

Stricken language would be deleted from present law. Underlined language would be added to present law.

1 State of Arkansas  
2 81st General Assembly  
3 Regular Session, 1997  
4 By: Senator Hoofman

# A Bill

SENATE BILL 40

## For An Act To Be Entitled

"AN ACT TO AMEND ARKANSAS CODE 23-40-109 CONCERNING THE  
SALE OF PREPAID FUNERAL BENEFITS TO PROVIDE THAT ONLY A  
FUNERAL DIRECTOR MAY EXECUTE A CONTRACT FOR PREARRANGED OR  
PREPAID FUNERAL SERVICES OR FUNERAL MERCHANDISE; AND FOR  
OTHER PURPOSES."

## Subtitle

"AN ACT CONCERNING THE SALE OF PREPAID  
FUNERAL BENEFITS TO PROVIDE THAT ONLY A  
FUNERAL DIRECTOR MAY EXECUTE A CONTRACT  
FOR PREARRANGED OR PREPAID FUNERAL  
SERVICES OR FUNERAL MERCHANDISE."

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

SECTION 1. Arkansas Code 23-40-109 is amended to read as follows:

"23-40-109. Permit required.

(a) Any individual, firm, partnership, corporation, society,  
association, or other entity, hereinafter called an \_organization\_, desiring  
to sell prearranged or prepaid funeral services or funeral merchandise,  
including caskets, grave vaults, and all other articles of merchandise  
incidental to funeral services, in this state under a sales contract providing  
for prepaid disposition or funeral benefits or merchandise to be delivered at  
an undetermined future date depending upon the death of a contracting party,  
hereinafter called \_prepaid funeral benefits\_, or any organization desiring to  
purchase an interest in, or assume the liability of, any contract for prepaid  
funeral benefits, shall obtain a permit from the Insurance Commissioner  
authorizing the transaction of this type of business before entering into any  
such agreement or contract and prior to accepting money, property, or any

1 other direct or indirect consideration and shall first apply for and obtain a  
2 prepaid funeral benefits permit or license pursuant to the provisions of this  
3 chapter.

4 (b) An organization desiring to sell prepaid funeral benefits or  
5 otherwise own any interest in any contract for prepaid funeral benefits shall  
6 file proof of ownership of an establishment which is in the business of  
7 providing the funeral goods or services to be contracted for and proof that  
8 the establishment is duly authorized and licensed to do such business in the  
9 State of Arkansas.

10 (c) It shall be unlawful to sell prepaid funeral benefits unless the  
11 seller holds a valid, current permit at the time the contract is made.

12 (d) It shall be unlawful for a person other than a funeral director  
13 licensed pursuant to § 17-29-301 et seq. to execute a contract for prearranged  
14 or prepaid funeral services or funeral merchandise."

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16 SECTION 2. All provisions of this act of a general and permanent nature  
17 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code  
18 Revision Commission shall incorporate the same in the Code.

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20 SECTION 3. If any provision of this act or the application thereof to  
21 any person or circumstance is held invalid, such invalidity shall not affect  
22 other provisions or applications of the act which can be given effect without  
23 the invalid provision or application, and to this end the provisions of this  
24 act are declared to be severable.

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26 SECTION 4. All laws and parts of laws in conflict with this act are  
27 hereby repealed.

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