

ARKANSAS REGISTER



Proposed Rule Cover Sheet

Secretary of State

Cole Jester

500 Woodlane Street, Suite 026

Little Rock, Arkansas 72201-1094

(501) 682-5070

www.sos.arkansas.gov



Name of Department Department of Commerce

Agency or Division Name State Insurance Department

Other Subdivision or Department, If Applicable _____

Previous Agency Name, If Applicable _____

Contact Person Tasha Tidwell, Associate Counsel

Contact E-mail tasha.tidwell@arkansas.gov

Contact Phone 501-683-2822

Name of Rule 23 CAR pt 91 - Rule 30 Funeral Expense Insurance

Newspaper Name Arkansas Democrat Gazette

Date of Publishing July 12, 13 and 14, 2025

Final Date for Public Comment August 19, 2025

Location and Time of Public Meeting 8-19-2025 2:00PM Diamond Mine Room 2nd Floor, 1 Commerce Way Little Rock, AR 72202

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

Codification Notes. This part as promulgated prior to codification into the Code of Arkansas Rules of 2024 provided as follows:

"SECTION 2. AUTHORITY

This Rule is promulgated pursuant to the Commissioner's authority under Ark. Code Ann. § 23-61-108, and § 23-63-106 [repealed], § 23-64-202(c)(7)(B) and §§ 25-15-201, et seq."

"SECTION 5. EFFECTIVE DATE

The effective date of this Rule is January 1, 2012."

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.

Authority. Arkansas Code §§ 23-61-108, 23-64-202.

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 twenty-five thousand dollars (\$25,000), and which term includes deferred annuities that do not exceed total premiums of twenty-five thousand dollars (\$25,000) for the same purposes, excluding variable annuities; and
- (2) "Insurer" means any authorized:
 - (A) Life insurer;
 - (B) Fraternal benefit society;
 - (C) Stipulated premium insurer; or
 - (D) Mutual assessment life insurer.

Authority. Arkansas Code §§ 23-61-108, 23-64-202.

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 – 23-40-126.

(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 – 23-40-126.

Authority. Arkansas Code §§ 23-61-108, 23-64-202.

23 CAR § 91-104. Severability.

Any section or provision of this part held by a court to be invalid or unconstitutional will not affect the validity of any other section or provision of this part.

Authority. Arkansas Code §§ 23-61-108, 23-64-202.

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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.

Authority. Arkansas Code §§ 23-61-108, 23-64-202.

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

Authority. Arkansas Code §§ 23-61-108, 23-64-202.

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(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.

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23 CAR § 91-104. Severability.

Any section or provision of this part held by a court to be invalid or unconstitutional will not affect the validity of any other section or provision of this part.

Authority. Arkansas Code §§ 23-61-108, 23-64-202.



Hugh McDonald
SECRETARY OF COMMERCE

Alan McClain
COMMISSIONER,
ARKANSAS INSURANCE
DEPARTMENT

July 8, 2025

Honorable Cole Jester
Arkansas Secretary of State
State Capitol Building
Little Rock, AR 72201
Attn. Arkansas Register

sent via email: register@sos.arkansas.gov

Re: Amended Proposed Rule 23 CAR pt 91 "Funeral Expense Insurance"

Dear Secretary:

The Arkansas Insurance Department has scheduled a public hearing as to Proposed Rule 23 CAR pt 91 "Funeral Expense Insurance". Enclosed are the DOI Notice of Public Hearing on August 19, 2025, a copy of the proposed amended rule and a copy of the markup for your records.

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

An electronic filing will be made within the statutorily required 7 days. Thanks for your help.

Sincerely,

Clara D. Mezza
Administrative Analyst
Legal Division
Arkansas Insurance Department
clara.mezza@arkansas.gov
501-683-3497

Enclosures



Hugh McDonald
SECRETARY OF COMMERCE

Alan McClain
COMMISSIONER,
ARKANSAS INSURANCE
DEPARTMENT

DATE: JULY 7, 2025

TO: ALL INTERESTED PARTIES

FROM: ARKANSAS INSURANCE DEPARTMENT

SUBJECT: PROPOSED RULE: 23 CAR PART 91 "FUNERAL EXPENSE
INSURANCE"

NOTICE OF PUBLIC HEARING

Please find attached or available by electronic publication by the Arkansas Insurance Department ("AID") Proposed Rule 23 CAR Part 91, "Funeral Expense Insurance."

Pursuant to Arkansas Administrative Procedures Act, and other applicable laws or rules, NOTICE is hereby given that a PUBLIC HEARING will be held on August 19, 2025 at 2:00 p.m., in the Second Floor Hearing Room ("Diamond Mine"), at the Arkansas Department of Commerce, 1 Commerce Way, Little Rock, AR 72202.

The amendment redefines funeral expense insurance by increasing the maximum coverage limit from \$15,000 to \$25,000. This revised definition also expands the exemption from the written examination requirement for applicants seeking licensure to sell funeral expense insurance exclusively.

This Notice is required by the Arkansas Administrative Procedures Act in Ark. Code Ann. § 25-15-204. Copies of the proposed Rule may be obtained by writing or calling the Arkansas Insurance Department, or by visiting its Internet site at <https://www.insurance.arkansas.gov/pages/industry-regulation/legal/proposed-rules/>. Comments from the public will be accepted until August 19, 2025, and may be submitted to the Department in writing at the address above or electronically to the following email address: insurance.legal@arkansas.gov.

Sincerely,

A handwritten signature in black ink that reads "Tasha Tidwell". The script is fluid and cursive, with the first name "Tasha" and last name "Tidwell" written in a single continuous stroke.

Tasha Tidwell,
Associate Counsel
Arkansas Insurance Department