

**16-320. Cemetery merchandise contracts; definitions.** The following definitions shall apply to this act:

- (a) "Preneed cemetery merchandise" means burial vaults, grave liners, grave boxes, urns, memorials, markers, vases, memorial vases, tombstones, undeveloped lawn crypts, niches and mausoleum spaces and any merchandise sold, used in, or delivered to cemeteries. Caskets, "burial spaces" as such term is defined in K.S.A. 2014 Supp. 17-1301c, and amendments thereto, and "preneed burial products or services" as such term is defined in subsection (f) shall not be deemed to be preneed cemetery merchandise.
- (b) "Purchase price" means the gross amount, to be paid for preneed cemetery merchandise, preneed burial products or services under the provisions of a preneed merchandise contract. The purchase price does not include finance charges, sales tax, charges for real property interests or charges for credit life insurance or secretary of state contract fees.
- (c) "Preneed merchandise contract" means any agreement for the sale of preneed cemetery merchandise or preneed burial products or services by a cemetery corporation which requires payment of the purchase price, in whole or in part, prior to delivery of the preneed cemetery merchandise or preneed burial products or services, which agreement is entered into from and after the effective date of this act.
- (d) "Cemetery corporation" means any individual or entity required to maintain permanent maintenance funds under the provisions of K.S.A. 17-1312f, and amendments thereto.
- (e) "Funding requirement" means that portion of the purchase price equal to 50% of the retail price f.o.b. to the cemetery corporation of preneed cemetery merchandise, as defined in subsection (a) of this section, described in the preneed merchandise contract, and 100% of the retail price of any preneed burial product or service, as defined in subsection (f) of this section, including distributable earnings.
- (f) "Preneed burial products or services" means any casket or service incidental to the burial of a body or the placement of a memorial, marker, vase, or tombstone.
- (g) "Cemetery merchandise trust fund" means a special purpose trust fund required to administer payments received from the sale of preneed cemetery merchandise, preneed burial products or services.
- (h) "Distributable earnings" means income and capital gains, less any reasonable costs incurred in serving as trustee, including a reasonable fee for services and applicable taxes and costs. Distributable earnings shall be allocated as required by K.S.A. 16-321, and amendments thereto.
- (i) "Trustee" means:
  - (1) A bank, savings and loan association, savings bank or credit union organized under the laws of this state with the authority to provide trust services;
  - (2) a federally chartered bank, savings and loan association, savings bank or credit union having a physical location within the state of Kansas and the authority to provide trust services; or
  - (3) a trust company organized under the laws of this state.

**History:** L. 1982, ch. 96, § 1; L. 1987, ch. 77, § 1; L. 2011, ch. 78, § 5; L. 2014, ch. 118, § 1; July 1.