

SB2004



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

SB2004

Introduced 2/20/2009, by Sen. Pamela J. Althoff

SYNOPSIS AS INTRODUCED:

815 ILCS 390/4

from Ch. 21, par. 204

Amends the Illinois Pre-Need Cemetery Sales Act. Makes a technical change in a Section concerning definitions.

LRB096 11399 ASK 21863 b

A BILL FOR

1 AN ACT concerning business.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Pre-Need Cemetery Sales Act is
5 amended by changing Section 4 as follows:

6 (815 ILCS 390/4) (from Ch. 21, par. 204)

7 Sec. 4. Definitions. As used in this Act, the following
8 terms shall have the ~~the~~ meaning specified:

9 (A) "Pre-need sales contract" or "Pre-need sales" means any
10 agreement or contract or series or combination of agreements or
11 contracts which have for a purpose the sale of cemetery
12 merchandise, cemetery services or undeveloped interment,
13 entombment or inurnment spaces where the terms of such sale
14 require payment or payments to be made at a currently
15 determinable time and where the merchandise, services or
16 completed spaces are to be provided more than 120 days
17 following the initial payment on the account. An agreement or
18 contract for a memorial, marker, or monument shall not be
19 deemed a "pre-need sales contract" or a "pre-need sale" if the
20 memorial, marker, or monument is delivered within 180 days
21 following initial payment on the account and work thereon
22 commences a reasonably short time after initial payment on the
23 account.

1 (B) "Delivery" occurs when:

2 (1) Physical possession of the merchandise is
3 transferred or the easement for burial rights in a
4 completed space is executed, delivered and transferred to
5 the buyer; or

6 (2) Following authorization by a purchaser under a
7 pre-need sales contract, title to the merchandise has been
8 transferred to the buyer and the merchandise has been paid
9 for and is in the possession of the seller who has placed
10 it, until needed, at the site of its ultimate use; or

11 (3) Following authorization by a purchaser under a
12 pre-need sales contract, the merchandise has been
13 permanently identified with the name of the buyer or the
14 beneficiary and delivered to a licensed and bonded
15 warehouse and both title to the merchandise and a warehouse
16 receipt have been delivered to the purchaser or beneficiary
17 and a copy of the warehouse receipt has been delivered to
18 the licensee for retention in its files; except that in the
19 case of outer burial containers, the use of a licensed and
20 bonded warehouse as set forth in this paragraph shall not
21 constitute delivery for purposes of this Act. Nothing
22 herein shall prevent a seller from perfecting a security
23 interest in accordance with the Uniform Commercial Code on
24 any merchandise covered under this Act.

25 All warehouse facilities to which sellers deliver
26 merchandise pursuant to this Act shall:

1 (i) be either located in the State of Illinois or
2 qualify as a foreign warehouse facility as defined
3 herein;

4 (ii) submit to the Comptroller not less than
5 annually, by March 1 of each year, a report of all
6 cemetery merchandise stored by each licensee under
7 this Act which is in storage on the date of the report;

8 (iii) permit the Comptroller or his designee at any
9 time to examine stored merchandise and to examine any
10 documents pertaining thereto;

11 (iv) submit evidence satisfactory to the
12 Comptroller that all merchandise stored by said
13 warehouse for licensees under this Act is insured for
14 casualty or other loss normally assumed by a bailee for
15 hire;

16 (v) demonstrate to the Comptroller that the
17 warehouse has procured and is maintaining a
18 performance bond in the form, content and amount
19 sufficient to unconditionally guarantee to the
20 purchaser or beneficiary the prompt shipment of the
21 cemetery merchandise.

22 (C) "Cemetery merchandise" means items of personal
23 property normally sold by a cemetery authority not covered
24 under the Illinois Funeral or Burial Funds Act, including but
25 not limited to:

26 (1) memorials,

- 1 (2) markers,
- 2 (3) monuments,
- 3 (4) foundations, and
- 4 (5) outer burial containers.

5 (D) "Undeveloped interment, entombment or inurnment
6 spaces" or "undeveloped spaces" means any space to be used for
7 the reception of human remains that is not completely and
8 totally constructed at the time of initial payment therefor in
9 a:

- 10 (1) lawn crypt,
- 11 (2) mausoleum,
- 12 (3) garden crypt,
- 13 (4) columbarium, or
- 14 (5) cemetery section.

15 (E) "Cemetery services" means those services customarily
16 performed by cemetery or crematory personnel in connection with
17 the interment, entombment, inurnment or cremation of a dead
18 human body.

19 (F) "Cemetery section" means a grouping of spaces intended
20 to be developed simultaneously for the purpose of interring
21 human remains.

22 (G) "Columbarium" means an arrangement of niches that may
23 be an entire building, a complete room, a series of special
24 indoor alcoves, a bank along a corridor or part of an outdoor
25 garden setting that is constructed of permanent material such
26 as bronze, marble, brick, stone or concrete for the inurnment

1 of human remains.

2 (H) "Lawn crypt" means a permanent underground crypt
3 usually constructed of reinforced concrete or similar material
4 installed in multiple units for the entombment of human
5 remains.

6 (I) "Mausoleum" or "garden crypt" means a grouping of
7 spaces constructed of reinforced concrete or similar material
8 constructed or assembled above the ground for entombing human
9 remains.

10 (J) "Memorials, markers and monuments" means the object
11 usually comprised of a permanent material such as granite or
12 bronze used to identify and memorialize the deceased.

13 (K) "Foundations" means those items used to affix or
14 support a memorial or monument to the ground in connection with
15 the installation of a memorial, marker or monument.

16 (L) "Person" means an individual, corporation,
17 partnership, joint venture, business trust, voluntary
18 organization or any other form of entity.

19 (M) "Seller" means any person selling or offering for sale
20 cemetery merchandise, cemetery services or undeveloped
21 interment, entombment, or inurnment spaces in accordance with a
22 pre-need sales contract.

23 (N) "Religious cemetery" means a cemetery owned, operated,
24 controlled or managed by any recognized church, religious
25 society, association or denomination or by any cemetery
26 authority or any corporation administering, or through which is

1 administered, the temporalities of any recognized church,
2 religious society, association or denomination.

3 (O) "Municipal cemetery" means a cemetery owned, operated,
4 controlled or managed by any city, village, incorporated town,
5 township, county or other municipal corporation, political
6 subdivision, or instrumentality thereof authorized by law to
7 own, operate or manage a cemetery.

8 (O-1) "Outer burial container" means a container made of
9 concrete, steel, wood, fiberglass, or similar material, used
10 solely at the interment site, and designed and used exclusively
11 to surround or enclose a separate casket and to support the
12 earth above such casket, commonly known as a burial vault,
13 grave box, or grave liner, but not including a lawn crypt.

14 (P) "Sales price" means the gross amount paid by a
15 purchaser on a pre-need sales contract for cemetery
16 merchandise, cemetery services or undeveloped interment,
17 entombment or inurnment spaces, excluding sales taxes, credit
18 life insurance premiums, finance charges and Cemetery Care Act
19 contributions.

20 (Q) (Blank).

21 (R) "Provider" means a person who is responsible for
22 performing cemetery services or furnishing cemetery
23 merchandise, interment spaces, entombment spaces, or inurnment
24 spaces under a pre-need sales contract.

25 (S) "Purchaser" or "buyer" means the person who originally
26 paid the money under or in connection with a pre-need sales

1 contract.

2 (T) "Parent company" means a corporation owning more than
3 12 cemeteries or funeral homes in more than one state.

4 (U) "Foreign warehouse facility" means a warehouse
5 facility now or hereafter located in any state or territory of
6 the United States, including the District of Columbia, other
7 than the State of Illinois.

8 A foreign warehouse facility shall be deemed to have
9 appointed the Comptroller to be its true and lawful attorney
10 upon whom may be served all legal process in any action or
11 proceeding against it relating to or growing out of this Act,
12 and the acceptance of the delivery of stored merchandise under
13 this Act shall be signification of its agreement that any such
14 process against it which is so served, shall be of the same
15 legal force and validity as though served upon it personally.

16 Service of such process shall be made by delivering to and
17 leaving with the Comptroller, or any agent having charge of the
18 Comptroller's Department of Cemetery and Burial Trusts, a copy
19 of such process and such service shall be sufficient service
20 upon such foreign warehouse facility if notice of such service
21 and a copy of the process are, within 10 days thereafter, sent
22 by registered mail by the plaintiff to the foreign warehouse
23 facility at its principal office and the plaintiff's affidavit
24 of compliance herewith is appended to the summons. The
25 Comptroller shall keep a record of all process served upon him
26 under this Section and shall record therein the time of such

1 service.

2 (Source: P.A. 91-7, eff. 1-1-00; 91-357, eff. 7-29-99; 92-16,

3 eff. 6-28-01; 92-419, eff. 1-1-02.)