

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

THIRTEENTH CONGRESS

First Regular Session

House Bill No. 2392

Introduced by REP. BENJAMIN DC. ABALOS, JR.

EXPLANATORY NOTE

For most Filipinos, securing a future need is a common outlook, more particularly for the welfare of one's family.

Pre-need Plan seek to address these future needs and contingencies. It is defined by Section 16 of the Securities Regulation Code as "contracts which provide for the performance of future service/s or payment of future monetary consideration at the time of actual need, payable either in cash or installment by planholders at prices stated in the contract with or without interest or insurance coverage and includes life, pension, education, interment, and other plans which the Commission may from time to time approve."

On the surface, the idea of securing an individual's future needs while he/she is still capable of working or while the income is still stable---appears to be noble. However, in the light of the upsurge of pre-need plans (since its inception in 1966), issues and doubts filled the air concerning the evasion and non-performance of obligations by the pre-need companies. Issues such as: *effect of unpaid installments, the length of period to pay accrued installments or reinstatement of a pre-need plan, the minimum termination value of planholders, prompt payment of matured contracts, and effect of an insolvency of the pre-need company*---continues to hound and victimize planholders.

While the planholder pays the pre-need company for future services to be rendered, he/she is already surrendering hard-earned money for services promised in the contract. There are no explicit statements of the company's liabilities with regard to the payments already given by the planholder.

This proposed legislation seeks to provide protection to planholders and their hard-earned money invested on pre-need plans. As a policy declared in this measure, the State shall regulate the operation of pre-need companies to ensure the delivery of benefits guaranteed to planholders, and to prevent practices prejudicial to public interests and rights of the planholders.

In the interest of the Filipino people, immediate approval of this bill is earnestly sought.


BENJAMIN DC. ABALOS, JR.

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

THIRTEENTH CONGRESS

First Regular Session

House Bill No. 2392

Introduced by REP. BENJAMIN DC. ABALOS, JR.

AN ACT
PROVIDING PROTECTION TO PRE-NEED PLANHOLDERS AND
SAFEGUARDING THEIR RIGHTS, AND PROVIDING PENALTIES FOR
VIOLATION THEREOF, AND FOR OTHER PURPOSES

Be it enacted by the Senate and the House of Representatives of the Philippines in Congress assembled:

Sec. 1. Short Title - This Act shall be known as the "Pre-Need Planholders' Protection and Welfare Act".

Sec. 2. Declaration of Policy. – It is hereby declared as the policy of the State to regulate the operation of pre-need companies to ensure the delivery of benefits guaranteed to planholders, and to prevent practices prejudicial to public interests and rights of the planholders.

Sec. 3. Approval of Contract Forms – No pre-need contracts or certificates shall be issued or delivered within the Philippines unless in the form previously approved by the Insurance Commission (hereafter referred to as the Commission).

Sec. 4. Disclosures to Prospective Pre-Need Planholders – No registered pre-need plans shall be sold to prospective planholders unless an Information Brochure, which contains the information as prescribed by the Commission, has been provided to the pre-need plan purchaser.

The Information Brochure shall contain the following information:

- (a) Details on what the planholder may avail in case of a default or reinstatement period;
- (b) The period within which the planholder may reinstate his lapsed plan and the conditions of the same;
- (c) The rates of return of investment for scheduled benefit plans and illustrative yields for contingent benefit plans; and
- (d) Other information that the Commission shall require as provided in the Implementing Rules and Regulation of this Act.

Sec. 5. Default; Reinstatement Period – (i) The pre-need company must provide in all contracts issued to planholders, a grace period of at least four (4) months within which to pay accrued installments to be counted from the due date of the unpaid installment.

(ii) The plan holder shall be allowed a period of not less than two (2) years within which to reinstate his plan. No cancellation or nullification of plans shall be made by the pre-need company during such period when reinstatement may be effected.

(iii) The pre-need company shall provide written notice to the planholder that his plan will lapse if no payment is received within the grace period or that his plan will be cancelled/nullified if not reinstated within the reinstatement period. Such notice shall be given prior to the expiration of the grace period or the reinstatement period, as the case may be.

(iv) Failure to provide the required notice shall preclude the pre-need company from treating the plan as lapsed or cancelled, as the case may be.

Sec. 6. Unfair Claims Settlement Practices – No pre-need company shall refuse, without just cause, to pay or settle claims arising under coverage provided by its plans, nor shall any such company engage in unfair claim settlement practices. Any of the following acts by a pre-need company shall constitute unfair claims settlement practices:

(a) Knowingly misrepresenting to claimants pertinent facts or plan provisions relating to coverage;

(b) Failing to acknowledge with reasonable promptness pertinent communications with respect to claims arising under its plan;

(c) Failing to adopt and implement reasonable standards for the prompt investigation of claims arising under its plan; and

(d) Failure to effectuate prompt, fair and equitable settlement of claims submitted by a planholder.

Sec. 7. Payment of Plan Proceeds – The proceeds of the plan shall be paid immediately upon maturity of the policy, unless such proceeds are made payable in installments or as an annuity, in which case the installments or annuities shall be paid as they become due. Refusal or failure to pay the claim within fifteen (15) days from maturity or due date will entitle the beneficiary to collect interest on the proceeds of the plan for the duration of the delay at the rate twice the legal interest unless such failure or refusal to pay is based on the ground that the claim is fraudulent.

Sec. 8. Jurisdiction - The Commission shall have jurisdiction to hear and decide cases involving claims arising from any loss, damage or liability for which a pre-need company may be answerable under the pre-need contract.

In case of any litigation for the enforcement of any pre-need contract, it shall be the duty of the Commission to make a finding as to whether the claim of the planholder has been unreasonably denied or withheld. In the affirmative case, the pre-need company shall be adjudged to pay damages which shall consist of attorney's fees and other expenses incurred by the plan holder or his beneficiary by reason of such unreasonable denial or withholding of payment plus interest on the amount of the claim due the plan holder or his beneficiary, from the date the claim is filed until it is fully satisfied.

Sec. 9. Penalties – Any person, natural or juridical, subject to supervision and control of the Commission by virtue of this Act, who violates any provision of this Act or rules issued for the implementation hereof, shall be deemed guilty of a penal offense, and upon conviction, shall be punished by a fine of not less than Fifty thousand pesos (P50,000.00) nor more than Five million pesos (P5,000,000.00) or an imprisonment of not less than seven (7) years nor more than twenty-one (21) years, or both, upon the discretion of the court.

Should the offense be committed by a juridical person, the penalty shall be imposed on such juridical entity and upon the officer or officers of the juridical entity responsible for the violation.

Sec. 10. Repealing Clause. - All acts, decrees, orders, executive orders, instructions, rules and regulations or parts thereof inconsistent with the provisions of this Act hereby repealed or modified accordingly.

Sec. 11. Effectivity Clause. - This Act shall take effect fifteen (15) days after its publication in two (2) national newspapers of general circulation. The publication shall not be later than seven (7) days after approval hereof.

Approved,