

1 State of Arkansas
2 90th General Assembly
3 Regular Session, 2015
4

As Engrossed: H3/17/15

A Bill

HOUSE BILL 1797

5 By: Representative Wright
6

For An Act To Be Entitled

8 AN ACT TO REGULATE PREPAID FUNERAL BENEFITS CONTRACTS
9 UNDER THE ARKANSAS PREPAID FUNERAL BENEFITS LAW; AND
10 FOR OTHER PURPOSES.
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Subtitle

13 TO REGULATE PREPAID FUNERAL BENEFITS
14 CONTRACTS UNDER THE ARKANSAS PREPAID
15 FUNERAL BENEFITS LAW.
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19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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21 SECTION 1. Arkansas Code § 23-40-112(g), concerning the notice
22 provision in a prepaid contract under the Arkansas Prepaid Funeral Benefits
23 Law, is amended to read as follows:

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

26 "NOTICE: If this contract is irrevocable and you choose to transfer this
27 contract to a substitute provider, the entire amount of the contract will not
28 be transferred, the seller may collect a fee that includes the cost of
29 transferring the contract, and you may have to pay more to obtain 100% of the
30 services provided for in the contract."
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32 SECTION 2. Arkansas Code § 23-40-122 is amended to read as follows:

33 23-40-122. Cancellation or transfer.

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



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 may collect a fee for the transfer or cancellation of
34 a prepaid contract to a substitute provider.

35 (2) The Insurance Commissioner by rule shall establish the fee
36 for a transfer or cancellation of a prepaid contract under subdivision (b)(1)

1 of this section.

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/s/Wright

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