

FINAL REGULATIONS

PART I. GENERAL INFORMATION.

18 VAC 65-30-10. Definitions.

In addition to those defined in § 54.1-2800 of the Code of Virginia, the following words and terms, when used in this chapter shall have the following meanings, unless the context clearly indicates otherwise:

“Appointee” means the individual selected by the contract beneficiary to arrange a preneed funeral plan on behalf of the contract beneficiary.

“Capper”, “steerer”, or “shill” means a person who serves to entice another to purchase a product or to direct the course of action and choice of the buyer in a preneed funeral contract sale.

“Cash advance item” means any item of service or merchandise described to a purchaser as a "cash advance," "accommodation," "cash disbursement," or similar term. A cash advance item is also any item obtained from a third party and paid for by the funeral provider on the behalf of the contract buyer. Cash advance items may include, but are not limited to cemetery or crematory services, pallbearers, public transportation, clergy honoraria, flowers, musicians or singers, nurses, obituary notices, gratuities, and death certificates.

“Consideration”, “contract price”, or “funds” means money, property, or any other thing of value provided to be compensation to a contract seller or contract provider for the funeral services and funeral goods to be performed or furnished under a preneed funeral contract. Consideration does not include late payment penalties and payments required to be made to a governmental agency at the time the contract is entered into.

“Contract” means a written, preneed funeral contract, and all documents pertinent to the terms of the contract under which, for consideration paid to a contract seller or a contract provider by or on behalf of a contract buyer prior to the death of the contract beneficiary, a person promises to furnish, make available, or provide funeral services or funeral goods after the death of a contract beneficiary.

“Contract beneficiary” means the individual for whom the funeral services and supplies are being arranged.

“Contract buyer” means the purchaser of the preneed contract.

“Contract provider” means the funeral establishment designated by the contract buyer and contracting with the contract buyer to provide for funeral services and supplies in the preneed funeral contract.

“Contract seller” means the funeral service licensee who makes the preneed arrangements with the contract buyer for the funeral service and who makes the financial arrangements for the service and the goods and supplies to be provided.

“Designee” means the individual ~~selected by the contract beneficiary to arrange a preneed funeral plan on behalf of the contract beneficiary~~ designated to make arrangements for burial or final disposition of the remains pursuant to § 54.1-2825 of the Code of Virginia.

“Funding source” means the trust agreement, insurance policy, annuity, personal property, or real estate used to fund the preneed plan.

“Funeral supplies and services” means the items of merchandise sold or offered for sale or lease to consumers which will be used in connection with a funeral or an alternative to a funeral or final disposition of human remains including caskets, combination units, and catafalques. Funeral goods does not mean land or interests in land, crypts, lawn crypts, mausoleum crypts, or niches that are sold by a cemetery which complies with § 57-35.11 et seq. of the Code of Virginia. In addition, "funeral supplies and services" does not mean cemetery burial vaults or other outside containers, markers, monuments, urns, and merchandise items used for the purpose of memorializing a decedent and placed on or in proximity to a place of interment or entombment of a casket, catafalque, or vault or to a place of inurnment which are

sold by a cemetery operating in accordance with § 57-35.11 et seq. of the Code of Virginia.

“Guaranteed contract price” means (i) the amount paid by the contract buyer on a preneed funeral contract and income derived from that amount, or (ii) the amount paid by a contract buyer for a life insurance policy or annuity as the funding source and its increasing death benefit. These amounts shall be accepted as payment in full for the preselected funeral goods and services.

“Income” means the amount of gain received in a period of time from investment of consideration paid for a preneed contract.

“Nonguaranteed contract price” means the costs of items on a preneed funeral contract that are not fixed for the specified funeral goods or funeral services selected and Nonguaranteed costs may increase from the date of the contract to the death of the contract beneficiary and the family or estate will be responsible for paying at the time of need for the services and supplies that were nonguaranteed. Cash advance items are not guaranteed.

18 VAC 65-30-80. Content and format.

- A. A person residing or doing business within the Commonwealth shall not make, either directly or indirectly by any means, a preneed contract unless the

contract-buyer has been given in writing all information and disclosures required by law and regulation.

- B. In addition to requirements of § 54.1-2820 of the Code of Virginia, the contract shall contain the following:
1. The date ~~and number~~ of the contract;
 2. Whether or not the price of the supplies and services purchased is guaranteed;
 3. The appointee agreement when applicable; and
 4. Signatures of the contract seller and the contract buyer.
- C. If an appointee agreement has been signed, it shall be attached to the preneed contract as a valid part of the contract.

Certification

I certify that this regulation is full, true, and correctly dated.

Elizabeth Young
Executive Director
Virginia Board of Funeral Directors and Embalmers

Date:_____