



Ohio Revised Code

Section 4717.31 Who may sell certain preneed funeral contracts.

Effective: October 16, 2009

Legislation: House Bill 1 - 128th General Assembly

(A) Only a funeral director licensed pursuant to this chapter may sell a preneed funeral contract that includes funeral services. Sections 4717.31 to 4717.38 of the Revised Code do not prohibit a person who is not a licensed funeral director from selling funeral goods pursuant to a preneed funeral contract; however, when a seller sells funeral goods pursuant to a preneed funeral contract, that seller shall comply with those sections unless the seller is specifically exempt from compliance under section 4717.38 of the Revised Code.

(B) An insurance agent licensed pursuant to Chapter 3905. of the Revised Code may sell, solicit, or negotiate the sale of an insurance policy or annuity that will be used to fund a preneed funeral contract, but in so doing the insurance agent may not offer advice or make recommendations about funeral services and may not discuss the advantages or disadvantages of any funeral service. In selling, soliciting, or negotiating the sale of an insurance policy or annuity that will be used to fund a preneed funeral contract, the insurance agent may do any of the following:

- (1) Provide the person purchasing the insurance policy or annuity with price lists from one or more funeral homes and other materials that may assist the person in determining the cost of funeral goods and services;
- (2) Discuss the cost of funeral goods and services with the person in order to assist the person in selecting the appropriate amount of life insurance or annuity coverage;
- (3) Complete a worksheet or other record to calculate the estimated cost of a funeral.

(C) Activities conducted pursuant to division (B) of this section by an insurance agent licensed pursuant to Chapter 3905. of the Revised Code do not constitute funeral directing, funeral arranging, the business of directing and supervising funerals for profit, or the sale of a preneed funeral contract.



(D) No seller shall fail to comply with the requirements and duties specified in this section and sections 4717.32 to 4717.38 of the Revised Code.

(E) No trustee of a preneed funeral contract trust shall fail to comply with sections 4717.33, 4717.34, 4717.36, and 4717.37 of the Revised Code.

(F) No insurance agent or insurance company that sells or offers life insurance policies or annuities used to fund a preneed funeral contract shall fail to comply with this section and sections 4717.33, 4717.34, 4717.35, and 4717.37 of the Revised Code. To the extent this section and sections 4717.33, 4717.34, 4717.35, and 4717.37 of the Revised Code apply to insurance companies or insurance agents, those sections constitute laws of this state relating to insurance for purposes of sections 3901.03 and 3901.04 of the Revised Code and the superintendent of insurance shall enforce those sections with respect to insurance companies and insurance agents. The superintendent may adopt rules in accordance with Chapter 119. of the Revised Code for purposes of administering and enforcing this section and sections 4717.33, 4717.34, 4717.35, and 4717.37 of the Revised Code as those sections apply to insurance companies or insurance agents.

(G) A preneed funeral contract may be funded by the purchase or assignment of an insurance policy or annuity in accordance with section 3905.45 of the Revised Code. A preneed funeral contract that is funded by the purchase or assignment of an insurance policy or annuity in accordance with section 3905.45 of the Revised Code is not subject to section 4717.36 of the Revised Code.

(H) The board of embalmers and funeral directors shall administer and enforce the provisions of sections 4717.31 to 4717.38 of the Revised Code concerning the requirements for and sale of preneed funeral contracts. The superintendent of insurance shall enforce sections 4717.31, 4717.33, 4717.34, 4717.35, and 4717.37 of the Revised Code to the extent those sections apply to insurance companies and insurance agents. Payments from a trust, insurance policy, or annuity, including any fraudulent activities in which a person engages to obtain payments from a trust, insurance policy, or annuity, shall be regulated in accordance with Chapter 1111. or Title XXXIX of the Revised Code, as applicable.

(I) Except as provided in division (K) of this section, a seller of a preneed funeral contract that is funded by insurance or otherwise annually shall submit to the board the reports the board requires



pursuant to division (J) of this section.

(J) Except as provided in division (K) of this section, the board shall adopt rules specifying the procedures and requirements for annual reporting of the sales of all preneed funeral contracts sold by every seller who is subject to sections 4717.31 to 4717.38 of the Revised Code.

(K) A cemetery company or cemetery association that sells merchandise or services pursuant to a preneed cemetery merchandise and services contract and that also sells funeral goods pursuant to a preneed funeral contract shall be deemed to have met the requirements in divisions (I) and (J) of this section by submitting the annual preneed funeral contract report to the division of real estate of the department of commerce along with or as part of the annual cemetery merchandise and services contract affidavit required under division (F)(1) of section 1721.211 of the Revised Code.