



Republic of the Philippines
Department of Finance
INSURANCE COMMISSION
1071 United Nations Avenue
Manila



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CIRCULAR LETTER

TO : ALL PRE-NEED COMPANIES DOING BUSINESS IN THE PHILIPPINES

SUBJECT : GUIDELINES ON ELECTRONIC COMMERCE OF PRE-NEED PRODUCTS

WHEREAS, Republic Act No. 9829, otherwise known as the “Pre-Need Code of the Philippines”, vested the Insurance Commission with the primary and exclusive supervision and regulation over all pre-need companies;

WHEREAS, Republic Act No. 8792, otherwise known as the “Electronic Commerce Act of 2000”, applies to any kind of data message and electronic document used in the context of commercial and non-commercial activities to include dealings, transactions, arrangements, agreements, contracts, and exchanges and storage of information;

WHEREAS, the selling and issuance of the pre-need product through electronic form may offer consumers new and substantial benefits, convenience, and access to a wide range of pre-need products and services;

WHEREAS, considering that the ease and speed with which pre-need companies can communicate information about pre-need products and services by electronic media may create commercial situations which are unfamiliar to consumers and which may put the interests of the latter at risk, it becomes increasingly important for consumers and pre-need companies to be informed and aware of their rights and obligations in the electronic marketplace;

WHEREAS, the distribution of pre-need products via the internet offers many advantages for pre-need companies, such as increased penetration of new markets and lower costs as compared to conventional distribution methods;

WHEREAS, consumer confidence in electronic commerce is enhanced by the continued development of transparent and effective consumer protection mechanisms that limit the occurrence of fraudulent, misleading or unfair commercial conduct online;

NOW, THEREFORE, pursuant to the powers vested in the Insurance Commission by Section 6(k) of the Pre-Need Code, the following *Guidelines on Electronic Commerce of Pre-Need Products* are hereby adopted promulgated:

1. TITLE

These Guidelines shall be called the "Guidelines on Electronic Commerce of Pre-need Products"

2. DEFINITIONS

2.1. In these Guidelines, unless the context otherwise requires, the following terms have the following meaning:

- (a) **Consumer** - an individual or entity who engages in commercial activity for the purpose of securing pre-need products or to act as a planholder in a pre-need contract.
- (b) **Commission** - Insurance Commission of the Philippines.
- (c) **Electronic commerce** - a commercial activity that involves buying, selling, or providing pre-need products and services online or via the internet
- (d) **Pre-need products** - refers to contracts, agreements, deeds or plans for the benefit of the planholders which provide for the performance of future service/s, payment of monetary considerations or delivery of other benefits at the time of actual need or agreed maturity date, as specified therein, in exchange for cash or instalment amounts with or without interest or insurance coverage and includes life, pension, education, interment and other plans, instruments, contracts or deeds as may in the future be determined by the Commission.
- (e) **Pre-need company** - refers to a licensed entity, as defined in Section 4 (d) of the Pre-need Code, engaging in electronic commerce directly with consumers for the issuance of a pre-need contract or to provide pre-need services. It may include licensed general agents as may be authorized by the pre-need company to conduct electronic commerce of its pre-need products.
- (f) **Personal information** - any information that can be used on its own or with other information to identify, contact, or locate an individual or person.
- (g) **Transaction** - any agreement between a pre-need company and a consumer in relation to the provision of pre-need product.

3. APPLICABILITY

These Guidelines shall apply to pre-need companies engaging in electronic commerce of pre-need products.

4. PRINCIPLES

4.1. These Guidelines are based on, and seeks to attain, the following principles of good business practice for pre-need companies engaging in electronic commerce with consumers:

- (a) Consumers who participate in electronic commerce shall be afforded a level of transparent and effective consumer protection that is not less than that afforded in other forms of commerce.
- (b) Pre-need companies engaged in electronic commerce of pre-need products shall pay due regard to the interests of consumers and act in accordance with fair business, advertising and marketing practices.
- (c) Pre-need companies engaged in electronic commerce with consumers shall provide accurate, clear and easily accessible information about themselves sufficient to allow, at a minimum:
 - 1) Identification of the pre-need company
 - 2) Prompt, convenient and effective consumer communication with the pre-need company
 - 3) Appropriate and effective modes of dispute resolution;
 - 4) Service of legal process; and
 - 5) Location of the business and its principals by law enforcement and regulatory officials.
- (d) Where a pre-need company publicizes its membership in any relevant self-regulatory body, business association, dispute resolution organization or other certification body, the pre-need company shall provide consumers with appropriate contact details and an easy method of verifying that membership and of accessing the relevant codes and practices of the certification body.
- (e) Pre-need companies engaged in electronic commerce with consumers shall provide accurate and easily accessible information describing the pre-need product or services offered; sufficient to enable consumers to make an informed decision about whether to enter into the transaction and in a manner that makes it possible for consumers to maintain an adequate record of such information.
- (f) Pre-need companies engaged in electronic commerce shall provide sufficient information about the terms, conditions and costs associated with a transaction to enable consumers to make an informed decision whether or not to enter into the transaction.

- (g) To avoid ambiguity concerning the consumer's intent to make a purchase, the consumer should be able, before concluding the purchase, to:
- 1) identify precisely the pre-need products the consumer wishes to purchase;
 - 2) identify and correct any errors or modify the order, express an informed and deliberate consent to the purchase; and
 - 3) retain a complete and accurate record of the transaction.
- (h) Consumers should be provided with easy-to-use, secure payment mechanisms and information on the level of security such mechanisms afford.
- (i) The Commission, pre-need companies, consumer representatives and other relevant organizations should work together to educate consumers about electronic commerce, to foster informed decision making by consumers participating in electronic commerce, and to promote consumer awareness of the consumer protection framework that applies to their online activities.

5. INFORMATION ON THE WEBSITE

- 5.1. Pre-need companies shall provide consumers with sufficient information to make an informed choice about whether and how to complete a transaction. All information which the pre-need company is required to provide pursuant to these Guidelines must be:
- (a) clearly presented in plain language;
 - (b) truthful;
 - (c) conspicuous and easily accessible on the pre-need companies' websites at appropriate stages of consumers' decision making, especially before consumers confirm transactions or provide any personal information; and
 - (d) capable of being saved or printed by consumers.
- 5.2. Pre-need companies shall ensure that their marketing practices, information and links on their web sites are current, accurate and not deceptive or misleading to consumers, and that all objective claims can be substantiated.
- 5.3. Pre-need companies shall identify themselves on their websites and provide information about their policies, including to whom consumers should direct claims, ask questions, register complaints, and obtain support related to the pre-need contract or services available through the sites. The information that should be available to consumers before they engage in transactions shall include:
- (a) The pre-need company's legal name and the name(s) under which the pre-need company conducts its business;

- (b) The address, telephone and fax numbers, and e-mail address of the pre-need company's principal office and, when applicable, of local offices, branches and/or agents;
- (c) Any geographic, age, or other similar restrictions on transactions;
- (d) The currency used by the pre-need company to quote the price and the payment methods and currencies the pre-need company accepts;
- (e) A statement that the pre-need company is registered with the Commission, including its license/registration number and lines of business;
- (f) Contact information for consumer complaint, service and support, including days and hours of operation, when applicable, and any associated charges;
- (g) Details of the pre-need company's complaints process and a link to the Commission's website;
- (h) The pre-need company's policies on privacy and unsolicited e-mail; and
- (i) Contact information for any seal or other self-regulatory programs or applicable dispute resolution processes in which the pre-need company participates, and, whenever possible, an online method of verifying its certification or membership.

6. LANGUAGE

6.1. When a pre-need company offers a pre-need product or service on its web sites in a given language, the pre-need company shall use that language to:

- (a) Provide all of its material information about the pre-need product or service, the pre-need company, the pre-need company's relevant policies, and the terms and conditions of the transaction and all other material information described in Section 5.3;
- (b) Conduct online transactions regarding the pre-need product or service; and
- (c) Provide customer service regarding the pre-need product or service.

6.2. The pre-need company may explain the terms and conditions of the pre-need contract and other services in the contract implementation in the local dialect of the planholder.

7. CONTRACT FORMATION AND EXECUTION

7.1. Pre-need companies shall take deliberate and pro-active steps to ensure that consumers are well-informed about the pre-need product and in agreement with the provisions of the contract.

In particular, consumers shall be provided with a meaningful opportunity to correct or cancel the transaction or application before it is accepted and processed. Likewise, all contracts issued through Electronic Commerce shall be required to have a free-look period of not less than fifteen (15) days.

A free-look period refers to the number of days provided in the contract pursuant to this Circular, which starts from the time of the receipt of the contract by the planholder until the last day of the period provided herein, that the consumer may return or cancel the contract, and if ever payment was made, the amount paid as gross contract price or instalment amount shall be returned in full to the consumer. The free-look period is intended for those who disagree with the contract conditions after receiving it.

7.2. Pre-need companies shall make information available about the pre-need product for sale in order that consumers can see it before they initiate transactions. The information shall include:

- (a) Main characteristics of the product, including the benefits and services covered;
- (b) Terms and conditions of coverage including insurance benefits, if any;
- (c) The gross contract price, instalment amount and other charges that the consumer will have to pay (including all applicable taxes) and payment period;
- (d) Exclusions and limitations associated with the product, if any;
- (e) Special provisions such as transferability and/or assignability;
- (f) The consumer's right to cancel the contract including his/her right to free look, as well as the duration of the cancellation period and procedures for exercising that right; and
- (g) Any time limit on the validity of the information provided.

7.3. Prior to the conclusion of transactions, pre-need companies shall ensure that all terms and conditions related to the transactions are available to consumers. Such information shall include:

- (a) A description of the pre-need product or services;
- (b) The full price to consumers, including:
 - 1) The applicable currency; and
 - 2) Any delivery charges, taxes, and specific reference to any other charges that the pre-need company is responsible for collecting provided that, when the pre-need company cannot reasonably