

5. Estate Planning

Pre-Need Burial and Funeral Contracts

Jamal told his daughter that he had prepaid for his funeral and his burial and the contracts would take care of everything. When he died, however, his daughter found out that neither contract paid for interment, which cost an additional \$795 for the grave site alone.

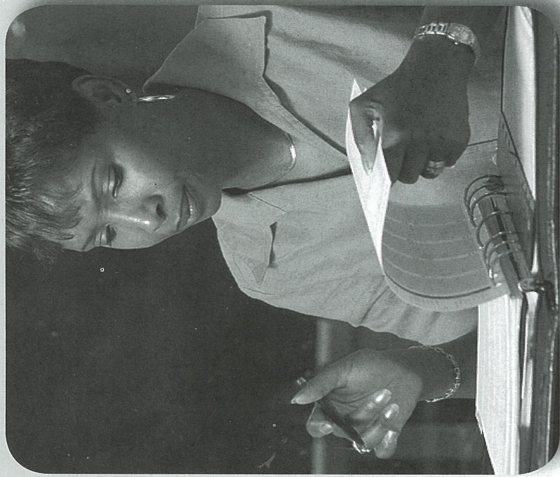
Many people today choose to plan ahead for funerals and other final arrangements, making informed decisions in advance about burial and cremation and memorials. Many also put aside the funds to pay for these arrangements in a variety of fiscal instruments - trusts, insurance, and other accounts.

But more and more Michigan consumers, especially the elderly, are receiving direct mail and telemarketing calls from sellers of pre-need funeral goods - cemetery lots, urns, and caskets - and are pressed to pay in advance for goods and services they may not need or use in the future.

Michigan's Prepaid Funeral Contract Funding

Act permits anyone to sell funeral goods and services on a pre-arranged basis, as long as they register as a seller with the State of Michigan. The providers of these goods and services are not all the same. For instance, funeral directors in Michigan are tested, regulated, and inspected by the state. Pre-need sellers do not have to be similarly licensed. If you decide you would like to pay in advance for funeral goods and services, make sure your money is safe and will be there when the need arises. Laws safeguarding your money may vary based upon the funeral goods or services being sold.

Consumers are encouraged by the Attorney General's office to obtain a written explanation of exactly how their money is protected in each transaction, and importantly, whether the



pre-need contract is guaranteed, revocable, refundable, transferable, and portable.

The Attorney General's Office, the Federal Trade Commission, AARP, ABC News and Consumer Reports have each done recent investigations into the sale of funeral goods and services. Consumers are entitled to good information upon which to base sensible decisions about funerals before or when the need arises. But they should not be pressured to pay in advance for merchandise or services they may not need. Nor should they be targeted for high-pressure marketing and sales schemes. The Federal Trade Commission's publication "*Funerals: A Consumer Guide*" details the requirements of federal law and provides a more comprehensive overview. The publication is available from the FTC by calling 1-877-382-4357; TDD: 1-202-326-2502 or online at: www.ftc.gov.

Before signing any pre-need contract or paying for anything in advance, consumers should consider the following questions:

- What are you are paying for? Are you buying only merchandise, like a casket and vault, or are you purchasing funeral services as well? Who will eventually provide the services and merchandise you are purchasing?

- Who are you dealing with? A licensed funeral director? A cemetery sales person? A commissioned pre-need seller? Who owns the firm? How long have they been in business?

- What happens to the money you've prepaid?

- What happens to the interest income on money that is prepaid and put into a trust account?

- Are you protected if the firm you dealt with goes out of business?

- Can you cancel the contract and get a full refund if you change your mind?

- What happens if you move to a different area or die while away from home? Some prepaid funeral plans can be transferred, but often at an added cost.

- Are these arrangements portable, transferable, and refundable without penalty?
- Have you consulted your family, your religious, spiritual, and financial advisors?

- Are you feeling "pressured" or hurried to make these arrangements or buy something before you really need it? If so, by whom?



Another resource you may wish to contact includes:

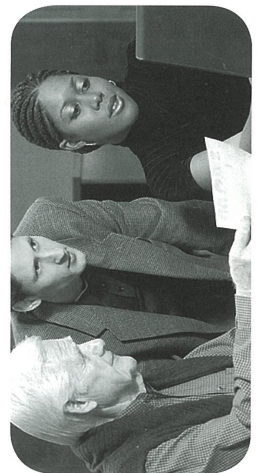
AARP Fulfillment
601 E Street, NW
Washington, DC 20049
1-800-424-3410
www.aarp.org

AARP is a nonprofit, nonpartisan organization dedicated to helping older Americans achieve lives of independence, dignity and purpose. Its publication, "Preplanning Your Funeral Arrangements," is available free online or by contacting **AARP**.

Living Trusts

Victoria went to a seminar on living trusts. The speaker said a living trust was a way to avoid the high cost of probate, which he said would eat up a third of her estate. She paid \$1,500 for a living trust package. However, she did not understand that she had to personally transfer all of her property to the trust. She missed doing the paperwork on some items, so when she died her estate had to go through probate anyway. As it turned out, the probate fee was only \$500.

In recent years, for-profit companies have aggressively promoted the sale of living trusts to seniors. They play on people's fears and misconceptions about probate and estate taxes, and promote living trusts as a suitable estate-planning tool for everyone. Probate is a legal process that oversees the transfer of property from a deceased person's estate to the beneficiaries. However, a living trust is NOT suitable for everyone's situation and living trust packages marketed at seminars, by postcard, and on the Internet are usually a waste of money. A living trust lets you direct how property you place in the trust will be distributed after your death. It allows your trust property to pass to your beneficiaries without going through the probate process. Living trusts can be useful if a person owns real estate in more than one state, anticipates that his or her will might be contested, or wants to have someone else manage his or her current assets. However, living trusts are not the best estate planning choice for most people in most circumstances.



Also, living trusts marketed by salespeople may use pre-packaged forms that are not tailored to the consumer's individual circumstances, and may not comply with Michigan laws and regulations. These salespeople often:

- Greatly exaggerate the cost and delay of probating a will. In fact, Michigan's probate process is relatively uncomplicated. Michigan has a streamlined procedure for small estates, and permits a less burdensome probate administration when the beneficiaries consist only of the decedent's spouse, children, or a personal representative.
- Falsely claim that a living trust will cost less than probate. In Michigan, probate fees are modest.
- Sell trust documents that are not drafted by attorneys or are written by attorneys who are not licensed in the consumer's state.
- Do not tell consumers that they must transfer all of their assets to the trust, or the estate will have to go through probate anyway.

The bottom line? A subject as important as estate planning should be discussed with professional counsel, not with a salesperson. Don't buy a living trust package that may not be valid and may be just a waste of money. To determine if a living trust is right for you, consult an attorney who is admitted to practice law in Michigan and who specializes in estates and trusts.

For more information:

The American Association of Retired Persons (AARP) offers the publication, "A Consumer's Guide to Living Trusts and Wills." See the AARP website at www.aarp.org.

The Legal Hotline for Michigan Seniors provides free legal advice to any Michigan resident age 60 or older. To reach the Legal Hotline for Michigan Seniors, call 1-800-347-5297.

6. Identity Theft

ID Theft – Tips to Reduce Your Risk

Ichiro received a phone call from an auto finance company that said it was going to repossess his truck. Ichiro did not own a truck. He found out that someone using his name and Social Security number had applied for a car loan and had never made the payments. He also found out this same stranger had opened up two credit accounts in Ichiro's name and charged thousands of dollars.

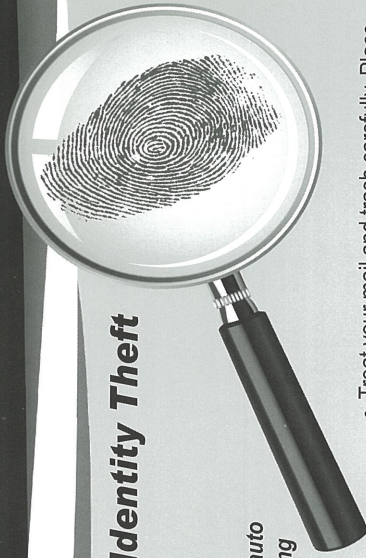
When someone else uses your name, Social Security number, bank account number, credit card number, or any other personal identifying information to commit fraud, it's called identity theft. The impostor may open credit accounts, get a driver's license, or rent an apartment in your name, and wreak havoc with your finances. An identity thief may even rack up criminal charges or declare bankruptcy in your name.

You should suspect identity theft if: you receive a letter from a bank or creditor confirming your recent change of address—and you haven't moved; you receive a call or letter stating that you have been approved or denied credit for which you never applied; or a collection agency says it is trying to collect on an account that you didn't open.

To reduce your vulnerability of becoming a victim of identity theft:

- Don't give personal information over the phone, through the mail, or on the Internet unless you've initiated the contact. Thieves lie to trick you into disclosing information. Don't hesitate to end the communication and if necessary follow-up at a number or address you know to be accurate (i.e., the number you find in the phone book or on your billing statement).

- Treat your mail and trash carefully. Place outgoing mail in a secure collection box and promptly remove mail from your mailbox.
- Tear or shred private records including charge receipts, credit applications, insurance forms, physician statements, checks and bank statements, expired charge cards that you're discarding, and credit offers. Also shred anything that has your Social Security number or an account number.
- Stop mail credit offers by calling toll-free 1-888-567-8688 or visiting www.optoutprescreen.com. You will be asked to provide your Social Security number so the consumer reporting companies can match your request with your file. These systems are automated, so you won't be able to speak to an operator when you call.
- Carefully and promptly review statements and bills for unauthorized charges or fraudulent use. Make a written report of any problems.
- Don't carry your Social Security card or number; instead leave it in a secure place.
- Don't leave personal information where others can see it, particularly if you have roommates, employ outside help, or are having work done in your home.
- If you need to order check refills, instead of having your checks mailed to you, pick them up at your bank or credit union.
- Limit the information on personal checks. Your middle name, phone number, Social Security number and driver's license number do not have to be on your checks.



- Keep a secure master list or photocopies of all important identification and account numbers – driver's license, Social Security card, credit cards, bank and utility account numbers, expiration dates, and the phone numbers of the customer service fraud departments of your card issuers. Keep in a safe place – but not your purse, wallet, or a car – so that you can respond quickly in case your identification is lost or stolen.

- Check your credit reports every four months. Use the form attached at Appendix A if you wish to do so by mail. You may also order reports by phone at 1-877-322-8228, or online at www.annualcreditreport.com. You are entitled to one free report from each of the three credit reporting agencies each year. Remember to request that only the last four digits of your Social Security number appear on your report.

- If you do not think you will need to apply for credit in the near future, you may also wish to consider adding a "security freeze" to your credit reports. A "security freeze" essentially locks, or freezes, your credit reports – that means that potential creditors and other third parties will not be able to get access to your credit report unless you temporarily lift the freeze. For more information on how to place security freezes on your credit reports, please see the Attorney General's consumer alert entitled "Security Freeze Information for Michigan Consumers," available at www.michigan.gov/ag.

if you discover that someone is using your identity fraudulently, immediately report it to one of the consumer reporting companies: Equifax: 1-800-846-5279; Experian 1-888-397-3742; or TransUnion: 1-800-680-7289. The company you call is required to contact the other two companies. Also close the accounts that have been tampered with or opened fraudulently, and file a report with your local police. These and other steps are detailed in the Federal Trade

Commission's publication, "Take Charge: Fighting Back Against Identity Theft" available at www.ftc.gov/idtheft.



How to Reduce Telemarketing Calls and Junk Mail

Tired of annoying telemarketing calls and junk mail filling your mailbox? Take the following steps to reduce your interruptions.

To reduce telemarketing calls:

- The Federal Trade Commission (FTC) has made it easier for consumers to block telemarketers with the National Do Not Call Registry. This program allows consumers to register their phone numbers and be placed on a national list of numbers that telemarketing companies are not allowed to call. To register by phone, call 1-888-382-1222, or online at www.donotcall.gov. Consumers DO NOT need to reregister their phone numbers – registrations will not expire. If a company tries to contact you after the initial 31 day registration period, consumers may file a complaint at 1-888-382-1222.

More Help

Get more ideas on how to stop junk mail and telemarketing by visiting www.michigan.gov/ag

Read more about your rights under the Telephone Customer Protection Act at the Federal Communications Commission website, www.fcc.gov/cib/.

For more information on how to avoid telemarketing fraud visit the Federal Trade Commission website, www.ftc.gov.

The FTC's Telemarketing Sales Rule helps protect you from abusive and deceptive telephone sales practices. The rule restricts calling times to the hours between 8 a.m. and 9 p.m., and puts other limits on telemarketers, too. For example:

- Telemarketers must tell you it's a sales call, the name of the seller, and what they're selling before they make their pitch.
- It's illegal for telemarketers to lie about their goods or services, earnings potential, profitability, risk or liquidity of an investment, or the nature of a prize in a prize-promotion scheme.
- Before you pay, telemarketers must tell you the total cost of the goods they're selling, any restrictions on receiving or using them, and if a sale is final or non-refundable. In a prize promotion, they must tell you the odds of winning, that no purchase or payment is necessary to win, and any restrictions or conditions on receiving the prize.
- It's illegal for a telemarketer to withdraw money from your checking account without your expressed, verifiable authorization.
- It's illegal for a telemarketer to call you if you have asked not to be called.

- When you get a telemarketing call, simply say "Put me on your 'do not call' list." The federal Telephone Consumer Protection Act of 1991 requires companies to keep this list. Your request must be honored for five years.
- Get an unlisted number.

To reduce junk mail:

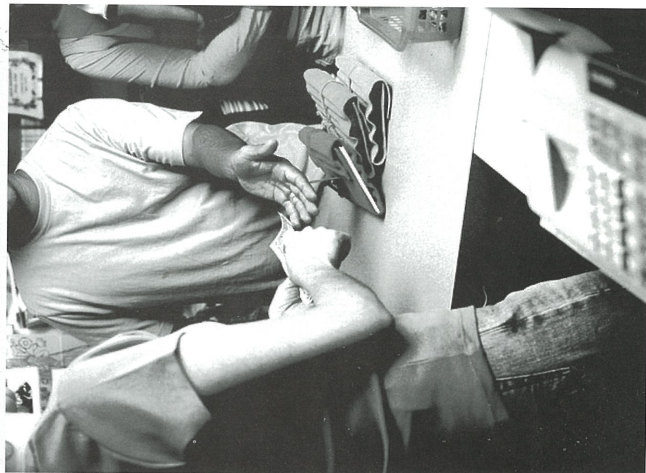
- Register with the Direct Marketing Association's Mail Preference Service to get off many national mailing lists. Register online (www.dmchoice.org) or complete the form in Appendix A and send it along with \$1 check or money order payable to the DMA (instructions included on form). Your registration is good for three years.
- Tell the credit reporting agencies that you don't want to receive pre-approved offers of credit. Those credit card offers that come in the mail are from companies who get your name and address from one of the credit reporting agencies. Call toll-free: 1-888-567-8688. You may also visit www.optoutprescreen.com. You may choose to opt out for five years, or permanently. You can also call the same number or visit the same website to opt back in.
- Tell magazines to which you subscribe, and charities to which you donate, that you don't want them to share your name with other businesses or charities. Request the same from mail order companies.
- Read the privacy policies of your credit card companies and banks. The policies must give you an "opt-out" option, by which you can tell the bank not to share your personal information with other companies. The bank may still be allowed to share your information with its "affiliate" companies.
- Don't enter sweepstakes and drawings. The main purpose of many contests is to compile mailing lists. If you enter one contest, you are likely to receive mailings from other contests.

7. Michigan's New Scanner Law

The 2011 Shopping Reform and Modernization Act

After putting the groceries in the trunk of her car, Marianna sat down in the driver's seat to take a closer look at the sales receipt. She noticed that she paid 89 cents each for two cans of corn instead of the sale price of 69 cents. She distinctly recalls seeing the shelf tag that displayed 69 cents. Marianna went back into the store and at the service desk received a refund of 20 cents on each can of corn, AND she got an additional amount of ten times the difference on one can of corn. The total she received was \$2.40.

Effective September 1, 2011, Michigan's Item Pricing Act was replaced by the Shopping Reform and Modernization Act ("Scanner Law"). While the new Scanner Law retains many provisions of the former Pricing and Advertising of Consumer Items Act ("Item Pricing Act"), the most fundamental change is that retailers are required



to display the price of items offered for sale in the store at the place where the item is located, but are no longer required to individually mark the price on the item itself.

Mandatory item pricing has been replaced by some form of price display. Items on store shelves are no longer required to have individual price tags on them. Instead, prices of items in a store must be "displayed", which can be by a shelf sign, electronic reader, individual price tag, or any other method that:

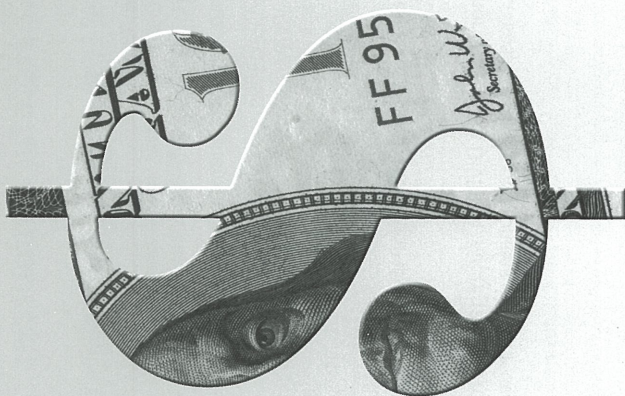
- (1) **clearly and reasonably** shows the price of the item on the shelf to consumers when in the store;
- (2) **at the place where the item is located.** The same small list of items that were exempt from item pricing under the old law are still exempt from the new price display requirement (items sold in vending machines, live plants, unpackaged food, motor vehicle parts, animals, and others).

What is a clear and reasonable price display?

The new law does not define or state how a price must be displayed to satisfy the requirement that it "clearly and reasonably" conveys price information. The only express mandate in the new law relates to placement: the price must be clearly conveyed to a consumer in the store at the place where the item is located. A common sense meaning of "clearly and reasonably" would require the price to be displayed in such size, color, contrast, and location that a reasonable person would readily notice and understand. Report a store's failure to properly display the price of an item by contacting:

The Department of Agriculture
and Rural Development
Weights & Measures Section
940 Venture Lane
Williamston, MI 48895
Phone: 1-517-655-8202

If the price of an item on the shelf is not apparent to you, it probably isn't apparent to other shoppers either.



The Department of Agriculture and Rural Development is responsible for investigating whether the store has violated the law by failing to properly display prices. Violations of the law are punishable by a fine of not more than \$1,000 for the first violation, and \$5,000 for the second and any subsequent violation. The Attorney General has enforcement authority to file a lawsuit against a seller for violations of the law.

The new law provides for penalties in the same manner as the old law. **If an automatic checkout system (scanner) charges you more than the displayed price of an item, and:**

- 1) the transaction has been completed, and
- 2) you have a receipt indicating the item purchased and the price charged for it.

Then:

You must notify the seller that you were overcharged, within 30 days of the transaction, either in person or in writing. Within two days of

receiving your notice, the seller may choose to refund you the difference between the amount charged and the price displayed plus a "bonus" of ten times the difference, with a minimum of \$1.00 and a maximum of \$5.00. If the seller refuses to give you both the refund and the bonus, you may bring a lawsuit to recover your actual damages or \$250.00, whichever is greater, plus reasonable attorney fees up to \$300.00. If you purchase several identical items at once and were overcharged on each, you may collect the bonus only once, but you are entitled to the refund of the difference for each identical item.

Additional information regarding the law is available in the Attorney General's consumer alert "Michigan's New Scanner Law, the 2011 Shopping Reform and Modernization Act." The alert and a wallet size "Scanner Error Bill of Rights" card are available on the Attorney General's website (www.michigan.gov/ag) or by calling the Consumer Protection Division, 1-877-765-8388.