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PRENEED FUNERAL AND CEMETERY MERCHANDISE AND SERVICES PURCHASING GUIDE FOR CONSUMERS

The death of a loved one is often a devastating experience, complicated by the many arrangements that must be made – all of which must be made quickly and often under great emotional duress. What kind of funeral should it be? What funeral provider should be used? Should the body be buried or cremated? What services or merchandise are legally required to be bought? How much is it going to cost? With all these considerations, many people find themselves unable to grieve until after all the funeral arrangements have finalized. Given the tumult this causes, one is distracted, and hence, vulnerable to those who might be inclined to take advantage of the bereaved. If one gives thought to these arrangements ahead of time, one may spare their loved ones additional grief.

Many consumers have decided to arrange their or their loved one's funeral prior to death. These arrangements are commonly referred to as "preneed funeral arrangements". Through these arrangements, consumers are able to decide in advance what type of funeral they will have, while at the same time eliminating some of the stress that family members frequently experience. Consumers may also be able to lock in today's prices for a future funeral.

This Purchasing Guide will answer some of the questions that are frequently asked about prearranging a funeral.

Why plan a funeral in advance?

By planning in advance, you can make informed choices, compare prices and options, and discuss your preferences with your family. The result can be peace of mind for yourself and your loved ones.

Is there more than one type of preneed agreement?

Yes. Guaranteed contracts mean that the cost of certain individual items or the cost of the entire package will never be more than specified in the contract. Nonguaranteed means just the opposite.

How do I find a reputable provider of preneed funeral and cemetery merchandise services?

The Alabama Department of Insurance issues a preneed certificate of authority to those preneed providers who satisfy the requirements of the Preneed Law. Ask to see the preneed certificate of authority of the provider you are dealing with. There is a complete listing of preneed providers who have a current preneed certificate of authority at <https://sbs-al.naic.org/Lion-Web/jsp/sbsreports/CompanySearchLookup.jsp>

The person selling you the preneed contract must be a registered sales agent. There is a complete listing of registered preneed sales agents at <https://sbs-al.naic.org/Lion-Web/jsp/sbsreports/AgentLookup.jsp>. If the registered sales agent is selling you a life insurance policy or annuity contract to fund your preneed contract, that agent must also be a licensed insurance agent.

Should I pay for my preneed choices ahead of time?

Prepaying spares your survivors the burden of arranging payment. It also keeps you in control of the costs and ensures that your wishes can and will be carried out.

What are the methods for funding preneed contracts for funeral and cemetery expenses?

Funding methods include life insurance, annuities, and funeral and cemetery merchandise and services trusts. Some providers use surety bonds or letters of credit in lieu of funeral trusts.

- **Life insurance and/or annuities** can be used for funding preneed contracts for the purchase price of the preneed contract. Generally, the face amount of the policy or the ultimate amount of the annuity will be the same as the purchase price (amount of the services, merchandise, and/or cemetery costs). Unless your preneed contract guarantees the price of the merchandise and services, your survivors may need to pay some of the expenses. In addition, if you already have a life insurance policy or annuity contract, you may use that life insurance policy or annuity contract to fund your preneed contract by assigning the benefits to the funeral home or cemetery or make the funeral home or cemetery the beneficiary of your policy. Once again, unless your preneed contract guarantees the price of the merchandise and services, your survivors may need to pay some of the expenses.
- **Funeral trusts** can be used to fund a preneed contract to pay for services, merchandise, and cemetery costs. If the costs are guaranteed, the trust should cover all the expenses. Before you purchase a funeral trust, you should get answers to the following questions: Are the prices in the contract guaranteed? What are the cancellation terms and fees? If the trust fund increases in value, who will receive any remaining money after the contract is fulfilled? What happens if the death occurs before the trust is paid in full?

What will happen to my preneed contract if I fail to make agreed to payments to the insurance company or the funeral home or cemetery?

If you are making premium payments to an insurance company, your policy may expire or convert to one of the non-forfeiture options. In that case, the proceeds of the life insurance policy or annuity contract may not be sufficient to pay the costs of the funeral or cemetery merchandise and services. If you are making payments to the funeral home or cemetery that is using a trust to fund your contract, the amount the funeral home or cemetery has deposited into trust may remain in that account earning income, but the proceeds of the trust may not be sufficient to pay the costs of the funeral or cemetery merchandise and services.

Is there anything else I should know about prepaying my arrangements?

Before you sign any contract, consider the following:

- Are there any costs not included in the preneed contract that would have to be paid at the time of need? If so, who would pay them?

- Are the prices quoted on the contract guaranteed?
- Can the arrangements be transferred to another funeral establishment and/or cemetery if you move or simply change your mind?
- What happens to the contract if the establishment closes or is sold?
- Exactly who holds the preneed funds and how can you contact the company?
- If interest is earned on the account, who pays the taxes on the income earned?
- Can you cancel the contract and, if so, what would the penalty be?

Am I entitled to a copy of the preneed contract?

Yes, the preneed provider is required to give you a copy of the preneed contract. Before you sign the preneed contract, read it carefully and understand all the provisions. Ask questions about any of the terms that you do not understand.

Am I entitled to a detailed price list of services and merchandise prior to purchasing a preneed contract?

Yes, you should request a detailed price list, and if you purchase a preneed contract, confirm that the prices on the preneed contract agree with the detailed price list. The preneed provider is required to display and make available to you a General Price List, a Casket Price List and an Outer Burial Container Price List.

If the preneed trust purchases life insurance on my life, must I be notified?

Yes, the preneed provider must notify you that they are using the funds in trust to purchase life insurance on you and the preneed contract must state that the trust is purchasing life insurance. The preneed provider must also provide you with a written consent form to sign, showing that they have your permission to purchase life insurance on you. If you do not consent to the trust purchasing insurance on your life, the trust cannot purchase a life insurance policy on your life and the monies you have paid must remain in trust.

Does the preneed provider have to disclose that they are using a surety bond or letter of credit to fund my preneed contract in lieu of a trust?

Yes, the preneed provider must disclose that they are using a surety bond or letter of credit. If the preneed provider is using a surety bond, you should obtain the name of the insurance company providing the surety bond and determine whether the insurance company is licensed to write surety bonds in Alabama. If the preneed provider is using a letter of credit, you should ask which financial institution has provided the letter of credit.

If I am on Medicaid, can my preneed contract be made irrevocable?

Yes, you can make the contract irrevocable. Normally preneed contracts are not irrevocable. The irrevocable contract qualifies as a method for spending down assets for Medicaid. However, in that event, the preneed contract cannot be cancelled and an irrevocable contract may limit your flexibility.

If I purchase a life insurance policy or annuity contract, who do I make premium payments to?

Insurance and annuity premium payments must be made to the insurance company, do not make the payment to the preneed provider or make out the checks to the preneed provider. All checks must be made payable to the insurance company.

If I cancel my preneed contract, am I entitled to a refund?

Funeral contract funded with a trust. If cancelled within 30 days of the date of purchase, you are entitled to a refund of 100% of the purchase price collected, less any amount allocable to any merchandise and services already delivered or performed. If cancelled after 30 days from the date of purchase, the funeral home is entitled to deduct a cancellation fee. The preneed contract will specify the amount of the cancellation fee, but in no event can it exceed 20% of the purchase price collected. You are entitled to the remainder less any amount allocable to any merchandise or services already delivered or performed.

Funeral or cemetery contract funded with life insurance and/or annuity. If cancelled within 30 days of the date of purchase, you are entitled to a refund of 100% of the purchase price collected, less any amount allocable to any merchandise and services already delivered or performed. If cancelled after 30 days from the date of purchase, you are entitled to only the cash value of the life insurance policy or annuity, which may be substantially less than the premiums you have paid, less a cancellation fee. The preneed contract will specify the amount of the cancellation fee, but in no event can it exceed 20% of the purchase price collected. You are entitled to the remainder less any amount allocable to any merchandise or services already delivered or performed.

Cemetery contract funded with a trust. If cancelled within 30 days of the date of purchase, you are entitled to a refund of 100% of the purchase price collected. If cancelled after 30 days from the date of purchase, the cemetery is entitled to deduct a cancellation fee. The preneed contract will specify the amount of the cancellation fee, but in no event can it exceed 20% of the purchase price collected. You are entitled to the remainder less any amount allocable to any merchandise and services already delivered or performed.

Can I use my preneed contract at any other funeral home or cemetery?

Funeral homes and cemeteries are not obligated to accept a contract written by another preneed provider or to perform services or provide merchandise at the prices listed in your preneed contract. Check with the other preneed provider to determine the difference in prices.

Can my preneed contract be transferred?

Yes, but only with permission of the provider you are transferring the preneed contract to. The original provider is entitled to deduct the amount allocable to any merchandise and services already delivered and is entitled to a transfer fee not to exceed 20% of the purchase price collected.

Are the proceeds of my life insurance policy and/or annuity contract used to fund my preneed contract taxable?

Life insurance and annuity proceeds are not currently considered taxable income for U. S. Internal Revenue Service purposes. If there are any questions, check with your CPA or attorney.

Can I borrow the cash value of my life insurance policy and/or annuity contract?

If you are the owner of your life insurance policy or annuity contract, you can borrow against the cash value. However the amount of the loan is deducted from the proceeds of the policy upon your death and the amount available at death may not be sufficient to pay the costs of the funeral.

What happens to my preneed contract if I cancel my life insurance and/or annuity used to fund my contract?

The preneed contract will terminate when the insurance policy or annuity contract is cancelled or surrendered. The surrender value may be substantially less than the premiums you have paid.

Can I obtain a copy of my life insurance policy or annuity contract?

Yes, you are entitled to obtain a copy of your life insurance policy or annuity contract without cost.

ADDITIONAL RESOURCES

Federal Trade Commission

CRC-240

Washington, DC 20580

1-877-FTC-HELP (383-4357)

www.ftc.gov/bcp/online/pubs/services/funeral.htm

International Cemetery, Cremation and Funeral Association

107 Carpenter Drive, Suite 100

Sterling, VA 20164

1-800-645-7700

www.icfa.org

AARP

601 E. St., NW

Washington, DC 20049

www.aarp.org

National Funeral Directors Association

13625 Bishops Drive

Brookfield, WI 53005

1-800-228-6332

www.nfda.org

This is a publication of the Alabama Department of Insurance, Preneed Division, Jim Ridling, Commissioner. This guide is intended to assist consumers in making preneed funeral and cemetery arrangements.

For additional copies of this guide, please call (334) 240-4420, or for an electronic version of this guide go to www.aldoi.gov/preneed.