

# **ILLINOIS CONSUMERS GUIDE TO PRE-NEED FUNERAL AND BURIAL PURCHASES**

The "Illinois Funeral or Burial Funds Act" 225 ILCS 45/1 (the law) sets forth rights protecting consumers who purchase funeral services and/or merchandise in advance of need (pre-need). The State Comptroller has jurisdiction over the administration and enforcement of this law.

This guide is intended to assist you in making decisions in connection with the purchase of funeral services and merchandise — pre-need — and to advise you of your rights and protections under Illinois law.

## ***What is "Pre-Need" Funeral or Burial Purchasing?***

A pre-need funeral or burial purchase is purchasing, in advance, funeral services and merchandise that you select for yourself or loved ones. In connection with the purchase of pre-need services and merchandise, you enter into a pre-need contract with the seller, funeral home or cemetery.

## ***What are Some of the Protections Provided to You by Illinois Law?***

Sellers of pre-need services and/or merchandise must be licensed by the State of Illinois through the Office of the Comptroller. You should verify that the person with whom you are doing business is licensed to sell pre-need services and merchandise before you make your purchase. You may contact the Comptroller's Office to verify whether a seller is licensed.

## ***What Services and Merchandise are Covered by the Funeral or Burial Funds Act!***

The law covers the purchase of funeral services, clothing, caskets, burial containers commonly referred to as burial vaults and urns. Sales of cemetery services and merchandise are not covered by the law. The purchase of cemetery services and merchandise may be covered by the Illinois Pre-Need Cemetery Sales Act and Cemetery Care Act. Those laws are also administered by the Comptroller. If you have **any** questions concerning those laws, you should contact the Comptroller's Office,

## ***Be Sure to Read Your Contract***

All pre-need contracts sold in Illinois must contain disclosures to assist consumers in their purchase of pre-need services and merchandise. Required disclosures include: a clear identification of the seller's name and address, the purchaser and the beneficiary; a complete description of the goods and/or services purchased; clear notice as to whether the contract is for a guaranteed or non-guaranteed price; how you will pay for the services and/or merchandise (i.e., trust account, life insurance policy or annuity); and the cancellation and penalty policy of the seller.

## ***What are Guaranteed and Non-Guaranteed Contracts?***

A "Guaranteed" Contract means that the cemetery or funeral home guarantees to provide you with the services and/or merchandise you selected for the amount of money stated in the contract. This means that you or your estate will not be required to pay any additional costs for the items guaranteed, except for unexpected charges incurred (which may include, for example, the need for shipment of remains from a distance).

If the contract does not guarantee the prices charged it must be clearly identified as a "Non-Guaranteed Contract." The amount you pay will be determined at the time the services and/or the merchandise **are** needed. Any amount you pay pre-need will be considered a deposit to be used toward the purchase price, which will earn interest.

### ***Consumer Payments on Pre-need Services and Merchandise Must be Placed in a Trust Account.***

When you purchase pre-need services and merchandise, the seller must place a certain percentage of the costs of the purchase price in a trust account to ensure delivery at the time of need; 95% of the purchase price of all services and merchandise and 85% of the purchase price of outer burial containers (burial vaults) must be placed into trust.

### ***May I Fund a Pre-Need Arrangement With a Life Insurance Policy or Annuity?***

Yes, under Illinois law a pre-need contract may be funded through an insurance policy or tax deferred annuity. The insurance policy or annuity may or may not be sold in connection with a commitment from a licensed funeral establishment or cemetery to provide you with specific services and/or merchandise. If there is no provider of funeral services and/or merchandise, this fact must be disclosed in your contract. Without a provider you may only be purchasing insurance coverage providing a payout of a certain amount, and not entering into an actual pre-need contract that guarantees the actual provision and price for the services and/or merchandise. Be sure to read your contract or insurance policy carefully.

### ***Can I Get My Money Back If I Change My Mind?***

Yes, depending on the circumstances. The penalties for canceling a pre-need contract will be different depending upon when the contract is canceled. If a pre-need contract is subject to the Federal Trade Commission (FTC) three-day cancellation rule (which applies to door-to-door sales or other sales made at a place other than the seller's place of business) you may cancel the contract within three business days after it is signed without any penalty.

If a pre-need contract is funded by an insurance policy, Illinois law allows you to cancel the insurance policy within 30 days without penalty. Cancellation of an insurance policy does not necessarily serve to cancel the pre-need contract. After 30 days you are entitled to the accrued "cash surrender value" of the policy upon cancellation.

Unless made irrevocable, you may cancel a pre-need contract at any time. If cancellation occurs as a result of your default on payments, the seller is permitted to retain the lesser of 25% of the sales proceeds or \$300.

The seller cannot otherwise cancel the contract. If you cancel the contract after it is paid in full, the seller may retain the lesser of 10% of the sales proceeds or \$300.

### ***What Can I Do if I Believe I am Treated Unfairly?***

If you think that you have been a victim of unfair or illegal practices in the handling of pre-need funds, you may file a written complaint with the Office of the Comptroller, Department of Cemetery Care and Burial Trust, James R. Thompson Center, Suite 15-500, 100 West Randolph Street, Chicago, Illinois 60601, (312) 814-5921. In addition, the State Attorney General can seek a court order for restitution and issuance of fines. If you believe that improprieties exist in connection with the sale of insurance used to fund a pre-need contract, you can file a complaint with the Illinois Department of Insurance, 320 West Washington, Floor 4, Springfield, Illinois 62767.

For more information on preplanning or prepaying, see your local cemetery or funeral director or the

**Illinois Funeral Director's Association**, 215 South Grand Avenue West, Springfield, Illinois 62704,  
(800) 240-4332 or (217) 525-2000;

**Funeral Directors Services Association**, 140 N. Bloomingdale Road, Bloomingdale, Illinois 60108-1017,  
(630) 980-4740

**Illinois Cemetery and Funeral Home Association**, P.O. Box 643, Homewood, Illinois 60430-8463  
(866) 758-7731