

**QUESTIONNAIRE FOR FILING PROPOSED RULES AND REGULATIONS
WITH THE ARKANSAS LEGISLATIVE COUNCIL AND JOINT INTERIM COMMITTEE**

DEPARTMENT/AGENCY Arkansas Teacher Retirement System
DIVISION Administration
DIVISION DIRECTOR George Hopkins
CONTACT PERSON Laura Gilson, General Counsel
ADDRESS 1400 West Third Street, Little Rock, AR 72201
PHONE NO. 501-682-1266 FAX NO. 501-682-6326 E-MAIL laurag@artrs.gov
NAME OF PRESENTER AT COMMITTEE MEETING George Hopkins
PRESENTER E-MAIL georgeh@artrs.gov

INSTRUCTIONS

- A. Please make copies of this form for future use.
- B. Please answer each question completely using layman terms. You may use additional sheets, if necessary.
- C. If you have a method of indexing your rules, please give the proposed citation after "Short Title of this Rule" below.
- D. Submit two (2) copies of this questionnaire and financial impact statement attached to the front of two (2) copies of the proposed rule and required documents. Mail or deliver to:

Donna K. Davis
Administrative Rules Review Section
Arkansas Legislative Council
Bureau of Legislative Research
Room 315, State Capitol
Little Rock, AR 72201

1. What is the short title of this rule? Lost Payees (Rule 11-5)

2. What is the subject of the proposed rule? Rules for payment of a member's benefit and contributions where the recipient cannot be located

3. Is this rule required to comply with a federal statute, rule, or regulation? Yes No
If yes, please provide the federal rule, regulation, and/or statute citation.

4. Was this rule filed under the emergency provisions of the Administrative Procedure Act? Yes No
If yes, what is the effective date of the emergency rule? _____

When does the emergency rule expire? _____

Will this emergency rule be promulgated under the permanent provisions of the Administrative Procedure Act? Yes No

5. Is this a new rule? Yes No

If yes, please provide a brief summary explaining the regulation.

Does this repeal an existing rule? Yes No

If yes, a copy of the repealed rule is to be included with your completed questionnaire. If it is being replaced with a new rule, please provide a summary of the rule giving an explanation of what the rule does.

Is this an amendment to an existing rule? Yes No

If yes, please attach a mark-up showing the changes in the existing rule and a summary of the substantive changes. **Note: The summary should explain what the amendment does, and the mark-up copy should be clearly labeled "mark-up."**

6. Cite the state law that grants the authority for this proposed rule?

If codified, please give Arkansas Code citation.

§ 24-7-305(b)(1)

7. What is the purpose of this proposed rule? Why is it necessary?

To bring into compliance and make consistent with Acts 86 and 140 of 2013 and various minor changes for clarity.

8. Please provide the address where this rule is publicly accessible in electronic form via the Internet as required by Arkansas Code § 25-19-108(b).

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9. Will a public hearing be held on this proposed rule? Yes No

If yes, please complete the following:

Date: _____

Time: _____

Place: _____

10. When does the public comment period expire for permanent promulgation? (Must provide a date.)

August 29, 2013

11. What is the proposed effective date of this proposed rule? (Must provide a date.)

December 1, 2013

12. Do you expect this rule to be controversial? Yes No

If yes, please explain. _____

13. Please give the names of persons, groups, or organizations that you expect to comment on these rules? Please provide their position (for or against) if known.

N/A

FINANCIAL IMPACT STATEMENT

PLEASE ANSWER ALL QUESTIONS COMPLETELY

DEPARTMENT Arkansas Teacher Retirement System
DIVISION Administration
PERSON COMPLETING THIS STATEMENT Laura Gilson
TELEPHONE NO. 501-682-1266 **FAX NO.** 501-682-6326 **EMAIL:** laurag@artrs.gov

To comply with Act 1104 of 1995, please complete the following Financial Impact Statement and file two copies with the questionnaire and proposed rules.

SHORT TITLE OF THIS RULE Lost Payee (Rule 11-5)

1. Does this proposed, amended, or repealed rule have a financial impact? Yes No
2. Does this proposed, amended, or repealed rule affect small businesses? Yes No
If yes, please attach a copy of the economic impact statement required to be filed with the Arkansas Economic Development Commission under Arkansas Code § 25-15-301 et seq.

3. If you believe that the development of a financial impact statement is so speculative as to be cost prohibited, please explain.
N/A

4. If the purpose of this rule is to implement a federal rule or regulation, please give the incremental cost for implementing the rule. Please indicate if the cost provided is the cost of the program.

<u>Current Fiscal Year</u>	<u>Next Fiscal Year</u>
General Revenue _____	General Revenue _____
Federal Funds _____	Federal Funds _____
Cash Funds _____	Cash Funds _____
Special Revenue _____	Special Revenue _____
Other (Identify) _____	Other (Identify) _____
Total _____	Total _____

5. What is the total estimated cost by fiscal year to any party subject to the proposed, amended, or repealed rule? Identify the party subject to the proposed rule and explain how they are affected.

<u>Current Fiscal Year</u>	<u>Next Fiscal Year</u>
\$ _____	\$ _____

6. What is the total estimated cost by fiscal year to the agency to implement this rule? Is this the cost of the program or grant? Please explain.

<u>Current Fiscal Year</u>	<u>Next Fiscal Year</u>
\$ _____	\$ _____

Summary of Proposed Rule Change

for
Arkansas Teacher Retirement System

Rule 11-5 Lost Payees

This Rule change is needed to comply with Acts 86 and 140 of 2013. Act 86 excluded distributable funds held by ATRS from the definition of "property" under the Arkansas Unclaimed Property Act. This allows ATRS to distribute a member's funds according to rules promulgated by ATRS. Act 140 is a "technical corrections" Act that in part, modified the section of the Arkansas Code that deals with Lost Payees, that is, persons who are owed money from ATRS but for whom ATRS has an incorrect mailing address or other contact information. The Act lists the order in which a final payment to a member is sent, until delivered. Changes are also made that are nonsubstantive, including renumbering and reference to "ATRS" instead of "the System" for consistency throughout the Rules. Specific changes as referenced by the Rule page number are listed as follows:

11-5-1 II. (3). Stricken paragraph 3 is necessary to comply with Act 140 and is already covered explicitly in § 24-7-734 (b)(1) and substantially replicates the language as well. The language was removed to prevent repetition and potential conflict with the Arkansas Code language.

11-5-1 II. (4). Stricken paragraph 4 is necessary to comply with Act 140 and is already covered explicitly in § 24-7-734(c) and substantially replicates the language as well. The language was removed to prevent repetition and potential conflict with the Arkansas Code language.

11-5-1 III. A sentence was added to this paragraph to reference the changes made under Act 86, and to reference the appropriate Arkansas Code section. Act 86 clarified that ATRS funds that may be owed to a benefit participant are distributable according to the laws and Rules of ATRS, and not the Arkansas Unclaimed Property Act.

RULE 11-5 **LOST PAYEES**

A.C.A. § 24-7-734
Act 385 of 2005
Act 140 of 2013

- I.4. Each member of the ~~Teacher Retirement System~~ ATRS, as well as each beneficiary of a deceased member, is responsible for filing with the Board of the ~~Teacher Retirement System~~ ATRS from time to time in writing the post office address and each change of post office address of the member or beneficiary.
- II.2. Any communication addressed to a member or beneficiary at the last address filed with the Board or the ~~System~~ ATRS or, if no address has been filed, the last address indicated on the records of the employer of the member or the beneficiary shall be binding on the member or beneficiary for all purposes of ATRS. Neither the Board nor the ~~System~~ ATRS is obligated to search for or ascertain the whereabouts of any member or beneficiary.
- ~~3. If the Teacher Retirement System is unable within five (5) years after payment of a benefit is due to locate a member, beneficiary, or personal representative by mailing to the last known address, and neither the member, the beneficiary, nor the personal representative has made written claim therefor supplying a current address before the expiration of five years, the amount shall be forfeited to the trust assets of the Arkansas Teacher Retirement System.~~
- ~~4. The amount of the benefit, however, shall be reinstated if the member, beneficiary, or personal representative makes a valid claim upon presentation of proper identification.~~
- III.3. If any provision of A.C.A. § 24-7-734, as amended by Act 385 of 2005, conflicts with a provision of the Arkansas Unclaimed Property Act (A.C.A. § 18-28-201 et seq.) the provision in A.C.A. § 24-7-734 supersedes the conflicting provision of the Arkansas Unclaimed Property Act. Furthermore, beginning July 1, 2013, distributable funds in the possession of ATRS are excluded from the definition of property under the Arkansas Unclaimed Property Act pursuant to A.C.A. § 18-28-201(13)(B)(iii).

Adopted: July 18, 2005

Approved by Board: July 26, 2013

Amended:

Effective:

RULE 11-5
LOST PAYEES

A.C.A. § 24-7-734

Act 385 of 2005

Act 140 of 2013

- I. Each member of ATRS, as well as each beneficiary of a deceased member, is responsible for filing with the Board of ATRS from time to time in writing the post office address and each change of post office address of the member or beneficiary.
- II. Any communication addressed to a member or beneficiary at the last address filed with the Board or ATRS or, if no address has been filed, the last address indicated on the records of the employer of the member or the beneficiary shall be binding on the member or beneficiary for all purposes of ATRS. Neither the Board nor ATRS is obligated to search for or ascertain the whereabouts of any member or beneficiary.
- III. If any provision of A.C.A. § 24-7-734, as amended by Act 385 of 2005, conflicts with a provision of the Arkansas Unclaimed Property Act (A.C.A. § 18-28-201 et seq.) the provision in A.C.A. § 24-7-734 supersedes the conflicting provision of the Arkansas Unclaimed Property Act. Furthermore, beginning July 1, 2013, distributable funds in the possession of ATRS are excluded from the definition of property under the Arkansas Unclaimed Property Act pursuant to A.C.A. § 18-28-201(13)(B)(iii).

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