

Improve Pre-Paid Funeral Contracts and Funeral Laws

The Sunset Commission has recommended changes to state laws relating to funeral services. We support these recommendations but the legislature should go further.



Few of life's purchases cost three to 15 thousand dollars, and those that do—a car or a home improvement—we often research carefully, collecting bids and comparing service quality before laying down money. But a funeral and burial is less a purchase than a life event, fraught with grief and confusion, for which none of us can be fully prepared.

Unfortunately, a funeral is also an expensive product, and the devastation of a recent death is only compounded if families face “sticker shock” or poor care from a funeral home, monument company, insurer or cemetery. While many families try to ease the stress by pre-paying for a funeral service, under Texas law prepaid funerals do not provide a fair deal for consumers. Many other states have rules governing prepaid funerals that are far fairer

In Short

Pre-need contracts today give consumers a poor return on their long term investment and funeral homes, trusts and insurers may exact steep penalties for cancellation. Funeral homes may even charge interest on time payments although no services have been rendered or goods exchanged.

than Texas law. In Texas, the funeral and burial industries come under the jurisdiction of four separate state agencies, a fragmented bureaucracy that leaves citizens without a clear advocate. We examined nearly 300 consumer complaints related to funeral services (filed from Jan. 1998 to Dec. 1999) and found a pattern of problems in the sale of funeral services, as well as problems with the enforcement of existing laws.

The largest category of complaints, representing almost a third, relate to prepayment arrangements. Consumers often purchase their funeral in advance because the funeral home guarantees the delivery of a funeral service many years in the future at today's prices.

But trust-backed prepaid contracts give the funeral home all of the interest earnings plus a 10 percent penalty if a consumer wants to change or cancel the service.

Insurance backed pre-need contracts sometimes require the buyer to pay substantially more over time than the cost of today's funeral, and refunds can be quite small. Nearly 20 percent of complaints related to requests for refunds on cancelled or changed pre-need policies.

Almost 15 percent of complaints were sent to the wrong state agency or are beyond the purview of any agency. Each of these agencies has different policies and procedures with respect to complaints, and interagency cooperation is poor.

Other categories of complaints relate to services provided by funeral homes.

These included: mishandled bodies, damaged or incorrect coffins and failure to file a death certificate in a timely manner; monument companies, which are not regulated; the price of the funeral, particularly the high

cost of the non-declinable “Basic Services” fee; and cemeteries, including run down cemetery conditions and misplaced bodies.

Recommendations

Reform prepaid laws to ensure consumer value for the money invested and contract portability

- Guarantee consumers who cancel a pre-paid contract receive the full value of their investment, including accumulated interest earnings, less a nominal administrative fee. At death, require funeral homes to refund any excess earnings to the deceased's family or estate.

- Standardize pre-need contracts and provide for reasonable consumer modification of funeral services at need without penalty.

- Restore prohibition against finance charges for the time purchase of funeral-related products and services that will not be delivered at the time of purchase.

The Texas Sunset Commission recommended restoring the prohibition against finance charges, and that funeral homes and consumers split any excess accumulated earnings in consumers' prepaid trust accounts. We urge legislators to go further.

Consolidate funeral regulation into a single agency designed to assure regulation of all funeral services, pre-need services. The agency should provide accessible consumer information regarding complaints, inspections and prices.

The Texas Sunset Commission recommended that the funeral service commission be monitored for the next two years. We recommend that an interim study on the feasibility of consolidating funeral regulation be done during that time.