

Illinois

Consumers Guide

PRE-NEED FUNERAL AND BURIAL PURCHASES

DANIEL W. HYNES
COMPTROLLER

www.ioc.state.il.us

Dear Consumer:

This Consumers Guide was designed to provide assistance to consumers in making decisions in connection with the pre-need purchase of funeral and burial services and merchandise. Prepared by the Office of the Comptroller, in conjunction with cemetery and funeral home industry leaders, this Guide sets forth your legal rights and protections under Illinois law when making such purchases. This edition reflects Illinois law as of January 1, 2002.



DANIEL W. HYNES

The Guide also answers consumers' frequently asked questions. Further, the publication provides you with additional contacts should you have other questions or believe your rights may have been violated.

The Comptroller has jurisdiction over the administration and enforcement of laws relating to pre-need funeral and burial purchases and oversees trust funds established to ensure delivery of services and merchandise consumers pay for in advance of need.

As always, please feel free to contact the Comptroller's Office should you have any questions. The Department of Cemetery Care and Burial Trust is prepared to assist you in any way and may be reached at (877) 203-3401 or ccbtt@mail.ioc.state.il.us.

Sincerely,

A handwritten signature in dark ink that reads "Daniel W. Hynes". The signature is written in a cursive style with a large initial 'D'.

DANIEL W. HYNES
Illinois State Comptroller

The Illinois Funeral or Burial Funds Act, 225 ILCS 45 (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 provider's name and address; if the provider has branch locations, an opportunity for the purchaser to identify on the contract the branch at which the funeral is to be performed; 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.

If a non-guaranteed contract may subsequently become guaranteed, the contract shall clearly disclose the nature of the guarantee and the time, occurrence, or event upon which the contract shall become a guaranteed price contract.

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. Funds must be deposited in the trust account within 30 days.

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. Your pre-need contract will identify the provider of funeral or cemetery services and merchandise. It will also state whether the contract is “Guaranteed” or “Non-Guaranteed”. Your insurance policy will provide the details of the coverage, including the cost, payout provisions and cancellation fees. Funds must be mailed to the insurance company within 30 days. Be sure to read your contract and 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 cancelled. 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.

If the purchaser cancels the contract after it is paid in full, upon receipt of written cancellation notice from the purchaser, the seller must refund to the purchaser the entire amount held in trust attributable to undelivered merchandise and unperformed services, including undistributed interest earned thereon or the insurance company must return the cash surrender value of the cancelled insurance policy or annuity.

If no funeral merchandise or services are provided or if the funeral is conducted by another person, the seller may keep no more than 10% of the payments made under the contract or \$300, whichever sum is less. The remainder of the trust funds shall be returned by the seller or insurance or annuity proceeds shall be forwarded by the insurance company to the legal heirs of the deceased or as determined by probate action.

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 and Burial Trust, James R. Thompson Center, Suite 15-500, 100 West Randolph Street, Chicago, Illinois 60601. 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 anything contained in this consumer guide, please contact us:

Office of the Comptroller- State of Illinois
100 West Randolph Street, Suite 15-500
Chicago, IL 60601

Comptroller's Cemetery Care Consumer Hotline: 1-877-203-3401

E-mail: ccbtt@mail.ioc.state.il.us

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

Alliance of Illinois Cemeterians
1441 Monument Avenue
Springfield, Illinois 62702
(217) 789-2340

Cook County Association of Funeral Home Owners, Inc.
4114 South Michigan Avenue
Chicago, Illinois 60653
(773) 624-2703

Funeral Directors Services Association
499 Northgate Parkway
Wheeling, Illinois 60090
(847) 808-7500

Illinois Cemetery and Funeral Home Association
808 Osage Street
Normal, Illinois 61761
(309) 454-8797

Illinois Funeral Director's Association
215 South Grand Avenue West
Springfield, Illinois 62704
(217) 525-2000 or 1-800-240-4332

The seal of the State of Illinois is a circular emblem. It features an eagle with wings spread, perched on a rock. The eagle is surrounded by a wreath. Above the eagle is a banner with the word "UNION". The outer ring of the seal contains the text "OFFICE OF THE STATE OF ILLINOIS" at the top and "AUG. 26TH 1818" at the bottom. The year "1809" is also visible near the eagle's feet.

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