

PROPOSED AMENDED RULE 30
"FUNERAL EXPENSE INSURANCE"

SECTION

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SECTION 1. PURPOSE

The purpose of this Rule is to define funeral expense insurance as required by *Ark. Code Ann.* § 23-64-202(c)(7)(B), and to set out the general requirements that must be met in selling this form of life insurance.

SECTION 2. AUTHORITY

This Rule is promulgated pursuant to the Commissioner's authority under *Ark. Code Ann.* § 23-61-108, and § 23-63-106, § 23-64-202(c)(7)(B) and §§ 25-15-201, et seq.

SECTION 3. DEFINITIONS

A. Funeral Expense Insurance

Funeral expense insurance is that form of life insurance as defined in *Ark. Code Ann.* § 23-62-102 which provides benefits for expenses incurred in connection with the death of the insured and which does not exceed \$15,000.00; and which term includes deferred annuities which do not exceed total premiums of \$15,000.00 for the same purposes, excluding variable annuities.

B. Insurer

Insurer as used in this Rule is any authorized life insurer, fraternal benefit society, stipulated premium insurer or mutual assessment life insurer.

SECTION 4. GENERAL REQUIREMENTS

A. No insurer doing business in this State shall write life insurance wherein the proceeds of the policy after death are payable other than in cash. No insurer doing business in this State shall write a policy which shall in any way, directly or indirectly, undertake to limit the freedom of choice of the family of the deceased insured or whoever is the proper person having charge of the body of the deceased insured, in the selection of the funeral home, cemetery or monument company to render either goods or services on behalf of the deceased insured.

B. All funeral expenses contracts must state either in the policy or in a separate endorsement that the policy does not constitute a prepaid funeral contract as referenced in *Ark. Code Ann.* §§ 23-40-101 to 23-40-118.

C. No insurer doing business in this State shall in any way, either in a policy itself or by simultaneous or subsequent execution of power of attorney or assignment or by any other means whatsoever, limit the payment of its death benefits to goods, services or merchandise furnished by any funeral home, cemetery company or monument company.

D. An insurer may make payment to the executor or administrator of the insured, or to any of the insured's relatives by blood or legal adoption or connection by marriage, or to any person appearing to the insurer to be equitably entitled thereto by reason of having been named beneficiary, or by reason of having incurred expenses for the maintenance, medical attention or burial of the insured. "Person" as used in this section shall include a funeral provider.

E. In the event that an insurer desires to reinsure burial association policies, the certificate of assumption must amend the assumed policy to conform with the requirements of this Regulation.

F. *Ark. Code Ann.* §§ 23-74-401 to 23-74-405 (Repl.1992), relating to fraternal benefit societies, shall be interpreted to require the payment in cash of the proceeds of such policies, without in any way limiting or restricting those in charge of the body of the deceased insured in the selection of a funeral home, a cemetery company or a monument company.

G. *Ark. Code Ann.* § 23-71-111 shall be interpreted to require the payment in cash of the proceeds of any policy issued by a stipulated premium insurer, without in any way limiting or restricting those in charge of the body of the deceased insured in the selection of a funeral home, a cemetery company or a monument company.

H. Every funeral expense policy or certificate shall be filed for approval with the Insurance Commissioner for the State of Arkansas pursuant to *Ark. Code Ann.* § 23-79-109.

I. Nothing herein shall be construed to prohibit the utilization of insurance contracts as funding vehicles for prepaid funeral contracts referred to in *Ark. Code Ann.* §§ 23-40-101 to 23-40-118.

SECTION 5. EFFECTIVE DATE

The effective date of this Rule is December 30, 2011.

SECTION 6. SEVERABILITY

Any section or provision of this Rule held by a court to be invalid or unconstitutional will not affect the validity of any other section or provision of this Rule.

JAY BRADFORD
ARKANSAS INSURANCE COMMISSIONER

DATE