

ARKANSAS REGISTER

Transmittal Sheet



Sharon Priest
Secretary of State
State Capitol Rm. 01
Little Rock, Arkansas 72201-1094

For Office Use Only: Effective Date 7/12/97 Code Number 024.00.97--001
Name of Agency Arkansas Burial Association Board
Department _____
Contact Person Rachael E. McGrew Phone 682 0570
Statutory Authority for Promulgating Rules AC.A. 23-78-115

	Date
Intended Effective Date	Legal Notice Published <u>4/20-27/97</u>
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	Adopted by State Agency <u>5/28/97</u>

CERTIFICATION OF AUTHORIZED OFFICER

I Hereby Certify That The Attached Rules Were Adopted
In Compliance with Act 434 of 1967 As Amended.

Rachael F. McGrew,
Signature

682-0570
Phone Number

Executive Secretary
Title

7/1/97
Date

BY
SHARON PRIEST
SECRETARY OF STATE
STATE OF ARKANSAS

97 JUL -2 AM 11:45

AR. REGISTER DIV.

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ADOPTED RULE

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35. Assumption of Burial Associations by Insurance Companies.

35.1 Burial Associations petitioning the Arkansas Burial Association Board for approval for assumption by an insurance company shall submit the following documents to the Board, at least 90 days prior to the proposed effective date of the assumption:

- a) A notarized copy of the minutes of the meeting at which the assumption was approved.
- b) A copy of the Public notice announcing the meeting to discuss the assumption.
- c) A notarized copy of the letter which will be sent to all of the association policy holders stating the date, time and place of the public meeting, as well as the particulars of the assumption.

35.2 In order that an insurance company may assume a burial association, the following conditions must be met.

a) The insurer must be a legal reserve or stipulated premium insurance company, actively engaged in business in the State of Arkansas, for at least two (2) years.

b) The assuming insurance company must conduct an independent actuarial study to determine the amount of money that is needed to reserve the policies of the Burial Association being assumed. This study is subject to Board approval.

c) The face amount of the policy issued by the insurance company, in lieu of the membership certificate, shall be in the same amount and at the same premium rate as the membership certificate.

d) The assuming insurance company must state in its Assumption agreement, that all claims, in behalf of a policyholder, will be paid in cash and in an amount not less than 100% of the face amount of the benefit that the member was entitled to under the certificate of membership in the burial association.

e) The owner of the policy shall have the exclusive right to name the beneficiary of his choice, and may change said beneficiary at his option in writing.

f) The insurance provider shall not require the policyholder to select either services or merchandise from a particular provider of such services or merchandise in order that 100% of the face amount of the policy, issued in lieu of membership certificates, be payable.

g) The funds in the mortuary reserve fund will be disbursed as follows:

1. All just claims, debts, and obligations of the Burial Association will be paid.
2. A pro-rata distribution will be made to the policyholders opting out of the assumption.
3. The reserve amount, (35.2 (b), as determined by the independent actuarial study, will be paid to the assuming insurance company.
4. After all required disbursements are made, any funds remaining in the mortuary reserve shall be returned to the policyholders.

h) All holders of membership certificates in a burial association shall be assumed by the insurance company, in the same amount and at the same premium rate as under the

membership certificate, without being required to submit proof of insurability.

35.3 Insurance companies wishing to assume a burial association shall submit the following documents to the Arkansas Burial Association, at least 90 days prior to the proposed effective date of the assumption:

- a) Petition for Assumption
- b) The Plan of Liquidation
- c) The Assumption Agreement
- d) The Assumption Notice

Upon receipt of the documents from both the burial association and the assuming insurance company, the Executive Secretary shall review the documents submitted for compliance with this rule. Additionally, copies shall be submitted to the Arkansas Insurance Department for comment regarding the petitioners compliance with the Insurance Departments regulations. The Secretary shall provide each Board member with copies of the documents at the next regularly scheduled Board meeting. The Board will then table the petition and take the matter under advisement for consideration at its next regularly scheduled meeting.

35.4 Plan of Liquidation. The Plan of Liquidation shall include:

- a) The effective date of the planned liquidation.
- b) The transfer of the rights held under the membership certificate to the insurance company and that the burial association shall have no liabilities as of the effective date of the liquidation.
- c) A plan to transfer the assets of the association as provided for in 35.2 g.
- d) The date of the closing of the burial association.
- e) A statement that the insurance company accepts cession of the Burial association membership certificates and that it assumes all liabilities of the membership certificates, together with all debts and obligations of the association being assumed, and further that the liabilities, debts and obligations of the association shall not be greater than the association had prior to the assumption, except that there shall be no less than 100% of the face amount of the policy payable, in cash.
- f) That policies shall be issued by the insurance company stating the name of the insurance company, the names of the insured, the amount of the coverage for each individual and the premium rates for each individual covered by the policy.

35.5 Assumption Agreement. The Assumption Agreement shall include:

- a) That the benefits formerly contemplated under the membership certificates are now payable through the insurance company and that such benefits are payable in cash only.
- b) That the insurance company shall have the right to assume those assets of the burial association as provided for in 35.2g, in exchange for the liabilities of the association.
- c) That if the holder of a membership certificate in a burial association does not desire to be assumed by the insurance company" wishes to opt out", he may, within 60 days, return the Assumption Notice and request his "opt" out pro rata share of the associations reserves as computed and certified by the assuming insurance company.

Continued payment of premiums constitutes acceptance of the assumption.

d) That the coverage provided through the insurance company shall be in the same amount and at the same premium rate as that held under the certificate of membership in the association.

e) That those responsible for making funeral arrangements for the deceased policyholder shall have the freedom to choose a funeral home or other funeral service and or merchandise provider of their choice, and further that such choice shall not diminish the face amount of the policy of such.

35.6 Assumption Notice. The Assumption Notice shall be mailed/provided to each member of the association being assumed. Said Notice of Assumption shall be provided to each member in good standing on the effective date of the assumption without proof of insurability. The Assumption Notice shall provide the following:

a) Effective date of the Assumption.

b) Information regarding the assumption including:

1. uninterrupted insurance coverage without proof of insurability,
2. continued, same premium rate,
3. proceeds payable in 100% of the face amount, in cash.
4. exclusive right of the policyholder to name the beneficiary of his choice and right to change said beneficiary at his option, in writing.

c) Information regarding the opting out provisions, including:

1. Policyholders right to a pro rata share of the mortuary fund reserves as determined by 35.2g.

35.7 Audit of Burial Association. The Arkansas Burial Association Board shall conduct an audit of the Burial Association being assumed by the insurance company within 7 days of the effective date of the assumption.

35.8 All cost associated with the assumption of a Burial Association shall be paid by the assuming Insurance Company.

Rule #46:

46: Penalty Rule:

The Secretary Treasurer of the Burial Association shall file the semi annual report and pay the annual fee on or before February 15th and August 15th. Reports and fees not in the Board office on or before these dates will be delinquent and a \$100.00 per day delinquent fee will be levied. The Association cannot pay delinquent fees.