

HB3775



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

HB3775

Introduced 2/17/2023, by Rep. Curtis J. Tarver, II

SYNOPSIS AS INTRODUCED:

815 ILCS 390/14

from Ch. 21, par. 214

Amends the Illinois Pre-Need Cemetery Sales Act. Provides that the pre-need contract shall provide, if applicable, that if the purchaser does not pay the costs associated with the opening or closing of an undeveloped interment, inurnment, or entombment space, the seller may repossess the undeveloped interment, inurnment, or entombment space.

LRB103 26880 SPS 53244 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 14 as follows:

6 (815 ILCS 390/14) (from Ch. 21, par. 214)

7 Sec. 14. Contract required.

8 (a) It is unlawful for any person doing business within
9 this State to accept sales proceeds, either directly or
10 indirectly, by any means unless the seller enters into a
11 pre-need sales contract with the purchaser which meets the
12 following requirements:

13 (1) A written sales contract shall be executed in at
14 least 11 point type in duplicate for each pre-need sale
15 made by a licensee, and a signed copy given to the
16 purchaser. Each completed contract shall be numbered and
17 shall contain: (i) the name and address of the purchaser,
18 the principal office of the licensee, and the parent
19 company of the licensee; (ii) the name of the person, if
20 known, who is to receive the cemetery merchandise,
21 cemetery services or the completed interment, entombment
22 or inurnment spaces under the contract; and (iii) specific
23 identification of such merchandise, services or spaces to

1 be provided, if a specific space or spaces are contracted
2 for, and the price of the merchandise, services, or space
3 or spaces.

4 (2) In addition, such contracts must contain a
5 provision in distinguishing typeface as follows:

6 "Notwithstanding anything in this contract to the
7 contrary, you are afforded certain specific rights of
8 cancellation and refund under the Illinois Pre-Need
9 Cemetery Sales Act, enacted by the 84th General Assembly
10 of the State of Illinois".

11 (3) All pre-need sales contracts shall be sold on a
12 guaranteed price basis. At the time of performance of the
13 service or delivery of the merchandise, the seller shall
14 be prohibited from assessing the purchaser or his heirs or
15 assigns or duly authorized representative any additional
16 charges for the specific merchandise and services listed
17 on the pre-need sales contract.

18 (4) Each contract shall clearly disclose that the
19 price of the merchandise or services is guaranteed and
20 shall contain the following statement in 12 point bold
21 type:

22 "THIS CONTRACT GUARANTEES THE BENEFICIARY THE SPECIFIC
23 GOODS, SERVICES, INTERMENT SPACES, ENTOMBMENT SPACES, AND
24 INURNMENT SPACES CONTRACTED FOR. NO ADDITIONAL CHARGES MAY
25 BE REQUIRED FOR DESIGNATED GOODS, SERVICES, AND SPACES.
26 ADDITIONAL CHARGES MAY BE INCURRED FOR UNEXPECTED

1 EXPENSES."

2 (5) The pre-need sales contract shall provide that if
3 the particular cemetery services, cemetery merchandise, or
4 spaces specified in the pre-need contract are unavailable
5 at the time of delivery, the seller shall be required to
6 furnish services, merchandise, and spaces similar in style
7 and at least equal in quality of material and workmanship.

8 (6) The pre-need contract shall also disclose any
9 specific penalties to be incurred by the purchaser as a
10 result of failure to make payments; and penalties to be
11 incurred or moneys or refunds to be received as a result of
12 cancellation of the contract.

13 (7) The pre-need contract shall disclose the nature of
14 the relationship between the provider and the seller.

15 (8) Each pre-need contract that authorizes the
16 delivery of cemetery merchandise to a licensed and bonded
17 warehouse shall provide that prior to or upon delivery of
18 the merchandise to the warehouse the title to the
19 merchandise and a warehouse receipt shall be delivered to
20 the purchaser or beneficiary. The pre-need contract shall
21 contain the following statement in 12 point bold type:

22 "THIS CONTRACT AUTHORIZES THE DELIVERY OF MERCHANDISE TO A
23 LICENSED AND BONDED WAREHOUSE FOR STORAGE OF THE
24 MERCHANDISE UNTIL THE MERCHANDISE IS NEEDED BY THE
25 BENEFICIARY. DELIVERY OF THE MERCHANDISE IN THIS MANNER
26 MAY PRECLUDE REFUND OF SALE PROCEEDS THAT ARE ATTRIBUTABLE

1 TO THE DELIVERED MERCHANDISE."

2 The purchaser shall initial the statement at the time
3 of entry into the pre-need contract.

4 (9) Each pre-need contract that authorizes the
5 placement of cemetery merchandise at the site of its
6 ultimate use prior to the time that the merchandise is
7 needed by the beneficiary shall contain the following
8 statement in 12 point bold type:

9 "THIS CONTRACT AUTHORIZES THE PLACEMENT OF MERCHANDISE AT
10 THE SITE OF ITS ULTIMATE USE PRIOR TO THE TIME THAT THE
11 MERCHANDISE IS NEEDED BY THE BENEFICIARY. DELIVERY OF THE
12 MERCHANDISE IN THIS MANNER MAY PRECLUDE REFUND OF SALE
13 PROCEEDS THAT ARE ATTRIBUTABLE TO THE DELIVERED
14 MERCHANDISE."

15 The purchaser shall initial the statement at the time
16 of entry into the pre-need contract.

17 (10) Each pre-need contract that is funded by a trust
18 shall clearly identify the trustee's name and address and
19 the primary state or federal regulator of the trustee as a
20 corporate fiduciary.

21 (11) The pre-need contract shall provide, if
22 applicable, that if the purchaser does not pay the costs
23 associated with the opening or closing of an undeveloped
24 interment, inurnment, or entombment space, the seller may
25 repossess the undeveloped interment, inurnment, or
26 entombment space.

1 (b) Every pre-need sales contract must be in writing. The
2 Comptroller may by rule develop a model pre-need sales
3 contract form that meets the requirements of this Act.

4 (c) To the extent the Rule is applicable, every pre-need
5 sales contract is subject to the Federal Trade Commission Rule
6 concerning the Cooling-Off Period for Door-to-Door Sales (16
7 CFR Part 429).

8 (d) No pre-need sales contract may be entered into in this
9 State unless there is a provider for the cemetery merchandise,
10 cemetery services, and undeveloped interment, inurnment, and
11 entombment spaces being sold. If the seller is not the
12 provider, then the seller must have a binding agreement with a
13 provider, and the identity of the provider and the nature of
14 the agreement between the seller and the provider must be
15 disclosed in the pre-need sales contract at the time of sale
16 and before the receipt of any sale proceeds. The failure to
17 disclose the identity of the provider, the nature of the
18 agreement between the seller and the provider, or any changes
19 thereto to the purchaser and beneficiary, or the failure to
20 make the disclosures required by this Section constitutes an
21 intentional violation of this Act.

22 (e) No pre-need contract may be entered into in this State
23 unless it is accompanied by a funding mechanism permitted
24 under this Act and unless the seller is licensed by the
25 Comptroller as provided in this Act. Nothing in this Act is
26 intended to relieve providers or sellers of pre-need contracts

1 from being licensed under any other Act required for their
2 profession or business or from being subject to the rules
3 promulgated to regulate their profession or business,
4 including rules on solicitation and advertisement.

5 (f) No pre-need contract may be entered into in this State
6 unless the seller explains to the purchaser the terms of the
7 pre-need contract prior to the purchaser signing and the
8 purchaser initials a statement in the contract confirming that
9 the seller has explained the terms of the contract prior to the
10 purchaser signing.

11 (g) The State Comptroller shall develop a booklet for
12 consumers in plain English describing the scope, application,
13 and consumer protections of this Act. After the booklet is
14 developed, no pre-need contract may be sold in this State
15 unless the seller distributes to the purchaser prior to the
16 sale a booklet developed or approved for use by the State
17 Comptroller.

18 (Source: P.A. 96-879, eff. 2-2-10.)