

RULE AND REGULATION 84

PREPAID FUNERAL BENEFITS CONTRACTS RECOVERY FUND FEES

- Section 1. Purpose**
- Section 2. Authority & Effective Date**
- Section 3. Applicability and Scope**
- Section 4. Per Contract Fee Amounts**
- Section 5. Severability**

SECTION 1. PURPOSE

The purpose of this Rule is to increase the five dollar (\$5.00) per contract fee charged on the sale of each prepaid funeral benefits contract to ten dollars (\$10.00) per contract. Pursuant to Ark. Code Ann. §23-40-119(d)(2)(A)(i), the Commissioner may by rule or regulation eliminate, reduce, suspend or increase the per-contract fee or the portion of the per-contract fee allotted to the Prepaid Funeral Contracts Recovery Program Fund. The per contract fees fund the Prepaid Funeral Contracts Recovery Program, established under Ark. Code Ann. §23-40-119(d), to provide reparations to consumers in the event a prepaid funeral organization becomes insolvent or has significant trust fund shortages. The Commissioner has chosen to increase the per contract fee an additional five dollars (\$5.00) to increase the reserves of the fund to adequately safeguard against future, significant trust fund shortages or insolvencies by prepaid funeral benefit organizations. The Commissioner desires to impose a ten dollar (\$10.00) fee for five (5) years from the effective date of this Rule to meet current and anticipated requests for potential reparation claims for purchasers from organizations declared insolvent or found deficient under Ark. Code Ann. §23-40-119 (f)(1)(A) or Ark. Code Ann. §23-40-119 (f)(1)(B).

SECTION 2. AUTHORITY & EFFECTIVE DATE

Authority for this Rule is given to the Insurance Commissioner for the State of Arkansas by Ark. Code Ann. §23-40-119 (d)(2)(A)(i) which states that the Insurance Commissioner, on and after July 1, 2001, may by rule or regulation eliminate, reduce, suspend, or increase the per-contract fee or the portion of the per-contract fee allotted to the Prepaid Funeral Contracts Recovery Program Fund. In addition, this Rule and Regulation is promulgated and adopted by the Insurance Commissioner pursuant to the authority vested in the Commissioner under Arkansas Code Annotated §§23-61-108 and 25-15-201, et seq. Pursuant to the Commissioner's authority under Ark. Code Ann. §23-61-108, §§25-15-201, et seq., and other applicable laws and rules, the effective date of this Rule and Regulation is January 1, 2013.

SECTION 3. APPLICABILITY AND SCOPE

This Rule shall apply to all persons engaged in the business of selling prepaid funeral benefits contracts under Ark. Code Ann. §23-40-101, et seq., as amended by Act 852 of 1995.

SECTION 4. PER CONTRACT FEE AMOUNTS

Effective for all prepaid funeral benefits contracts executed on and after January 1, 2013 until January 1, 2018, each licensee selling a prepaid funeral benefits contract shall remit to the State Insurance Department a one-time per-contract fee of not less than ten dollars (\$10.00) for each prepaid funeral benefits contract, including any amendments thereto, entered into by the licensee whether cash or trust funded or funded by an insurance policy or annuity contract. A five (\$5.00) dollar increase in the per contract fees is needed during the above described period, from January 1, 2013 to January 1, 2018, to increase funds in the Prepaid Funeral Contracts Recovery Program to safely meet potential reparation claims for purchasers from organizations declared insolvent or found deficient under Ark. Code Ann. §23-40-119 (f)(1)(A) or Ark. Code Ann. §23-40-119 (f)(1)(B). For prepaid funeral benefit contracts executed after January 1, 2018, the one-time per-contract fee shall revert to a fee of five dollars (\$5.00) per-contract.

SECTION 5. SEVERABILITY

If any provision of this Rule and Regulation, or the application thereof to any person or circumstance, is held invalid, such invalidity shall not affect other provisions or applications of this Rule and Regulation which can be given effect without the invalid provision or application, and to that end the provisions of this Rule and Regulation are severable.



JAY BRADFORD
INSURANCE COMMISSIONER
STATE OF ARKANSAS

December 19, 2012
DATE