

1 State of Arkansas *As Engrossed: H3/17/15 H3/19/15*

2 90th General Assembly

# A Bill

3 Regular Session, 2015

HOUSE BILL 1797

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5 By: Representative Wright

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## For An Act To Be Entitled

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AN ACT TO REGULATE PREPAID FUNERAL BENEFITS CONTRACTS

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UNDER THE ARKANSAS PREPAID FUNERAL BENEFITS LAW; AND

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FOR OTHER PURPOSES.

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## Subtitle

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TO REGULATE PREPAID FUNERAL BENEFITS

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CONTRACTS UNDER THE ARKANSAS PREPAID

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FUNERAL BENEFITS LAW.

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19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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SECTION 1. Arkansas Code § 23-40-112(g), concerning the notice provision in a prepaid contract under the Arkansas Prepaid Funeral Benefits Law, is amended to read as follows:

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(g) The prepaid contract shall contain a provision in substantially the following form:

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“NOTICE: If this contract is irrevocable and you choose to transfer this contract to a substitute provider, the entire amount of the contract will not be transferred, the seller may collect a fee that includes the cost of transferring the contract, and you may have to pay more to obtain 100% of the services provided for in the contract.”

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SECTION 2. Arkansas Code § 23-40-122 is amended to read as follows:

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23-40-122. Cancellation or transfer.

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(a) A purchaser may cancel or transfer a prepaid contract ~~as provided~~ under this section, whether revocable or irrevocable, or whether ~~cash-funded~~ cash-funded or funded by insurance or an annuity, at any time ~~prior to~~ before

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1 performance of the contract by the seller, ~~subject to~~ under the following  
2 conditions:

3 (1) In the case of a ~~cash or trust funded~~ cash-funded or trust-  
4 funded prepaid contract:

5 (A) ~~Prior to~~ Before the death of the contract beneficiary,  
6 if the prepaid contract is revocable, the purchaser ~~shall be~~ is entitled to  
7 receive a refund of not less than one hundred percent (100%) of all sums paid  
8 to the seller by the purchaser, not to exceed the contract price;

9 (B) After death, if the prepaid contract is revocable, the  
10 purchaser or his or her representative ~~shall be~~ is entitled to receive one  
11 hundred percent (100%) of the amount paid to the seller by the purchaser, not  
12 to exceed the contract price; or

13 (C) If the prepaid contract is irrevocable, the purchaser  
14 shall not have the right to a refund of any funds paid by him or her or  
15 proceeds paid to the seller, but shall have the right to change the provider  
16 of the contract services and merchandise to a substitute provider, in which  
17 event the seller shall transfer to the substitute provider not less than one  
18 hundred percent (100%) of the amount paid to the seller by the purchaser, not  
19 to exceed the contract price;

20 (2) In the case of a prepaid contract funded by life insurance:

21 (A) ~~Prior to~~ Before the death of the contract beneficiary,  
22 if the prepaid contract is revocable, the purchaser shall have the right to  
23 receive not less than one hundred percent (100%) of the cash surrender value  
24 of the policy used to fund the prepaid contract, not to exceed the premium  
25 paid by the purchaser;

26 (B) After the death of the contract beneficiary, if the  
27 prepaid contract is revocable, the purchaser or his or her designee ~~shall be~~  
28 is entitled to receive not less than one hundred percent (100%) of the policy  
29 proceeds paid to the seller, not to exceed the original face amount of the  
30 policy; or

31 (C)(i) ~~Prior to~~ Before the death of the contract  
32 beneficiary, if the contract is irrevocable, the prepaid contract purchaser  
33 shall not have the right to a refund of any funds paid to the seller but  
34 shall have the right to change the provider of the prepaid contract services  
35 and merchandise to a substitute provider, in which event the seller shall  
36 assign or transfer to the substitute provider, as directed by the contract

1 owner, the life insurance policy used to fund the prepaid contract or funds  
2 in an amount not less than one hundred percent (100%) of the cash surrender  
3 value of the policy used to fund the prepaid contract, not to exceed the  
4 premium paid by the purchaser.

5 (ii) After the death of the contract beneficiary,  
6 the seller shall transfer to the substitute provider not less than one  
7 hundred percent (100%) of the policy proceeds paid to the seller, not to  
8 exceed the original face amount of the policy; or

9 (3) In the case of a prepaid contract funded by an annuity:

10 (A) ~~Prior to~~ Before the death of the contract beneficiary,  
11 if the prepaid contract is revocable, the purchaser ~~shall be~~ is entitled to  
12 receive a refund of not less than one hundred percent (100%) of the annuity  
13 value, not to exceed the premium paid by the purchaser for the annuity  
14 funding the prepaid contract;

15 (B) After the death of the contract beneficiary, if the  
16 prepaid contract is revocable, the purchaser or his or her designee ~~shall be~~  
17 is entitled to receive not less than one hundred percent (100%) of the  
18 annuity proceeds received by the seller, not to exceed the premium paid by  
19 the purchaser; or

20 (C)(i) ~~Prior to~~ Before the death of the contract  
21 beneficiary, if the prepaid contract is irrevocable, the purchaser shall not  
22 have the right to a refund of any funds paid to the seller but shall have the  
23 right to change the provider of the prepaid contract services and merchandise  
24 to a substitute provider, in which event the seller shall assign or transfer  
25 to the substitute provider, as directed by the contract owner, the annuity  
26 policy used to fund the prepaid contract, which shall be in an amount of not  
27 less than one hundred percent (100%) of the annuity value, not to exceed the  
28 premium paid by the purchaser.

29 (ii) After the death of the contract beneficiary,  
30 the seller shall transfer to the substitute provider not less than one  
31 hundred percent (100%) of the annuity proceeds received by the seller, not to  
32 exceed the premiums paid by the purchaser.

33 (b)(1) A seller or funding life insurance company may collect a fee  
34 for the transfer or cancellation of a prepaid contract to a substitute  
35 provider.

36 (2) The Insurance Commissioner by rule shall establish the fee

1 for a transfer or cancellation of a prepaid contract under subdivision (b)(1)  
2 of this section.

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*/s/Wright*

**APPROVED: 04/01/2015**