

HEARING

IN THE MATTER OF
PROPOSED RULE 110
"PREPAID FUNERAL BENEFITS
CONTRACTS TRANSFER FEE"

HONORABLE RUSS GALBRAITH
CHIEF DEPUTY COMMISSIONER & HEARING OFFICER
ARKANSAS INSURANCE DEPARTMENT

HEARING PROCEEDINGS

SEPTEMBER 29, 2015

at 10:30 A.M.

APPEARANCES

ON BEHALF OF THE ARKANSAS INSURANCE DEPARTMENT:

MS. AMANDA GIBSON
ARKANSAS INSURANCE DEPARTMENT
1200 WEST THIRD STREET
LITTLE ROCK, ARKANSAS 72201-1904

GRIGSBY REPORTING SERVICES
711 FOXBORO DRIVE
JACKSONVILLE, ARKANSAS 72076
(501) 580-5117
fgrigsby07@comcast.net

ORIGINAL

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CAPTION

PROCEEDINGS in the above-styled and numbered cause on the 29th day of September, 2015, before Faith Grigsby, Arkansas Supreme Court Certified Court Reporter #686, at 10:30 a.m., in the Hearing Room of the Arkansas Insurance Department, 1200 West Third Street, Little Rock, Arkansas, pursuant to the agreement hereinafter set forth.

* * * * *

PROCEEDINGS

SEPTEMBER 29, 2015

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HEARING OFFICER: Good morning everybody. Today is September 29, 2015, and we are here in the matter of Proposed Rule 110, Prepaid Funeral Benefits Contracts Transfer Fee. My name is Russ Galbraith and Commissioner Kerr has appointed me to be the hearing officer in this matter. Present representing the Department is Ms. Amanda Gibson.

Ms. Gibson, you may proceed.

MS. GIBSON: I have several exhibits I'd like to briefly describe and enter into the record. Exhibit 1 is the designation of hearing officer. Exhibit 2 is the Insurance Department's Notice of Public Hearing Concerning Proposed Rule 110, Prepaid Funeral Benefits Contracts Transfer Fee.

Exhibit 3 is a copy of the Rule that we initially filed. Exhibit 4 is a copy of the letter to the Democrat Gazette requesting that notice of this hearing be published. Exhibit 5 is a copy of the proof of publication of this hearing notice that ran in the Democrat Gazette.

1 Exhibit 6 is a copy of the electronic mail
2 distribution of the Notice of Public Hearing
3 that went out to interested persons. Exhibit 7
4 is a copy of the cover letter to the Bureau of
5 Legislative Research. Exhibit 8 is a copy of
6 the Legislative Council Questionnaire.

7 Exhibit 9 is a copy of the Economic Impact
8 Statement. Exhibit 10 is a copy of the summary
9 that was submitted to the Bureau of Legislative
10 Research. Exhibit 11 is a copy of the courtesy
11 letter that went to the Attorney General's
12 Office.

13 Exhibit 12 is a copy of the cover letter
14 that filed the proposed rule with the Secretary
15 of State. Exhibit 13 is a copy of the letter
16 that went with the Rule over to the State
17 Library. Exhibit 14 is a copy of the courtesy
18 notice that went to the Economic Development
19 Commission.

20 Exhibit 15 is a copy of a courtesy notice
21 that was sent to one of the attorneys at the
22 Bureau of Legislative Research. Exhibit 16 is
23 a copy of the letter that went to the
24 Governor's Office. Exhibit 17 is a brief
25 summary of a question that the Department

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received in regard to this proposed rule.

And Exhibit 18 is a copy of a second markup version of the proposed rule after we received that inquiry. And at this time, I'd like to move Exhibits 1 through 18 to be admitted into the record.

HEARING OFFICER: Exhibits 1 through 18 will be admitted into the record.

(WHEREUPON, Exhibits Number 1 through 18 were marked for identification and are attached hereto.)

HEARING OFFICER: You may proceed.

MS. GIBSON: There was an Act that was passed in the 2015 Legislative Session, it was Act 880, that authorizes a fee to be collected by a funeral home, and also authorizes the Insurance Commissioner to establish the amount of the fee.

So what we're talking about here is when you have a consumer that's got a prepaid funeral benefit contract. If that consumer then later wishes to voluntarily either cancel that contract or to transfer that contract to another funeral home, this rule allows the transferring funeral home to collect a fee to

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cover that funeral home's administrative costs in processing either the transfer or the cancellation of that contract.

And the proposed rule sets that fee at \$35. We believe that it's just a general consensus in the industry that that is an appropriate fee to cover those administrative costs.

HEARING OFFICER: Is that \$35 or up to \$35?

MS. GIBSON: I think we said up to \$35. Yes, not to exceed \$35. That's in Section 4.

HEARING OFFICER: Is there anyone here that would like to speak on the Rule? And it's Robert Eichelberger?

MR. EICHELBERGER: Yes, sir.

HEARING OFFICER: If you'll just identify yourself and who you're with.

MR. EICHELBERGER: Robert Eichelberger, I'm sales manager for Selected Funeral Life Insurance Company in Hot Springs, and we represent about 80 funeral homes in Arkansas, and we have a question as far as the payment of the fee.

You referred to the funeral home receiving the fee, but the 80 funeral homes that we're affiliated with don't know how to process and

1 fill out the paperwork, so we basically fill
2 out all the transfer paperwork for these 80
3 funeral homes. Will the funeral home get the
4 \$35 fee or will we get the \$35 fee for
5 completing the paperwork?

6 MS. GIBSON: Well, Section 4 of the Rule
7 states that either the seller or the funding
8 life insurance company, but not both, is
9 permitted to collect the fee.

10 MR. EICHELBERGER: One or the other.

11 MS. GIBSON: Yes.

12 MR. EICHELBERGER: We just wanted to
13 clarify that to make sure that we understood
14 what the Rule was.

15 MS. GIBSON: And I believe that that's
16 explicitly how it's stated in the new law.

17 MR. EICHELBERGER: Thank you.

18 HEARING OFFICER: Anything else?

19 MR. EICHELBERGER: No, sir.

20 HEARING OFFICER: Thank you.

21 MR. RAND: Do you want to talk about the
22 amendments, Amanda, that were made?

23 MS. GIBSON: Yes, I can. Exhibit 18 is
24 sort of a markup copy of the proposed rule.
25 This came about because there was a question

1 that the Insurance Department received, I
2 believe, from a member of the media that wanted
3 to know whether that fee would be collected by
4 the selling funeral home in instances where
5 maybe the funeral home became delinquent or
6 went into receivership, or if that funeral home
7 was sold to another funeral home, sort of the
8 whole block of business going over.

9 And we don't believe that that is the
10 intent of this legislation, and so the
11 amendments that we made to the Rule were to
12 make it clear that this fee can only be charged
13 when the transfer or the cancellation is
14 voluntarily initiated by the consumer
15 policyholder.

16 HEARING OFFICER: With this being amended,
17 is there a need to keep the record open?

18 MS. GIBSON: No.

19 HEARING OFFICER: We're going to go ahead
20 -- if there's nothing else, then we're going to
21 go ahead and close the record and this hearing
22 is adjourned.

23 (WHEREUPON, the proceedings were concluded
24 in this matter at 9:55 a.m.)

25 * * * * *

CERTIFICATE

STATE OF ARKANSAS)
) ss
 COUNTY OF PULASKI)

I, Faith Grigsby, CCR, Certified Stenomask Reporter before whom the foregoing testimony was taken, do hereby certify that the witness was duly sworn by me; that the testimony of said witness was taken by me and was thereafter reduced to typewritten form under my supervision; that the deposition is a true and correct record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by the parties to the action in which this deposition was taken, and further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially interested in the outcome of this action.

I FURTHER CERTIFY, that I have no contract with the parties within this action that affects or has a substantial tendency to affect impartiality, that requires me to relinquish control of an original deposition transcript or copies of the transcript before it is certified and delivered to the custodial attorney, or that requires me to provide any service not made available to all parties to the action.

WITNESS MY HAND AND SEAL this 9th day of October, 2015.

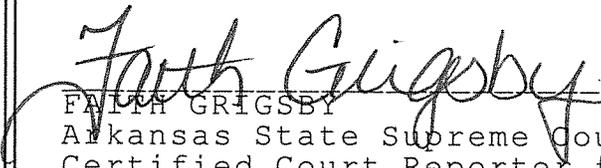

 FAITH GRIGSBY
 Arkansas State Supreme Court
 Certified Court Reporter #686

EXHIBIT LIST

DATE: September 29, 2015

SUBJECT: Proposed Rule 110
"Prepaid Funeral Benefits Contracts Transfer Fee"

HEARING OFFICER: Russ Galbraith
Chief Deputy Commissioner

<u>Exhibit No.</u>	<u>Description</u>
1.	Designation of Hearing Officer
2.	Arkansas Insurance Department's Notice of Public Hearing concerning proposed Rule 110 "Prepaid Funeral Benefits Contracts Transfer Fee"
3.	Initially filed Proposed Rule 110 "Prepaid Funeral Benefits Contracts Transfer Fee"
4.	Copy of letter to Arkansas Democrat-Gazette requesting newspaper notice
5.	Copy of Proof of Publication of Hearing on Proposed Rule 110 in the Arkansas Democrat-Gazette as required by the Arkansas Administrative Procedures Act, Ark. Code Ann. §§ 25-15-201, <i>et seq.</i>
6.	Copy of electronic mail distribution of Notice of Public Hearing to interested persons
7.	Copy of cover letter to the Bureau of Legislative Research
8.	Copy Legislative Council Questionnaire
9.	Copy Economic Impact Statement
10.	Copy of Summary submitted to the Bureau of Legislative Research
11.	Copy of courtesy notice to the Attorney General's Office

12. Copy of cover letter filing proposed Rule 110 with the Secretary of State
13. Copy of cover letter filing proposed Rule 110 with the State Library
14. Copy of courtesy notice to the Arkansas Economic Development Commission
15. Copy of courtesy notice sent to the Bureau of Legislative Research
16. Copy of courtesy notice sent to the Governor's Office
17. Public Comments
18. Copy of markup version of proposed Rule 110 after receiving public comments

Arkansas Insurance Department

Asa Hutchinson
Governor



Allen Kerr
Commissioner

DESIGNATION OF HEARING OFFICER

DATE: September 29, 2015
SUBJECT: PROPOSED RULE 110
HEARING OFFICER: Russ Galbraith
CHIEF DEPUTY COMMISSIONER

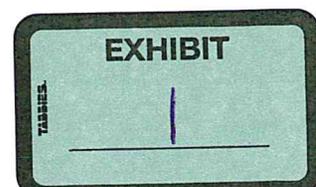
Pursuant to Ark. Code Ann. § 23-61-103(e)(1), I hereby delegate Russ Galbraith, Chief Deputy Commissioner, to serve as the Hearing Officer in the above-referenced matter. Pursuant to this Designation, Mr. Galbraith will have at his disposal all of the powers and duties vested in the office of the Commissioner of Insurance for the State of Arkansas.

A handwritten signature in black ink, appearing to read "Allen Kerr", written over a horizontal line.

Allen Kerr
INSURANCE COMMISSIONER
STATE OF ARKANSAS

9-24-15

Date



Arkansas Insurance Department

Asa Hutchinson
Governor



Allen Kerr
Commissioner

DATE: August 7, 2015
TO: ALL INSURERS & OTHER INTERESTED PARTIES
FROM: ARKANSAS INSURANCE DEPARTMENT
SUBJECT: PROPOSED RULE 110: "PREPAID FUNERAL BENEFITS CONTRACTS TRANSFER FEE"

NOTICE OF PUBLIC HEARING

Please find attached or available by electronic publication by the Arkansas Insurance Department ("Department") proposed Rule 110, "Prepaid Funeral Benefits Contracts Fee." The Arkansas Insurance Commissioner ("Commissioner") is filing for public comment and public hearing, this proposed rule establishing a fee to be collected upon the transfer or cancellation of a prepaid funeral benefits contract.

Pursuant to Ark. Code Ann. §§ 23-99-417(a)(1), 23-99-417(e), 23-61-108(a)(1), and other applicable laws or rules, NOTICE is hereby given that a PUBLIC HEARING will be held on SEPTEMBER 29, 2015 at 10:30 A.M., in the First Floor Hearing Room, Arkansas Insurance Department ("Department"), 1200 West Third Street, Little Rock, Arkansas.

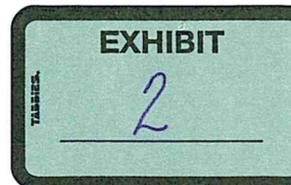
The purpose of the Public Hearing will be to determine whether the Commissioner should adopt proposed Rule 110, "Prepaid Funeral Benefits Contracts Fee".

All interested persons are encouraged to make comments, statements or opinions to the address below, and/or to attend the Public Hearing and present oral or written, statements, arguments or opinions on the proposed Rule. All licensees and other interested persons are responsible for notifying all their personnel, agents, and employees about this Public Hearing.

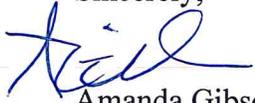
Persons wishing to testify should notify the Legal Division as soon as possible, and are requested to submit intended statements in writing in advance of the hearing.

Direct your inquiries to the Legal Division at (501) 371-2820 or insurance.legal@arkansas.gov.

A copy of the Proposed Rule 110 can be obtained or viewed on the Legal Division's Internet Web Site at www.insurance.arkansas.gov/prop-rules.htm.



Sincerely,

A handwritten signature in blue ink, appearing to read "Amanda Gibson".

Amanda Gibson
Associate Counsel
Arkansas Insurance Department
(501) 371-2820

enclosure

RULE 110
PREPAID FUNERAL BENEFITS CONTRACTS TRANSFER FEE

FILED
AR. REGISTER DIV.

MAR 11 2015
SECRETARY OF STATE
STATE OF ARKANSAS

BY _____ **RECEIVED**

AUG 07 2015

BUREAU OF
LEGISLATIVE RESEARCH

Table of Contents

- Section 1. Authority
- Section 2. Purpose
- Section 3. Definitions
- Section 4. Fee
- Section 5. Requirements
- Section 6. Effective Date

Section 1. Authority

This Rule is promulgated pursuant to Section Two (2) of Act 880 of 2015 of the Arkansas General Assembly, codified in Ark. Code Ann. § 23-40-122(b); authority is also found in Ark. Code Ann. § 23-61-108, Ark. Code Ann. § 25-15-204, and other applicable laws or rules.

Section 2. Purpose

The purpose of this Rule is to establish a fee for a transfer or cancellation of prepaid funeral benefits contracts.

Section 3. Definitions

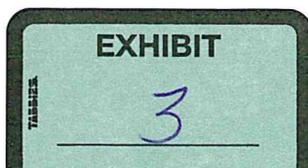
- A. "Seller" means the organization who sold the prepaid funeral benefits contract to the consumer.
- B. "Policyholder" means the contract purchaser.
- C. "Funding life insurance company" means the life insurance company that is responsible for funding the prepaid funeral benefits contract.
- D. "Substitute provider" means the funeral home which is assuming the prepaid funeral benefits contract in the case of a transfer.

Section 4. Fee

Either the seller or the funding life insurance company, but not both, is permitted to collect a fee not to exceed thirty-five dollars (\$35.00) for the transfer of the contract to a substitute provider or, alternatively, for the cancellation of the contract.

Section 5. Requirements

The purpose of the fee is to defray the administrative costs of the seller in effecting the transfer or cancellation. The fee may be paid by either the policyholder or the substitute provider. Any seller or funding life insurance company who intends to collect the fee shall give written notice in the contract that the policyholder may be responsible to pay the fee in the event the policyholder chooses to transfer the contract to a substitute provider, or chooses to cancel the contract.



Sellers who sell cash-funded contracts are allowed to collect the fee upon transfer or cancellation.

Section 6. Effective Date

This Rule shall apply to all sellers and funding life insurance companies wishing to collect the fee on and after December 1, 2015.

ALLEN KERR
INSURANCE COMMISSIONER
STATE OF ARKANSAS

DATE

Arkansas Insurance Department

Asa Hutchinson
Governor



Allen Kerr
Commissioner

August 7, 2015

Arkansas Democrat-Gazette
P O Box 2221
Little Rock, AR 72203
Attn: Ms. Pam Dicus, Legal Ad Department
Facsimile: 501-378-3591

RE: Legal Notices: Public Hearing on Proposed Rule 110

Dear Ms. Dicus:

The Insurance Commissioner is proposing to adopt Proposed Rule 110, "Prepaid Funeral Benefits Contracts Transfer Fee". In order to publish it in compliance with the Arkansas Administrative Procedure Act, as amended, and per the Arkansas Insurance Code, we need to publish a **FULL RUN** legal ad or notice of the Commissioner's Public Hearing scheduled for September 29, 2015 at 10:30 a.m.

In compliance with Ark. Code Ann. § 25-15-204 and § 16-3-102, please find enclosed a legal ad for Notice of Public Hearing which should be published for **three (3) consecutive days beginning on August 29, 2015.**

Please send the billing invoices to Mrs. Pam Looney, Assistant Commissioner, Accounting Division, Arkansas Insurance Department, 1200 West Third, Little Rock, Arkansas 72201-1904, accompanied by a printed copy of the Legal Ad and proof of publication. Thank you in advance for your cooperation.

Sincerely,

A handwritten signature in blue ink, appearing to read "A. Gibson".

Amanda Gibson
Associate Counsel/Legal Division
amanda.gibson@arkansas.gov

LRR

Enclosure – Legal Ad for Proposed Rule 110
cc: LoRraine Rowland, Administrative Analyst



NOTICE OF PUBLIC HEARING

The Arkansas Insurance Department will host a Public Hearing on September 29, 2015 beginning at 10:30 a.m. in the First Floor Hearing Room, Arkansas Insurance Department, 1200 West Third Street (Third and Cross Streets), Little Rock, Arkansas, to consider adoption of Proposed Rule 110 "Prepaid Funeral Benefits Contracts Transfer Fee." Copies of Proposed Rule 110 may be obtained by writing or calling the Arkansas Insurance Department, or by visiting our website at <http://www.insurance.arkansas.gov/prop-rules.htm>. For more information, please contact Ms. LoRraine Rowland, Legal Division, Arkansas Insurance Department at 501-371-2820.

Arkansas Democrat Gazette

STATEMENT OF LEGAL ADVERTISING

ARK INSURANCE DEPARTMENT
1200 W THIRD
LITTLE ROCK AR 72201

REMIT TO:
ARKANSAS DEMOCRAT-GAZETTE, INC.
P.O. BOX 2221
LITTLE ROCK, AR 72203

ATTN: Pam Looney

DATE : 08/31/15 INVOICE #: 3034503
ACCT #: L801001 P.O. #:

BILLING QUESTIONS CALL 378-3812

STATE OF ARKANSAS,)
COUNTY OF PULASKI,) ss.

I, Yvette Hines, do solemnly swear that I am the Legal Billing Clerk of the Arkansas Democrat - Gazette, a daily newspaper printed and published in said County, State of Arkansas; that I was so related to this publication at and during the publication of the annexed legal advertisement in the matter of:

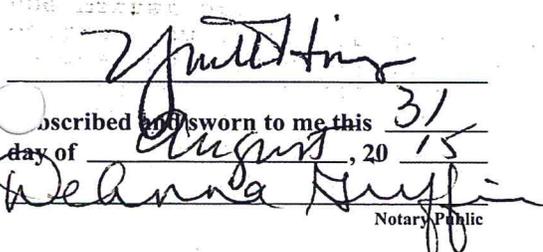
HEARING

pending in the Court, in said County, and at the dates of the several publications of said advertisement stated below, and that during said periods and at said dates, said newspaper was printed and had a bona fide circulation in said County; that said newspaper had been regularly printed and published in said County, and had a bona fide circulation therein for the period of one month before the date of the first publication of said advertisement; and that said advertisement was published in the regular daily issues of said newspaper as stated below.

DATE	DAY	LINAGE	RATE	DATE	DAY	LINAGE	RATE
08/29	Sat	30	1.35				
08/30	Sun	30	1.57				
08/31	Mon	30	1.35				

TOTAL COST ----- 128.10
Billing Ad #: 73307809

OFFICIAL SEAL - No. 12347408
DEANNA GRIFFIN
NOTARY PUBLIC - ARKANSAS
PULASKI COUNTY
MY COMMISSION EXPIRES 3-30-2016

Subscribed and sworn to me this 31
day of August, 2015

Notary Public

AD COPY

NOTICE OF PUBLIC HEARING
The Arkansas Insurance Department will host a Public Hearing on September 29, 2015 beginning at 10:30 a.m. in the First Floor Hearing Room, Arkansas Insurance Department, 1200 West Third Street (Third and Cross Streets), Little Rock, Arkansas, to consider adoption of Proposed Rule 110 "Prepaid Funeral Benefits Contracts Transfer Fee." Copies of Proposed Rule 110 may be obtained by writing or calling the Arkansas Insurance Department, or by visiting our website at <http://www.insurance.arkansas.gov/prop-rules.htm>. For more information, please contact Ms. LoRaine Rowland, Legal Division, Arkansas Insurance Department at 501-371-2820. 73307809f

RECEIVED

SEP 01 2015

ACCOUNTING
ARKANSAS INSURANCE DEPARTMENT

EXHIBIT

5

LoRaine Rowland

From: Arkansas Insurance Department
<insurance.legal=arkansas.gov@mail31.atl111.rsgsv.net> on behalf of Arkansas Insurance Department <insurance.legal@arkansas.gov>
Sent: Friday, August 07, 2015 6:00 PM
To: LoRaine Rowland
Subject: Notice of Hearing: Proposed Rule 110

Notice of Hearing: ??Proposed Rule 110

[View this email in your browser](#)

Arkansas Insurance Department

Asa Hutchinson
Governor



Allen Kerr
Commissioner

Legal Notice

Notice of Hearing
Proposed Rule 110

Please click on the link below to view the Department's Proposed Rule 110 "PREPAID FUNERAL BENEFITS CONTRACTS TRANSFER FEE" and Notice of Hearing information.

<http://insurance.arkansas.gov/prop-rules.htm>

Should you have questions regarding this Proposed Rule please contact Amanda Gibson at 501-371-2820 or via email at amanda.gibson@arkansas.gov.

You are receiving this email because you opted in at our website or because you provided your email address when applying for a license with AID. If you no longer wish to receive emails from the Arkansas Insurance Department, please click [unsubscribe from this list](#).

[update subscription preferences](#)

**1200 West Third Street, Little Rock, AR 72201-1904 · (501) 371-2600 · (501) 371-2618 fax · www.insurance.arkansas.gov
Information (800) 282-9134 · Consumer Services (800) 852-5494 · Seniors (800) 224-6330 · Criminal Inv. (866) 660-0888**

Arkansas Insurance Department

Asa Hutchinson
Governor



Allen Kerr
Commissioner

August 7, 2015

HAND DELIVERY

Ms. Donna Davis
Arkansas Legislative Council
Arkansas Bureau of Legislative Research
State Capitol, Suite 315
Little Rock, Arkansas 72201

RE: Arkansas Insurance Department Proposed Rule 110: "Prepaid Funeral Benefits Contracts Transfer Fee"

Dear Ms. Davis:

Enclosed for your review and for filing with the Subcommittee of the Arkansas Legislative Council is the Arkansas Insurance Department's Proposed Rule 110, "Prepaid Funeral Benefits Contracts Transfer Fee".

The Arkansas Insurance Department ("Department") is promulgating this rule because Act 880 of 2015 requires the Commissioner to establish the fee.

The Department has scheduled a public hearing for September 29, 2015, at 10:30 A.M., at the Arkansas Insurance Department, to consider adopting this proposed Rule.

I have enclosed a triplicate set of the proposed rule, our Notice of Public Hearing, the standard questionnaire, financial impact statement, and a summary of the justifications for the Rule.

Please do not hesitate to contact me at 371-2820 if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Amanda", written over a horizontal line.

Amanda Gibson
Associate Counsel/Legal Division
amanda.gibson@arkansas.gov

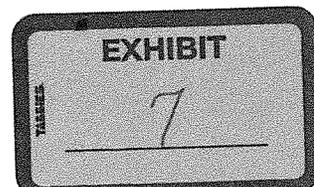
cc: LoRraine Rowland, Administrative Analyst

AG/lrr

RECEIVED

AUG 07 2015

BUREAU OF
LEGISLATIVE RESEARCH



**QUESTIONNAIRE FOR FILING PROPOSED RULES AND REGULATIONS
WITH THE ARKANSAS LEGISLATIVE COUNCIL AND JOINT INTERIM COMMITTEE**

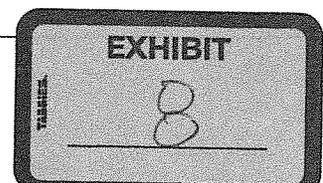
DEPARTMENT/AGENCY Arkansas Insurance Department
DIVISION Legal Division
DIVISION DIRECTOR Suzanne Tipton, Deputy Commissioner & General Counsel
CONTACT PERSON Amanda Gibson, Associate Counsel
ADDRESS 1200 West Third Street, Little Rock, Arkansas 72201-1904
PHONE NO. 501-371-2820 FAX NO. 501-371-2639 E-MAIL amanda.gibson@arkansas.gov
NAME OF PRESENTER AT COMMITTEE MEETING Amanda Gibson, Associate Counsel
PRESENTER E-MAIL amanda.gibson@arkansas.gov

INSTRUCTIONS

- A. Please make copies of this form for future use.
- B. Please answer each question completely using layman terms. You may use additional sheets, if necessary.
- C. If you have a method of indexing your rules, please give the proposed citation after "Short Title of this Rule" below.
- D. Submit two (2) copies of this questionnaire and financial impact statement attached to the front of two (2) copies of the proposed rule and required documents. Mail or deliver to:

**Donna K. Davis
Administrative Rules Review Section
Arkansas Legislative Council
Bureau of Legislative Research
One Capitol Mall, 5th Floor
Little Rock, AR 72201**

- 1. What is the short title of this rule? Rule 110: Prepaid Funeral Benefits Contracts Transfer Fee
- 2. What is the subject of the proposed rule? This rule allows a fee to be charged when a prepaid funeral benefits contract is transferred from one funeral home to another, or when the contract is cancelled.
- 3. Is this rule required to comply with a federal statute, rule, or regulation? Yes No
If yes, please provide the federal rule, regulation, and/or statute citation. _____
- 4. Was this rule filed under the emergency provisions of the Administrative Procedure Act? Yes No
If yes, what is the effective date of the emergency rule? _____
- When does the emergency rule expire? _____



Will this emergency rule be promulgated under the permanent provisions of the Administrative Procedure Act?

Yes

No

5. Is this a new rule? Yes No

If yes, please provide a brief summary explaining the regulation. Please see the attached Summary. The proposed rule establishes a fee to be collected by a transferring funeral home or funding life insurance company (but not both) when the consumer wants to either transfer the prepaid funeral benefit contract to another funeral home (substitute provider) or cancel the contract.

Does this repeal an existing rule? Yes No

If yes, a copy of the repealed rule is to be included with your completed questionnaire. If it is being replaced with a new rule, please provide a summary of the rule giving an explanation of what the rule does.
N/A

Is this an amendment to an existing rule?

Yes

No

If yes, please attach a mark-up showing the changes in the existing rule and a summary of the substantive changes. **Note: The summary should explain what the amendment does, and the mark-up copy should be clearly labeled "mark-up."**

6. Cite the state law that grants the authority for this proposed rule? If codified, please give the Arkansas Code citation. The Insurance Commissioner is required to establish the fee pursuant to Act 880 of 2015, which amends Ark. Code Ann. § 23-40-122.

7. What is the purpose of this proposed rule? Why is it necessary? Act 880 amends Ark. Code Ann. § 23-40-122 by allowing for a fee to be collected upon transfer or cancellation of a prepaid funeral benefits contract. The law permits either a seller (funeral home provider) or a funding life insurance company (for those contracts that are insurance-funded) to collect a fee upon transfer or cancellation. Act 880 also requires the Insurance Commissioner to establish the fee. The proposed rule establishes a fee of \$35.00.

8. Please provide the address where this rule is publicly accessible in electronic form via the Internet as required by Arkansas Code § 25-19-108(b). <http://www.insurance.arkansas.gov/prop-rules.htm>

9. Will a public hearing be held on this proposed rule? Yes No

If yes, please complete the following:

Date: September 29, 2015

Time: 10:30

Arkansas Insurance Department, 1200
West Third Street, Little Rock,

Place: Arkansas

10. When does the public comment period expire for permanent promulgation? (Must provide a date.)
The public comment period expires on September 29, 2015 unless the Commissioner decides to keep the hearing record open longer, in order to receive further comments.

11. What is the proposed effective date of this proposed rule? (Must provide a date.)

FINANCIAL IMPACT STATEMENT

PLEASE ANSWER ALL QUESTIONS COMPLETELY

DEPARTMENT Arkansas Insurance Department
DIVISION Legal Division
PERSON COMPLETING THIS STATEMENT Amanda Gibson, Association Counsel
TELEPHONE NO. 501-371-2820 **FAX NO.** 501-371-2639 **EMAIL:** amanda.gibson@arkansas.gov

To comply with Ark. Code Ann. § 25-15-204(e), please complete the following Financial Impact Statement and file two copies with the questionnaire and proposed rules.

SHORT TITLE OF THIS RULE Rule 110: Prepaid Funeral Benefits Contracts Transfer Fee

1. Does this proposed, amended, or repealed rule have a financial impact? Yes No
2. Is the rule based on the best reasonably obtainable scientific, technical, economic, or other evidence and information available concerning the need for, consequences of, and alternatives to the rule? Yes No
3. In consideration of the alternatives to this rule, was this rule determined by the agency to be the least costly rule considered? Yes No

If an agency is proposing a more costly rule, please state the following:

- (a) How the additional benefits of the more costly rule justify its additional cost;

- (b) The reason for adoption of the more costly rule;

- (c) Whether the more costly rule is based on the interests of public health, safety, or welfare, and if so, please explain; and;

- (d) Whether the reason is within the scope of the agency's statutory authority; and if so, please explain.

4. If the purpose of this rule is to implement a federal rule or regulation, please state the following:

- (a) What is the cost to implement the federal rule or regulation?

Current Fiscal Year

General Revenue	<u>N/A</u>
Federal Funds	<u>N/A</u>
Cash Funds	<u>N/A</u>
Special Revenue	<u>N/A</u>
Other (Identify)	<u>N/A</u>

Next Fiscal Year

General Revenue	<u>N/A</u>
Federal Funds	<u>N/A</u>
Cash Funds	<u>N/A</u>
Special Revenue	<u>N/A</u>
Other (Identify)	<u>N/A</u>

Total N/A

Total N/A

(b) What is the additional cost of the state rule?

Current Fiscal Year

Next Fiscal Year

General Revenue	<u>N/A</u>
Federal Funds	<u>N/A</u>
Cash Funds	<u>N/A</u>
Special Revenue	<u>N/A</u>
Other (Identify)	<u>N/A</u>
Total	<u>N/A</u>

General Revenue	<u>N/A</u>
Federal Funds	<u>N/A</u>
Cash Funds	<u>N/A</u>
Special Revenue	<u>N/A</u>
Other (Identify)	<u>N/A</u>
Total	<u>N/A</u>

5. What is the total estimated cost by fiscal year to any private individual, entity and business subject to the proposed, amended, or repealed rule? Identify the entity(ies) subject to the proposed rule and explain how they are affected.

Current Fiscal Year

Next Fiscal Year

\$ Unknown

\$ _____

The rule will affect those consumers/purchasers who wish to transfer or cancel their prepaid funeral benefit contracts. The rule will also affect those substitute funeral providers who will be assuming the contracts under the transfers. The fee will be paid by either the consumer/purchaser or the substitute provider, but not both.

6. What is the total estimated cost by fiscal year to state, county, and municipal government to implement this rule? Is this the cost of the program or grant? Please explain how the government is affected.

Current Fiscal Year

Next Fiscal Year

\$ None

\$ None

7. With respect to the agency's answers to Questions #5 and #6 above, is there a new or increased cost or obligation of at least one hundred thousand dollars (\$100,000) per year to a private individual, private entity, private business, state government, county government, municipal government, or to two (2) or more of those entities combined?

Yes No

If YES, the agency is required by Ark. Code Ann. § 25-15-204(e)(4) to file written findings at the time of filing the financial impact statement. The written findings shall be filed simultaneously with the financial impact statement and shall include, without limitation, the following:

(1) a statement of the rule's basis and purpose;

(2) the problem the agency seeks to address with the proposed rule, including a statement of whether a rule is required by statute;

- (3) a description of the factual evidence that:
 - (a) justifies the agency's need for the proposed rule; and
 - (b) describes how the benefits of the rule meet the relevant statutory objectives and justify the rule's costs;
- (4) a list of less costly alternatives to the proposed rule and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
- (5) a list of alternatives to the proposed rule that were suggested as a result of public comment and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
- (6) a statement of whether existing rules have created or contributed to the problem the agency seeks to address with the proposed rule and, if existing rules have created or contributed to the problem, an explanation of why amendment or repeal of the rule creating or contributing to the problem is not a sufficient response; and
- (7) an agency plan for review of the rule no less than every ten (10) years to determine whether, based upon the evidence, there remains a need for the rule including, without limitation, whether:
 - (a) the rule is achieving the statutory objectives;
 - (b) the benefits of the rule continue to justify its costs; and
 - (c) the rule can be amended or repealed to reduce costs while continuing to achieve the statutory objectives.

**ECONOMIC IMPACT STATEMENT
OF PROPOSED RULES OR REGULATIONS
EO 05-04: Regulatory Flexibility**

Department: Arkansas Insurance Department
Contact Person: Amanda Gibson
Contact Phone: 501-371-2820

Division: Legal
Date: August 7, 2015
Contact Email: amanda.gibson@arkansas.gov

Title or Subject:

Proposed Rule 110 "Prepaid Funeral Benefits Contracts Transfer Fee"

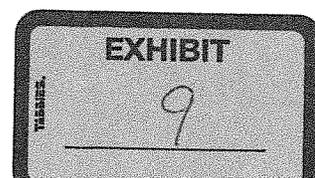
Benefits of the Proposed Rule or Regulation

1. Explain the need for the proposed change(s). Did any complaints motivate you to pursue regulatory action? If so, please explain the nature of such complaints.

The Insurance Code allows for consumers to purchase prepaid funeral benefits contracts, and the contracts can either be cash-funded or funded by a life insurance policy. Consumers are allowed by law to transfer contracts from one funeral home to another, or to cancel the contract altogether. Rule 110 establishes a transfer fee that can be collected *either* by the transferring funeral home, or, for those contracts that are insurance-funded, by the life insurance company that is funding the contract. The purpose of the fee is to defray the administrative costs incurred by the transferring provider in effecting the transfer to a substitute provider, or, alternatively, in effecting the cancellation. The intent of the rule is that *either* the consumer or the substitute provider will pay the fee, but not both. Act 880 of 2015 provides authority for the fee and requires the Insurance Commissioner to establish the fee. Proposed Rule 110 establishes the fee at \$35.00.

2. What are the top three benefits of the proposed rule or regulation?
 - (a) The fee offsets the insurer's or funeral home's administrative compliance costs incurred in filing the required regulatory forms.
 - (b) The fee would provide more resources for staffing to more quickly expedite the transfer or cancellation process for consumers.
 - (c) The fee would allow the insurer company to conduct this process more efficiently for insurance-funded prepaid contracts, thereby reducing the funeral home's transfer or cancellation paperwork.
3. What, in your estimation, would be the consequence of taking no action, thereby maintaining the status quo?

Act 880 requires the Insurance Commissioner to promulgate a rule that establishes the fee. Therefore, by maintaining the status quo by not establishing the fee would be violative of the law.



4. Describe market-based alternatives or voluntary standards that were considered in place of the proposed regulation and state the reason(s) for not selecting those alternatives.

Market-based alternatives and voluntary standards were not considered.

Impact of Proposed Rule or Regulation

5. Estimate the cost to state government of collecting information, completing paperwork, filing, recordkeeping, auditing and inspecting associated with this new rule or regulation.

None.

6. What types of small businesses will be required to comply with the proposed rule or regulation? Please estimate the number of small businesses affected.

Small businesses affected by the proposed rule are those funeral homes that sell prepaid funeral benefit contracts. There are approximately between 250 and 300 funeral homes that would be affected.

7. Does the proposed regulation create barriers to entry? If so, please describe those barriers and why those barriers are necessary.

None.

8. Explain the additional requirements with which small business owners will have to comply and estimate the costs associated with compliance.

None.

9. State whether the proposed regulation contains different requirements for different sized entities, and explain why this is, or is not, necessary.

None.

10. Describe your understanding of the ability of small business owners to implement changes required by the proposed regulation.

The small businesses affected by this rule, funeral homes, already charge administrative fees and costs in the process of administering prepaid funeral benefits contracts. The funeral homes are capable of charging the additional fee required by Act 880 of 2015.

11. How does this rule or regulation compare to similar rules and regulations in other states or the federal government?

Research has not been conducted to determine whether other states allow a similar fee. The agency is promulgating this rule to establish the fee in order to comply with the statute requiring the Insurance Commissioner to establish this fee.

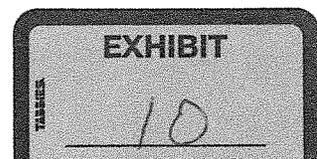
12. Provide a summary of the input your agency has received from small business or small business advocates about the proposed rule or regulation.

To date, the agency has not received any comments from funeral homes, life insurance companies, other small businesses or small business advocates. The agency is willing to submit copies of any comments received during the rulemaking process.

SUMMARY

AID PROPOSED RULE 110: PREPAID FUNERAL BENEFITS CONTRACTS TRANSFER FEE

- Many consumers purchase prepaid funeral benefit contracts so that their funeral arrangements will be made in advance of their deaths.
- Occasionally consumers wish to transfer their contracts from one funeral home to another, or they wish to cancel the contract altogether.
- Ark. Code Ann. § 23-40-122 was amended by Act 880 of 2015 in order to allow a fee to be charged upon either the transfer or the cancellation of the contract.
- The purpose of the fee is to defray the administrative costs incurred by the transferring funeral home in effecting the transfer or cancellation.
- The fee should also provide more resources for staffing to expedite the transfer or cancellation.
- Additionally, the fee will allow the insurer to conduct the process more efficiently, thereby reducing the regulatory burden borne by the transferring funeral home in effecting the transfer or cancellation.
- The law allows either the original funeral home that sold the contract (the transferring funeral home) or the funding life insurance company (in those contracts that are funded by life insurance), but not both, to collect a fee for the transfer or cancellation of the contract.
- The law also requires the Insurance Commissioner to establish the fee for the transfer or cancellation of the contract.



Arkansas Insurance Department

Asa Hutchinson
Governor



Allen Kerr
Commissioner

August 7, 2015

Mr. Ed Armstrong
Senior Assistant Attorney General
Office of the Attorney General
323 Center Street, Suite 200
Little Rock, AR 72201

RE: *Arkansas Insurance Department Proposed Rule 110: "Prepaid Funeral Benefits Contracts Transfer Fee"*

Dear Ed:

Enclosed for your review is the Arkansas Insurance Department's Proposed Rule 110, "Prepaid Funeral Benefits Contracts Transfer Fee".

The Arkansas Insurance Department ("Department") is promulgating this rule because Act 880 of 2015 requires the Commissioner to establish the fee.

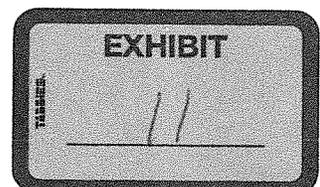
The Department has scheduled a public hearing for September 29, 2015, at 10:30 A.M., at the Arkansas Insurance Department, to consider adopting this proposed Rule.

Please do not hesitate to contact me at 371-2836 if you have any questions.

Sincerely,

Amanda Gibson
Associate Counsel/Legal Division
amanda.gibson@arkansas.gov

cc: LoRraine Rowland, Administrative Analyst



Arkansas Insurance Department

Asa Hutchinson
Governor



Allen Kerr
Commissioner

HAND DELIVERY

August 7, 2015

Mr. Mark Martin
AR Secretary of State
Attn. Arkansas Register
State Capitol Building
Little Rock, AR 72201

BY _____

MARK MARTIN
SECRETARY OF STATE
STATE OF ARKANSAS

15 AUG - 7 10:30 AM

ARK. REGISTER DIV.

FILED

RE: *Arkansas Insurance Department Proposed Rule 110: "Prepaid Funeral Benefits Contracts Fee"*

Dear Secretary Martin:

Arkansas Act 1478 of 2003 added to the requirements for adoption and re-adoption of agency rules and regulations. In that regard, the Act:

- (a) Requires notice of the proposed amendments to Rule , as well as the Public Rule Hearing at the Arkansas Insurance Department ("AID"), to be published by the Arkansas Secretary Of State on the Internet for thirty (30) days pursuant to Ark. Code Ann. § 25-15-218 of the Arkansas Administrative Procedure Act, as amended; and
- (b) Requires AID filing of its adopted and proposed rules and notices with the Arkansas Secretary Of State in an electronic format acceptable to the Secretary.

In that regard, the Department has scheduled a public hearing as to the Proposed Rule 110 on September 29, 2015 at 10:30 a.m. at the AID. Enclosed are the AID Notices of Public Hearing and a copy of the Proposed Rule.

Please arrange to publish the information in a format acceptable to the Secretary for at least 30 days prior to the hearing. Can you send us confirmation that we can use in the transcript as a public hearing exhibit?

An electronic filing will be made within the statutorily required 7 days. Thank you for your assistance.

EXHIBIT

12

Sincerely,

A handwritten signature in black ink, appearing to read 'Amanda Gibson', written in a cursive style.

Amanda Gibson
Associate Counsel/Legal Division
amanda.gibson@arkansas.gov

Enclosures

Arkansas Insurance Department

Asa Hutchinson
Governor



Allen Kerr
Commissioner

August 7, 2015

VIA HAND DELIVERY

Mary Brewer
Arkansas State Library
900 W. Capitol, Ste. 100
Little Rock, AR 72201

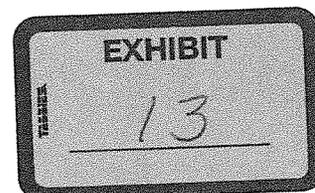
RE: Arkansas Insurance Department Proposed Rule 110: "Prepaid Funeral Benefits Contracts Transfer Fee"

Dear Ms. Brewer:

Please find enclosed fifteen (15) copies of the proposed Rule 110, "Prepaid Funeral Benefits Contracts Transfer Fee", (15) copies of the Financial Impact Statement, and four (4) copies of the Notice of Public Hearing.

Sincerely,

Amanda Gibson
Associate Counsel/Legal Division
amanda.gibson@arkansas.gov



Arkansas Insurance Department

Asa Hutchinson
Governor



Allen Kerr
Commissioner

August 7, 2015

Ms. Pat Brown
AR Economic Development Commission
900 W. Capitol, Ste. 400
Little Rock, AR 72201

RE: Arkansas Insurance Department Proposed Rule 110: "Prepaid Funeral Benefits Contracts Transfer Fee"

Dear Ms. Brown:

Enclosed for your review is the Arkansas Insurance Department's Proposed Rule 110, "Prepaid Funeral Benefits Contracts Transfer Fee".

The Arkansas Insurance Department ("Department") is promulgating this rule because Act 880 of 2015 requires the Commissioner to establish the fee.

The Department has scheduled a public hearing for September 29, 2015, at 10:30 A.M., at the Arkansas Insurance Department, to consider adopting this proposed Rule.

Please do not hesitate to contact me at 371-2820 if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Amanda Gibson".

Amanda Gibson
Associate Counsel/Legal Division
amanda.gibson@arkansas.gov

AG/lrr

EXHIBIT

14

Arkansas Insurance Department

Asa Hutchinson
Governor



Allen Kerr
Commissioner

August 7, 2015

Ms. Jessica Sutton
Bureau of Legislative Research
One Capitol Mall, 5th Floor
Little Rock, AR 72201

RE: Arkansas Insurance Department Proposed Rule 110: "Prepaid Funeral Benefits Contracts Transfer Fee"

Dear Ms. Sutton:

Enclosed for your review is the Arkansas Insurance Department's Proposed Rule 110, "Prepaid Funeral Benefits Contracts Transfer Fee".

The Arkansas Insurance Department ("Department") is promulgating this rule because Act 880 of 2015 requires the Commissioner to establish the fee.

The Department has scheduled a public hearing for September 29, 2015, at 10:30 A.M., at the Arkansas Insurance Department, to consider adopting this proposed Rule.

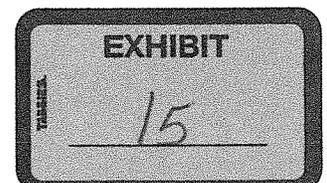
Please do not hesitate to contact me at 371-2836 if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Amanda Gibson".

Amanda Gibson
Associate Counsel/Legal Division
amanda.gibson@arkansas.gov

cc: LoRraine Rowland, Administrative Analyst



Arkansas Insurance Department

Asa Hutchinson
Governor



Allen Kerr
Commissioner

VIA STATE MESSENGER

August 7, 2015

Mr. Justin Tate
Office of the Governor
State Capitol Building
Little Rock, AR 72201

RE: *Arkansas Insurance Department Proposed Rule 110: "Prepaid Funeral Benefits Contracts Transfer Fee"*

Dear Mr. Tate:

Enclosed for your review is the Arkansas Insurance Department's Proposed Rule 110, "Prepaid Funeral Benefits Contracts Transfer Fee".

The Arkansas Insurance Department ("Department") is promulgating this rule because Act 880 of 2015 requires the Commissioner to establish the fee.

The Department has scheduled a public hearing for September 29, 2015, at 10:30 A.M., at the Arkansas Insurance Department, to consider adopting this proposed Rule.

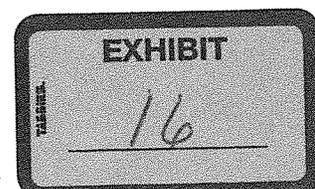
Please do not hesitate to contact me at 371-2820 if you have any questions.

Sincerely,

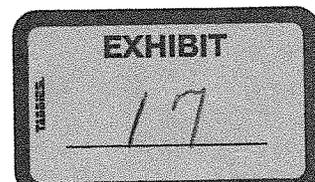
A handwritten signature in black ink, appearing to read "Amanda Gibson".

Amanda Gibson
Associate Counsel/Legal Division
amanda.gibson@arkansas.gov

cc: LoRaine Rowland, Administrative Analyst



PUBLIC COMMENTS



The Arkansas Insurance Department has received a verbal comment related to the question of whether a transfer fee would be permitted in the circumstance of a change of ownership of a funeral home, or a funeral home going into receivership.

RULE 110
PREPAID FUNERAL BENEFITS CONTRACTS TRANSFER FEE

Table of Contents

Section 1. Authority
Section 2. Purpose
Section 3. Definitions
Section 4. Fee
Section 5. Requirements
Section 6. Effective Date

Section 1. Authority

This Rule is promulgated pursuant to Section Two (2) of Act 880 of 2015 of the Arkansas General Assembly, codified in Ark. Code Ann. § 23-40-122(b); authority is also found in Ark. Code Ann. § 23-61-108, Ark. Code Ann. § 25-15-204, and other applicable laws or rules.

Section 2. Purpose

The purpose of this Rule is to establish a fee for a transfer or cancellation of prepaid funeral benefits contracts, when the transfer or cancellation is initiated by the policyholder.

Section 3. Definitions

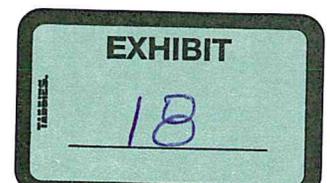
- A. "Seller" means the organization who sold the prepaid funeral benefits contract to the consumer.
- B. "Policyholder" means the contract purchaser.
- C. "Funding life insurance company" means the life insurance company that is responsible for funding the prepaid funeral benefits contract.
- D. "Substitute provider" means the funeral home which is assuming the prepaid funeral benefits contract in the case of a transfer.

Section 4. Fee

Either the seller or the funding life insurance company, but not both, is permitted to collect a fee not to exceed thirty-five dollars (\$35.00) for the policyholder initiated transfer of the contract to a substitute provider or, alternatively, for the cancellation of the contract.

Section 5. Requirements

The purpose of the fee is to defray the administrative costs of the seller in effecting the policyholder initiated transfer or cancellation. The fee may be paid by either the policyholder or the substitute provider. Any seller or funding life insurance company who intends to collect the fee shall give written notice in the contract that the policyholder may be responsible to pay the fee in the event the policyholder chooses to transfer the contract to a substitute provider, or chooses to cancel the contract.



Sellers who sell cash-funded contracts are allowed to collect the fee upon any policyholder initiated transfer or cancellation.

Section 6. Effective Date

This Rule shall apply to all sellers and funding life insurance companies wishing to collect the fee on and after December 1, 2015.

ALLEN KERR
INSURANCE COMMISSIONER
STATE OF ARKANSAS

DATE



Hearing Testimony List
In The Matter Of:
RULE 110

“PREPAID FUNERAL BENEFITS CONTRACTS TRANSFER FEE”

SEPTEMBER 29, 2015
10:30 A.M.

1. Robert Eichelberger
2. _____
3. _____
4. _____
5. _____
6. _____
7. _____
8. _____
9. _____
10. _____

