

## Tips Managing Irrevocable Preneed Contracts in Florida

Can changes be made to a preneed contract either during the life of the beneficiary or after his or her death? It's a question that FSI's Client Services team members and I are often asked.

Until 2016, the answer was no, as once it was made irrevocable, the preneed contract cannot be changed for any reason at any time. However, amendments to Section 497.459, Florida Statutes, loosened the restrictions.

First and foremost, the 2016 changes made clear that the purchaser must be the beneficiary in order for the purchaser to make the preneed contract irrevocable. If the purchaser is buying the contract for another person, the contract cannot be made irrevocable. The beneficiary's funds must be used to pay for an irrevocable preneed contract.

Secondly, during the lifetime of the preneed contract beneficiary, the irrevocable contract cannot be cancelled, changed or assigned to another funeral home. In other words, this means the contract cannot be upgraded or downgraded. If an upgrade is desired because the beneficiary has funds that must be spent, an additional irrevocable contract should be entered into.

Finally, a legally authorized person for the decedent may alter the selections made for the decedent's arrangements. If those changes result in additional expenses, those funds are due from the person making arrangements.

If the changes result in excess funds in trust related to the beneficiary's contract, those excess funds must be remitted to the Medical Care Trust Fund administered by Florida's Agency for Health Care Administration.

Preneed contracts are a great option to help families plan for the future so they do not have to make difficult choices later in life – but funeral directors and cemeterians need to know what changes can and cannot be made to the agreements and how that impacts the funds held in trust.



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Contact FSI Client Services if you have excess funds on hand and need direction on how to remit the funds and remain compliant with state law.

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Wendy Russell Wiener, Esq. is the managing member of WRW Legal and serves as FSI's General Counsel. She can be reached at [Wendy.Wiener@WRWLegal.com](mailto:Wendy.Wiener@WRWLegal.com).