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# **Proposed Rulemaking**

## **Title**

**Promulgated by:**  
**State Insurance Department**

### **Title 23. Public Utilities and Regulated Industries**

#### **Chapter I. State Insurance Department, Department of Commerce**

##### **Subchapter B. Life, Health, and Accident**

##### **Part 91. Funeral Expense Insurance**

##### **Subpart 1. Generally**

#### **23 CAR § 91-101. Purpose.**

The purpose of this part is to:

- (1) Define funeral expense insurance as required by Arkansas Code § 23-64-202(c)(7)(B); and
- (2) Set out the general requirements that must be met in selling this form of life insurance.

#### **23 CAR § 91-102. Definitions.**

As used in this part:

- (1) "Funeral expense insurance" means that form of life insurance as defined in Arkansas Code § 23-62-102, which provides benefits for expenses incurred in connection with the death of the insured and which does not exceed fifteen-twenty-five thousand dollars (\$~~15,000~~25,000), and which term includes deferred annuities that do not exceed total premiums of fifteen-twenty-five thousand dollars (\$~~15,000~~25,000) for the same purposes, excluding variable annuities; and

- (2) "Insurer" means any authorized:

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- (A) Life insurer;
- (B) Fraternal benefit society;
- (C) Stipulated premium insurer; or
- (D) Mutual assessment life insurer.

**23 CAR § 91-103. General requirements.**

(a) No insurer doing business in this state shall:

(1) Write life insurance wherein the proceeds of the policy after death are payable other than in cash; or

(2) Write a policy that 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 Arkansas Code §§ 23-40-101 – ~~23-40-118~~[23-40-126](#).

(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:

- (1) Funeral home;
- (2) Cemetery company; or
- (3) Monument company.

(d)(1) An insurer may make payment to:

- (A) The executor or administrator of the insured;
- (B) Any of the insured's relatives by blood or legal adoption or connection by marriage; or
- (C) Any person appearing to the insurer to be equitably entitled thereto by reason of having:

(i) Been named beneficiary; or  
(ii) Incurred expenses for the maintenance, medical attention, or burial of the insured.

(2) "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 part.

(f) Arkansas Code §§ 23-74-401 – 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:

- (1) Funeral home;
- (2) Cemetery company; or
- (3) Monument company.

(g) Arkansas Code § 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:

- (1) Funeral home;
- (2) Cemetery company; or
- (3) 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 Arkansas Code § 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 Arkansas Code §§ 23-40-101 – ~~23-40-118~~23-40-126.