direction and supervision of all actuarial work connected with or that may be  
16 involved in the business of the Pre-Need Company.

17 Actuarial work shall at least include the following:

- 18 1. Determining the contract price for a pre-need plan that is  
19 submitted by the Pre-Need Company for registration or  
20 amendment, with the Commission;
- 21 2. Valuing liabilities of the Pre-Need Company referred to as Actuarial  
22 Reserve Liabilities in Pre-Need Plans that were issued by the  
23 Company, and other plans in which the Company continues to have  
24 obligations as of a valuation date;
- 25 3. Issuing a Statement of Actuarial Opinion on the appropriateness of  
26 the actuarial reserves, when compared with the assets of the trust  
27 fund that was set up to back the liabilities represented by such  
28 reserves. Opinion on the appropriateness of actuarial reserves as of

1 a certain date shall be based on a comparison of the amount of  
2 assets in the trust fund with the amount of reserves, and the  
3 projection of the income and outgo of the trust fund of at least five  
4 (5) years, for the purpose of establishing the adequacy of the trust  
5 fund to pay for the contingent and maturing obligations of the Pre-  
6 Need Company to the plan holders.

7 The work of the actuary shall be performed under guidelines and  
8 standards that are internationally accepted and shall be subject to the applicable  
9 rules and regulations of the Commission

10 No accredited actuary shall serve more than one client or employer at the  
11 same time. However, one already in the employ, or is already engaged as a  
12 consultant, of a Pre-Need Company may be allowed by the Commission to serve  
13 another Pre-Need Company, provided the following conditions are first complied  
14 with:

- 15 1. that the request to engage his services by another company is in writing;
- 16 2. that his present employer acquiesced to it in writing; and
- 17 3. that he furnishes the Commission with copies of said agreements from the  
18 companies.

19 Section 33. ***Qualifications of the Actuary.*** - A person shall be  
20 officially accredited by the Commission to act as an Actuary in any Pre-Need  
21 Company upon application therefore and the payment of the corresponding fee  
22 hereinafter prescribed, provided that: (1) he is a Fellow in good standing of the  
23 Actuarial Society of the Philippines as having met the continuing education  
24 requirements of the Society at the time of his application for accreditation with  
25 the Commission, and remains in such good standing during the tenure of his  
26 engagement; or (2) in the case he is not a Fellow in good standing of the  
27 Actuarial Society of the Philippines, he should meet all the requirements for  
28 accreditation as a Fellow of the Society and has been given permission by the

1 pertinent government authorities in the Philippines to render service in the  
2 Philippines as determined by the Commission.

3 *Provided, further,* that the accreditation of an actuary shall be subject to  
4 the approval of the Commission under Section 11 of this Code.

5 **Section 34. *Renewal of Certificates.*** - No certificate of accreditation  
6 issued under this Chapter shall be valid after the thirty-first day of December of  
7 the year following its issuance unless it has been renewed by the Commission.

8 **Section 35. *Prohibited Positions.*** – No actuary engaged by a Pre-  
9 need Company shall at the same time be a stockholder or serve as a Director of  
10 the Board, Chief Executive Officer or Chief Financial Officer of the Company or  
11 any such position that the Commission may determine to have an inherent  
12 conflict of interest to the position of an actuary.

13 **Section 36. *Required Certified Reports.*** - The following documents,  
14 which are from time to time submitted to the Commission by a Pre-Need  
15 Company shall be duly certified by an actuary:

- 16 a) Actuarial valuation of all liabilities pertaining to pre-need contracts;
- 17 b) Asset share studies when applying for approval of new products or  
18 enhancement or repricing of existing products;
- 19 c) Accounts in the financial statement of the Pre-Need Company  
20 pertaining to actuarial reserve liabilities and other actuarial reserve  
21 items;
- 22 d) Financial projections showing the probable income and reserve  
23 requirements, enumerating the actuarial assumptions and bases of  
24 projections; and
- 25 e) Such other reports as may be required by the Commission.

26 It shall be the duty of an actuary to immediately report to the Commission  
27 any matter contained in, arising out of, or in relation to the above reports  
28 requiring intervention of the Commission to protect the interests of Planholders.



1 *Provided, that,* the actuary shall not be liable to the Pre-Need Company for any  
2 acts done under this paragraph, unless there is a clear showing of bad faith,  
3 malice or gross negligence.

4 Section 37. ***Disaccreditation of an Actuary.*** – An actuary shall be  
5 discredited by the Commission on the following grounds:

- 6 a) Failure to adequately perform his required functions and duties  
7 under this Code;
- 8 b) Failure to meet the requirements of Section 11 of this Code;
- 9 c) Failure to disclose conflict of interest;
- 10 d) Failure to comply with the Code of Conduct of the Actuarial Society  
11 of the Philippines; or
- 12 e) Such other grounds that may be determined by the Commission.

13

#### 14 **CHAPTER 10 – MINIMUM REPORTORIAL REQUIREMENTS**

15 Section 38. ***Required Certified Reports.*** - All Pre-Need Companies are  
16 required to submit to the Commission within one hundred twenty (120) days  
17 after each calendar year, which shall be the fiscal year, the following reports in  
18 such form and with such details as may be prescribed by the Commission:

- 19 1.) Annual Report which shall include among others the financial  
20 statements and the management discussion and analysis of results  
21 of operations and shall be certified under oath by the Chairman,  
22 Chief Executive Officer, Chief Finance Officer and the actuary;
- 23 2.) Actuarial Valuation Report which shall be prepared in accordance  
24 with the minimum standards of valuation for pre-need plans  
25 prepared by the Actuarial Society of the Philippines and adopted by  
26 the Commission and certified under oath by the actuary;
- 27 3.) Annual Audited Financial Statement which shall be certified under  
28 oath to by the Chairman, Chief Executive Officer and Chief Finance

1           Officer of the Pre-Need Company and its external auditor in  
2           accordance with a uniform accounting system that may be  
3           prescribed by the Commission;

4           4.) Annual Statement of Trust Fund which shall include details such as  
5           the income, disbursements, assets and liability items and shall be  
6           certified under oath by the Chairman, Chief Executive Officer and  
7           Chief Finance Officer of the Pre-Need Company and at least two (2)  
8           of the highest-ranking officers of the Trustee; and

9           5.) Any other report that may be required by the Commission.

10  
11           Section 39. **Publication of Reports.** - Within thirty (30) days after the  
12           receipt of the annual statements approved by the Commission, every Pre-Need  
13           Company shall publish in two (2) newspapers of general circulation a full  
14           synopsis of the annual statements.

15           The Commission may require the publication of other reports it may deem  
16           necessary to apprise Planholders of the condition of the Pre-Need Company.

## 17 18           **CHAPTER 11 - EXAMINATION OF PRE-NEED COMPANIES**

19           Section 40. **Keeping of Records.** - The Commission shall require every  
20           Pre-Need Company to keep its books, records, accounts and vouchers in such  
21           manner and for such period that he or his authorized representatives may readily  
22           verify its annual statements and ascertain whether the company is solvent and  
23           has complied with the provisions of this Code or the circulars, instructions,  
24           rulings or decisions of the Commission.

25           Section 41. **Examination.** - The Commission shall at least once a year  
26           and as often as necessary cause an examination to be made into the affairs,  
27           financial condition and method of business of every Pre-Need Company and of  
28           any other person or entity managing the affairs and/or property of such Pre-

1 Need Company. Provided, that, for such purpose, the managing person or entity  
2 shall be deemed to be a Pre-Need Company and subject to the authority of the  
3 Commission.

4 **CHAPTER 12 - SANCTIONS AND PENALTIES**

5 Section 42. **Administrative sanctions.** - Any violation of this Code shall  
6 be proceeded against in the following manner:

7 1. *Cease and Desist Order.* The Commission may, *motu proprio* or upon  
8 verified complaint by any party, issue a cease and desist order against any  
9 Pre-Need Company upon proof, after due notice and hearing, of violation  
10 of any provision of this Code, provided, that such cease and desist may be  
11 issued ex parte if the violation is clearly apparent, injurious to a number  
12 of Planholders and requires immediate intervention by the Commission.  
13 The cease and desist order shall specifically enjoin the Pre-need Company  
14 from performing certain activities and shall impose fines and state the  
15 required remedial actions. All proceedings before the issuance of the  
16 cease and desist order shall be confidential.

17 2. *Suspension of License.* The Commission shall issue a suspension order  
18 against the Pre-need Company if it fails to comply with the cease and  
19 desist order within thirty (30) days from issuance thereof.

20 3. *Revocation of License.* The Commission may issue a revocation order of  
21 the license of the Pre-Need Company under suspension for a period of  
22 ninety (90) days.

23 Any administrative sanction shall not prejudice the filing of appropriate  
24 criminal or civil actions.

25 Section 43. **Criminal penalties.** - The following acts are criminal in  
26 nature:

- 1        1. Selling or offering to sell a Pre-Need Plan by unregistered persons shall  
2            be penalized by an imprisonment of one (1) year and fine equivalent to  
3            triple the contract price;
- 4        2. Selling or offering to sell an unregistered Pre-need Plan or any product  
5            that has Pre-need Plan features shall be penalized by imprisonment of  
6            one (1) year and a fine equivalent to triple the indicated price;
- 7        3. Any negligent act or omission that is prejudicial or injurious to the  
8            Planholder shall be penalized by imprisonment of one (1) year and one (1)  
9            day to six (6) years and a fine in the amount of fifty thousand pesos  
10           (P50,000.00) to five hundred thousand pesos (P500,000.00);
- 11       4. Any fraudulent act or omission that is prejudicial or injurious to the  
12           Planholder shall be penalized by imprisonment of six (6) years and one (1)  
13           day to twelve (12) years and a fine in the amount of one hundred  
14           thousand pesos (P100,000.00) to one million pesos (P1,000,000.00); and
- 15       5. Willful violation of the provisions of the Code or orders of the Commission  
16           provided that repeated violations shall constitute *prima facie* evidence  
17           against the offender, shall be penalized by imprisonment of six (6) years  
18           and one (1) day to twelve (12) years and a fine in the amount of one  
19           hundred thousand pesos (P100,000.00) to one million pesos  
20           (P1,000,000.00).

21

22

### **CHAPTER 13 - APPOINTMENT OF CONSERVATOR**

23

24

25

26

27

Section 44. ***Appointment of Conservator.*** - If at any time before, or after the suspension or revocation of the license of a Pre-Need Company as provided in Section 42 hereof, the Commission finds that such company is in a state of continuing inability or unwillingness to comply with the requirements of the Code and/or orders of the Commission, a conservator may be appointed to

1 take charge the assets, liabilities, and the management of such company, collect  
2 all moneys and debts due the company and exercise all powers necessary to  
3 preserve the assets of the company, reorganize its management, and restore its  
4 viability. The conservator shall have the power to overrule or revoke the actions  
5 of the previous management and board of directors of the said company, any  
6 provision of law or of the articles of incorporation or by-laws of the company, to  
7 the contrary notwithstanding, and such other powers as the Commission shall  
8 deem necessary.

9 The conservator may be another Pre-Need Company, by officer or officers  
10 of such company, or any other competent and qualified person, firm or  
11 corporation. The remuneration of the conservator and other expenses attendant  
12 to the conservation shall be borne by the Pre-Need Company.

13 The conservator shall not be subject to any action, claim or demand by, or  
14 liability to, any person in respect of anything done or omitted to be done in good  
15 faith in the exercise, or in connection with the exercise, of the powers conferred  
16 on the conservator.

17 The conservator appointed shall report and be responsible to the  
18 Commission until such time as the Commission is satisfied that the Pre-Need  
19 Company can continue to operate on its own and the conservatorship shall  
20 likewise be terminated should the Commission, on the basis of the report of the  
21 conservator or of his own findings, determine that the continuance in business of  
22 the Pre-Need Company would be hazardous to Planholders and creditors, in  
23 which case the provisions of Chapter 14 shall apply.

24

## 25 **CHAPTER 14 – INSOLVENCY PROCEEDINGS**

26 Section 45. *Proceedings upon Insolvency.* - Whenever upon  
27 examination or other evidence, it shall be disclosed that the condition of any Pre-  
28 Need Company is one of insolvency, or that its continuance in business would be

1 hazardous to its Planholders and creditors, the Commission shall forthwith order  
2 the company to cease and desist from transacting business and shall designate a  
3 receiver to immediately take charge of its Trust Fund, assets and liabilities, as  
4 expeditiously as possible collect and gather all the assets and administer the  
5 same for the Benefit of its Planholders and creditors, and exercise all the powers  
6 necessary for these purposes including, but not limited to, bringing suits and  
7 foreclosing mortgages in the name of the Pre-Need Company.

8         The Commission shall thereupon determine within thirty (30) days  
9 whether the Pre-Need Company may be reorganized or otherwise placed in such  
10 condition so that it may be permitted to resume business with safety to its  
11 Planholders and creditors and shall prescribe the conditions under which such  
12 resumption of business shall take place as well as the time for fulfillment of such  
13 conditions. In such case, the expenses and fees in the collection and  
14 administration of the Pre-Need Company shall be determined by the Commission  
15 and shall be paid out of the assets of such company. If the Commission shall  
16 determine and confirm within the said period that the Pre-Need Company is  
17 insolvent, as defined hereunder, it shall, if the public interest so requires, order  
18 its liquidation, indicate the manner of its liquidation and approve a liquidation  
19 plan and implement it immediately. The Commission shall designate a competent  
20 and qualified person as liquidator who shall take over the functions of the  
21 receiver previously designated and, with all convenient speed, distribute the  
22 Trust Fund exclusively to the Planholders in proportion to termination values of  
23 their respective Pre-Need Plans, convert the assets of the Pre-Need Company to  
24 cash, or sell, assign or otherwise dispose of the same to the Planholders,  
25 creditors and other parties for the purpose of settling the liabilities or paying the  
26 debts of such company and he may, in the name of the company, institute such  
27 actions as may be necessary in the appropriate Court to collect and recover  
28 accounts and assets of the Pre-Need Company, and to do such other acts as may

1 be necessary to complete the liquidation as ordered by the Commission.

2       The provisions of any law to the contrary notwithstanding, the actions of  
3 the Commission under this Section shall be final and executory, and can be set  
4 aside by the Court upon petition by the company and only if there is convincing  
5 proof that the action is plainly arbitrary and made in bad faith. The Commission,  
6 shall then file the corresponding answer reciting the proceeding taken and  
7 praying for the assistance of the Court in the liquidation of the company. No  
8 restraining order or injunction shall be issued by the Court enjoining the  
9 Commission from implementing his actions under this Section, unless there is  
10 convincing proof that the action of the Commission is plainly arbitrary and made  
11 in bad faith and the petitioner files a bond in favor of the Commission with the  
12 Court in an amount fixed by it. The restraining order or injunction shall be  
13 refused or, if granted, shall be dissolved upon filing by the Commission, if he so  
14 desires, of a bond in an amount twice the amount of the bond of the petitioner  
15 conditioned that it will pay the damages which the petition may suffer by the  
16 refusal or the dissolution of the injunction.

17       The Court shall give preference to all proceedings under this Chapter. The  
18 Commission shall not be required to pay any fee to any public officer for filing,  
19 recording, or in any manner authenticating any paper or instrument relating to  
20 the proceedings.

21       As used in this Title, the term "Insolvency" shall refer to the financial  
22 condition of a Pre-Need Company that is generally unable to pay its liabilities as  
23 they fall due in the ordinary course of business or that has liabilities that are  
24 greater than its assets.

25       In case of liquidation of a Pre-Need Company, after payment of the cost  
26 of the proceedings, including reasonable expenses and fees incurred in the  
27 liquidation to be allowed by the Court, the Commission shall pay all allowed  
28 claims against such company, under order of the Court, in accordance with their

1 legal priority.

2 The receiver or the liquidator, as the case may be, designated under the  
3 provisions of this title shall not be subject to any action, claim or demand by, or  
4 liability to, any person in respect of anything done or omitted to be done in good  
5 faith in the exercise, or in connection with the exercise, of the powers conferred  
6 on such receiver or liquidator.

## 7 **CHAPTER 15 – OTHERS PROVISIONS**

8 Section 46. **Adjudicatory power.** - The Commission shall have the  
9 power to adjudicate any and all claims involving Pre-need Plans if the amount of  
10 Benefits does not exceed one hundred thousand pesos (P100,000.00). The  
11 decision of the Commission shall be final and executory.

12 Section 47. **Transitory Provisions.** - Any Pre-Need Company who at the  
13 time of the effectivity of this Code has been registered and licensed to sell Pre-  
14 Need Plans and similar contracts, shall be considered registered and licensed  
15 under the provision of this Code and its implementing rules and regulations and  
16 shall be subject to and governed by the provisions hereof; provided, however,  
17 that compliance for all sections with the exception of Section 13, may be  
18 deferred for such reasonable time as the commission may determine but not to  
19 exceed one (1) year from approval of this code. With respect to Chapter 5,  
20 compliance will cover all new plans sold one hundred twenty (120) days after the  
21 effectivity of this law.

22 The respective department of the Securities and Exchange Commission  
23 handling all matters related to the pre-need industry prior to the effectivity of  
24 this Act shall hereby secure and transfer all its files and records to the Insurance  
25 Commission within sixty (60) days after the effectivity of this Code.

26 Section 48. **Implementing Rules and Regulations.** - The Commission  
27 shall adopt such rules and regulations for the proper and effective  
28 implementation of this Code 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 49. **Effect on Existing Laws.** - The rights and remedies  
5 provided by this Code shall be in addition to any and all other rights and  
6 remedies that exist under existing laws.

7 Section 50. **Separability clause.** - Any portion or provision of this Act  
8 that may be declared unconstitutional or invalid shall not have the effect of  
9 nullifying other portions or provisions hereof as long as such remaining portion or  
10 provision can still subsist and be given effect in their entirety.

11 Section 51. **Repealing Clause.** - All acts, laws, executive orders and/or  
12 rules and regulations or any part thereof which are inconsistent with the  
13 provisions of this Code are hereby repealed or modified accordingly.

14 Section 52. **Effectivity Clause.** - This Code shall take effect upon its  
15 approval.

16 Approved,