

Illinois

Consumers Guide

PRE-NEED CEMETERY SALES



Dear Consumer:

This Consumers Guide was designed to provide assistance to consumers in making decisions in connection with the pre-need purchase of cemetery services and merchandise. Prepared in conjunction with the Comptroller's Office and cemetery 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 cemetery 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.state.il.us.

Sincerely,

A handwritten signature in cursive script that reads "Daniel W. Hynes".

DANIEL W. HYNES
Illinois State Comptroller



What is the purpose of the guide?

This Guide is intended to assist you the consumer in making informed pre-need purchases of cemetery merchandise and services by advising you in a general manner of your legal rights and protections under Illinois law.

What is the Illinois Pre-Need Cemetery Sales Act?

The Illinois Pre-Need Cemetery Sales Act (815 ILCS 390) was originally enacted in 1986 to protect consumers who purchased and paid for pre-need cemetery merchandise and services in advance of need. Effective January 1, 2002, the Act has been amended to further strengthen these protections and the Comptroller's oversight of the pre-need sales industry.

What is a Pre-Need Cemetery Purchase?

The purchase of pre-need cemetery merchandise and services occurs when you enter into an agreement to acquire and pay for cemetery services and merchandise before you need them.

What Cemetery Merchandise and Services are subject to the Act?

The Act covers the purchase of merchandise and services typically sold by cemeteries including but not limited to the following:

- Memorials
- Markers
- Monuments
- Foundations
- Outer Burial Containers
- Undeveloped Cemetery Spaces, Crypts and Niches
- Interment, Entombment or Inurnment Services

What is a Pre-Need Cemetery Sales Contract?

A pre-need cemetery sales contract is a legal contract entered into between a consumer and a provider such as a cemetery or a monument company. A pre-need cemetery sales contract usually sets out the type of cemetery merchandise and services the consumer is purchasing, the method of payment, the manner the merchandise and services will be provided, and the rights and obligations of the consumer and seller. A pre-need cemetery sales contract must cover certain details and contain specific disclosures, which are discussed in this Guide.

What are my rights under the Pre-Need Cemetery Sales Act?

CONTRACTUAL REQUIREMENTS

The Act has numerous requirements for the pre-need cemetery sales contract including the following:

- All contracts must be in writing that is at least 11-point font.
- All contracts must state the name and address of the seller, the provider, the seller's parent company, the purchaser and the beneficiary.
- All contracts must disclose the relationship between the seller and the provider, if different.
- All contracts must include a description of purchases as well as their specific prices.
- All contracts must provide that the contract price is guaranteed, meaning the prices established when the contract is signed will not change when the merchandise and/or services are delivered.
- All contracts must disclose penalties for failure to make payments, penalties resulting from cancellation, and information on delivery of the merchandise.

TRUST REQUIREMENTS

The Act provides that if the merchandise and services are not provided or delivered within 180 days after the contract is signed, a portion of your payments must be deposited into a trust account.

The Act requires the seller to deposit 50% of the amount received on all cemetery merchandise and services and 85% of the amount received for an outer burial container (burial vault). The amounts deposited in trust will be invested and the income and principal will be retained in the trust until the merchandise is delivered and/or the services provided.

DELIVERY OF THE MERCHANDISE AND SERVICES PURCHASED

The merchandise and services can be provided at the time of use. In addition, the Act allows a seller to deliver merchandise to the site of its ultimate use or to a state bonded warehouse to be stored in the purchaser's name. The decision to deliver merchandise in advance must be clearly stated in writing by the seller in your pre-need cemetery sales contract. You must authorize any such delivery by initialing a statement provided to you by the seller. Once this merchandise is delivered, there is no chance of a refund.

REFUNDS

The Act provides for full or partial refunds depending on the type of merchandise and the status of the contract. If the sale was made in your home, the Federal Trade Commission 3-Day Cooling Off Rule may allow you to cancel the contract and receive back any money paid. Once the merchandise is delivered and/or the services are provided, there is no right to a refund. If you are paying for the purchase in installments and you default, you will under no circumstances be entitled to a refund or the delivery of any merchandise. After the contract is paid in full and if the merchandise has not been delivered and if the services have not been provided, you may cancel the contract in writing and receive a refund of the amount in trust, including any income earned on the trust deposit. Finally, if the seller breaches the contract, you will be entitled to all of your money back. You also may be entitled to make a claim to the Consumer Protection Fund under certain conditions.

THE CONSUMER PROTECTION FUND

The Act requires the seller to deposit \$5.00 for every pre-need cemetery sales contract into a state-administered fund. The fund is invested and the income and principal of the fund can be used to reimburse consumers that have not been provided with the merchandise and services purchased at the time of need. The Act provides that payment from the fund can only be made after a lawsuit is filed against the seller. This lawsuit must be filed by the Attorney General of the State of Illinois on behalf of the State Comptroller. The court may then order a refund.

Need more information?

THE LICENSE

All sellers of pre-need cemetery services and merchandise must be licensed by the Comptroller. The license should be clearly posted in their place of business. If you have any doubt as to whether or not a seller is licensed, you may contact the Comptroller's office for verification.

OTHER TYPES OF SERVICES

The pre-need purchase of funeral services, as well as items such as caskets, clothing and urns, is covered under the Illinois Funeral and Burial Funds Act (225 ILCS 45). In addition to the Pre-Need Cemetery Sales Act and Funeral and Burial Funds Act, the Comptroller is responsible for the oversight of the following laws:

- Cemetery Care Act (760 ILCS 100)
- Cemetery Association Act (805 ILCS 320)
- Cemetery Protection Act (765 ILCS 835)
- Crematory Regulation Act (410 ILCS 18).

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:

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

Funeral Directors Services Association

499 Northgate Parkway
Wheeling, Illinois 60090
(847) 808-7500

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

The seal of the State of Illinois is a circular emblem. It features a central figure of a Native American holding a bow and arrow, with a banner above him that reads "STATE SOVEREIGN, NATIONAL UNION". The outer ring of the seal contains the text "OFFICE OF THE COMPTROLLER OF THE STATE OF ILLINOIS" at the top and "AUG. 26TH 1818" at the bottom.

DANIEL W. HYNES
COMPTROLLER

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