

PREPAID FUNERAL AND CEMETERY SALES ACT (EXCERPT)
Act 255 of 1986

328.225 Prices or quotations of prices; requirements; exception; manipulation of prices prohibited; provision for revocation of contract; refund; disclosure of right to cancel contract and amount of refund; disclosure of commissions; services requiring mortuary science license or funeral establishment license; construction of act; designation of new contract beneficiary; notice; clear indication of nonguaranteed price contract, actual costs, and obligations.

Sec. 15.

(1) All prices or quotations of prices contained in a prepaid contract, offer, or solicitation shall be stated in compliance with applicable federal and state laws and regulations. In addition, a person who offers either merchandise or funeral or cemetery services on a preneed or at-need basis shall comply with the price disclosure rules of the federal trade commission, code of federal regulations, 16 C.F.R., part 453, whether or not the rules by their own terms apply to the offering. This subsection does not apply to the sale of any interest covered by the endowment care trust requirements of the cemetery regulation act, 1968 PA 251, MCL 456.521 to 456.543.

(2) A person who sells or offers to sell both funeral goods or services and nonfuneral goods or services as part of the same transaction or series of transactions shall not manipulate the relative prices of the goods or services so as to allocate a disproportionate share of the total price to nonfuneral property or services.

(3) All prepaid contracts shall provide that a contract buyer may revoke the prepaid contract within 10 business days after entering into the prepaid contract and that upon revocation, all funds paid to the contract seller or provider shall be refunded. This provision shall be conspicuously set forth in the prepaid contract at a place immediately before the place where the contract buyer is to sign his or her name.

(4) A prepaid contract shall disclose the contract buyer's right to cancel the prepaid contract and the amount of the refund to which the contract buyer or that person's estate is entitled upon cancellation. The disclosure shall be stated substantially as follows:

“This contract may be canceled either before death or after death by the buyer or, if the buyer is deceased, by the person or persons legally authorized to make funeral or cemetery arrangements. If the contract is canceled, the buyer or the buyer's estate is entitled to receive a refund of ____% of the contract price and any income as required by law.”

In addition, if a commission is charged pursuant to section 12, the amount of the commission and the fact that it is a charge which is in addition to the contract price shall be stated in the prepaid funeral contract. If a printed contract form is used, the disclosures required by this subsection shall be stated in boldfaced type.

(5) This act does not authorize a contract seller or provider to perform or offer to perform services for which a mortuary science license or funeral establishment licensed is required by article 18 of the occupational code, 1980 PA 299, MCL 339.1801 to 339.1812, unless that person holds the required license or licenses and does not require a contract seller or a provider to possess this license or any other license to engage in an activity covered under this act for which a license is not required by any other act.

(6) A prepaid contract shall provide that the contract buyer may designate a new contract beneficiary any time before the death of the contract beneficiary originally specified in the prepaid contract by providing written notice to the contract seller of a nonguaranteed price contract or the provider designated to furnish merchandise or funeral or cemetery services pursuant to a guaranteed price contract. Notwithstanding any other provisions of law, a contract buyer may designate the estate of a deceased person as the contract beneficiary, or provide that the contract beneficiary is the first of 2 or more designated persons to die.

(7) A prepaid contract that is a nonguaranteed price contract shall have it indicated clearly on the prepaid contract that it is a nonguaranteed price contract and that the actual costs of the merchandise or funeral or cemetery services delivered at the time of death may be greater or less than the amount of principal and income in the escrow account, and that the buyer, the buyer's estate, or the person or persons legally entitled to make funeral or cemetery arrangements, or both, are not obligated to purchase specific merchandise and services which were selected before the death of the contract beneficiary or to expend a specific amount on merchandise or funeral or cemetery services.

History: 1986, Act 255, Eff. July 1, 1987 ;-- Am. 2004, Act 21, Eff. Jan. 1, 2005

Compiler's Notes: In the first sentence of subsection (5), the phrase “for which a mortuary science license or funeral establishment licensed” evidently should read “for which a mortuary science license or funeral establishment license.” For transfer of powers and duties of certain occupational functions, boards, and commissions from the Department of Licensing and Regulation to the Department of Commerce, see E.R.O. No. 1991-9, compiled at MCL 338.3501 of the Michigan Compiled Laws.