



Ohio Revised Code

Section 4717.32 Contents of certain preneed funeral contracts.

Effective: September 29, 2017

Legislation: House Bill 49 - 132nd General Assembly

(A) Any preneed funeral contract that involves the payment of money or the purchase or assignment of an insurance policy or annuity shall be in writing and shall include all of the following information:

- (1) The name, address, and phone number of the seller and the name and address of the purchaser of the contract, and, if the contract beneficiary is someone other than the purchaser of the contract, the name and address of the contract beneficiary, and if the contract involves the payment of money but not the purchase or assignment of an insurance policy or annuity, the social security number of the purchaser of the contract or if the contract beneficiary is someone other than the purchaser, the social security number of the contract beneficiary;
- (2) A statement of the funeral goods and funeral services purchased, which disclosure may be made by attaching a copy of the completed statement of funeral goods and services selected to the preneed funeral contract;
- (3) A disclosure informing the purchaser whether the contract is either a guaranteed preneed funeral contract or a nonguaranteed preneed funeral contract, and, if the contract is guaranteed only in part, a disclosure specifying the funeral goods or funeral services included in the guarantee;
- (4) If the preneed funeral contract is a guaranteed contract, a disclosure that the seller, in exchange for all of the proceeds of the trust, insurance policy, or annuity, shall provide the funeral goods and funeral services set forth in the preneed funeral contract without regard to the actual cost of such funeral goods and funeral services prevailing at the time of performance and that the seller may receive any excess funds remaining after all expenses for the funeral have been paid.
- (5) If the preneed funeral contract is a nonguaranteed contract, a disclosure that the proceeds of the trust, insurance policy, or annuity shall be applied to the retail prices in effect at the time of the funeral for the funeral goods and funeral services set forth in the contract, that any excess funds



remaining after all expenses for the funeral have been paid shall be paid to the estate of the decedent or the beneficiary named in the life insurance policy if the preneed funeral contract is funded by a life insurance policy, and that, in the event of an insufficiency in funds, the seller shall not be required to perform until payment arrangements satisfactory to the seller have been made.

(6) A disclosure that the purchaser has the right to make the contract irrevocable and that if the preneed funeral contract is irrevocable, the purchaser does not have a right to revoke the contract;

(7) A disclosure informing the purchaser of the initial right to cancel the preneed funeral contract within seven days as provided in division (A) of section 4717.34 of the Revised Code and the right to revoke a revocable preneed funeral contract in accordance with section 4717.35 or division (G) of section 4717.36 of the Revised Code, as applicable;

(8) A disclosure that the seller may substitute funeral goods or funeral services of equal quality, value, and workmanship if those specified in the preneed funeral contract are unavailable at the time of need;

(9) A disclosure that any purchaser of funeral goods and funeral services is entitled to receive price information prior to making that purchase in accordance with the federal trade commission's funeral industry practices revised rule, 16 C.F.R. part 453;

(10) The following notice in boldface print and in substantially the following form:

"NOTICE: Under Ohio law, the person holding the right of disposition of the remains of the individual contract beneficiary pursuant to section 2108.70 or 2108.81 of the Revised Code will have the right to make funeral arrangements inconsistent with the arrangements set forth in this contract. However, the individual contract beneficiary is encouraged to state his or her preferences as to funeral arrangements in a declaration of the right of disposition pursuant to section 2108.72 of the Revised Code, including that the arrangements set forth in this contract shall be followed."

(11) The notice described in division (A) of section 4717.34 of the Revised Code;

(12) A disclosure that any purchaser of funeral goods or funeral services funded in whole or in part



in advance of death under a preneed funeral contract sold by a licensee under this chapter may be eligible for reimbursement of financial losses suffered as a result of malfeasance, misfeasance, default, failure, or insolvency of the licensee.

(B) If a preneed funeral contract is funded by any means other than an insurance policy or policies, or an annuity or annuities, the preneed funeral contract shall include all of the following information in addition to the information required to be included under division (A) of this section:

(1) Disclosures that identify the name and address of the trustee of the preneed funeral contract trust established pursuant to section 4717.36 of the Revised Code, that direct that any payments made by the purchaser of the preneed funeral contract shall be made directly to the trustee identified in the preneed funeral contract, that indicate whether fees, expenses, and taxes will be deducted from the trust, and that identify whether the trust or the purchaser will be responsible for the taxes owed on the trust earnings;

(2) A disclosure explaining the form in which the purchase price must be paid and, if the price is to be paid in installments, a disclosure to the purchaser regarding what constitutes a default under the preneed funeral contract and the consequences of the default;

(3) The following notice in boldface print and in substantially the following form:

"NOTICE: You, as the purchaser of this contract, will be notified in writing when the trustee of this contract has received a deposit of the funds you paid the seller under this contract. If you do not receive that notice within sixty days after the date you paid the funds to the seller, you should contact the trustee identified in the contract."

(4) A disclosure that if a preneed funeral contract stipulates a fixed or firm or guaranteed price for the funeral goods and services provided under the preneed funeral contract whether the seller will charge any initial service fee as permitted by division (B) of section 4717.36 and a cancellation or transfer fee as permitted by division (G)(2), (H), or (J) of section 4717.36 of the Revised Code.

(C) If a preneed funeral contract is funded by the purchase or assignment of one or more insurance policies or annuities, the preneed funeral contract shall include all of the following information in



addition to the information required to be included under division (A) of this section:

- (1) The name and address of each applicable insurance company and any right the purchaser has regarding canceling or transferring the applicable insurance policies or annuities;
- (2) A directive that any payment made by the purchaser of the preneed funeral contract shall be made directly to the insurance company and, if premiums are being paid in installments, a description of the terms of payment for any remaining payments due;
- (3) A list of actions that constitute default under a preneed funeral contract and the consequences of a default;
- (4) The following notice in boldface print and in substantially the following form:

"NOTICE: You, as the purchaser of this contract, will be notified in writing by the insurance company identified in this contract when the insurance policy or policies, or annuity or annuities, that will fund this contract have been issued. If you do not receive the notice within sixty days after the date you paid the funds to the seller, you should contact the insurance company identified in the contract."

(D) The seller of a preneed funeral contract that is funded by the purchase or assignment of one or more insurance policies or annuities does not need to include in the contract the information described in divisions (C)(2) and (3) of this section if those disclosures are provided in the application for a life insurance policy or annuity or in the life insurance policy or annuity.