

**Title 23. Public Utilities and Regulated Industries**  
**Chapter I. State Insurance Department, Department of Commerce**  
**Subchapter B. Life, Health, and Accident**  
**Part 122. Prepaid Funeral Benefits Contracts Recovery Fund Fees**

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

"SECTION 2. AUTHORITY & EFFECTIVE DATE

Authority for this Rule is given to the Insurance Commissioner for the State of Arkansas by Ark. Code Ann. §23-40-119 (d)(2)(A)(i) which states that the Insurance Commissioner, on and after July 1, 2001, may by rule or regulation eliminate, reduce, suspend, or increase the per-contract fee or the portion of the per-contract fee allotted to the Prepaid Funeral Contracts Recovery Program Fund. In addition, this Rule and Regulation is promulgated and adopted by the Insurance Commissioner pursuant to the authority vested in the Commissioner under Arkansas Code Annotated §§23-61-108 and 25-15-201, et seq. Pursuant to the Commissioner's authority under Ark. Code Ann. §23-61-108, §§25-15-201, et seq., and other applicable laws and rules, the effective date of this Rule and Regulation is January 1, 2013."

"SECTION 5. SEVERABILITY

If any provision of this Rule and Regulation, or the application thereof to any person or circumstance, is held invalid, such invalidity shall not affect other provisions or applications of this Rule and Regulation which can be given effect without the invalid provision or application, and to that end the provisions of this Rule and Regulation are severable."

**Subpart 1. Generally**

**23 CAR § 122-101. Purpose.**

(a) The purpose of this part is to increase the five-dollar per-contract fee charged on the sale of each prepaid funeral benefits contract to ten dollars (\$10.00) per contract.

(b) Pursuant to Arkansas Code § 23-40-119(d)(2)(A)(i), the Insurance Commissioner may by rule eliminate, reduce, suspend, or increase the per-contract fee or the portion of the per-contract fee allotted to the Prepaid Funeral Contracts Recovery Program Fund.

(c) The per-contract fees fund the Prepaid Funeral Contracts Recovery Program, established under Arkansas Code § 23-40-119(d), to provide reparations to consumers in the event a prepaid funeral organization becomes insolvent or has significant trust fund shortages.

(d) The commissioner has chosen to increase the per-contract fee an additional five dollars (\$5.00) to increase the reserves of the fund to adequately safeguard against future, significant trust fund shortages or insolvencies by prepaid funeral benefit organizations.

(e) The commissioner desires to impose a ten-dollar fee for five (5) years from the effective date of this part to meet current and anticipated requests for potential reparation claims for purchasers from organizations declared insolvent or found deficient under Arkansas Code § 23-40-119(f)(1)(A) or § 23-40-119(f)(1)(B).

**Authority.** Arkansas Code §§ 23-40-119, 23-61-108.

### **23 CAR § 122-102. Applicability and scope.**

This part shall apply to all persons engaged in the business of selling prepaid funeral benefits contracts under the Arkansas Prepaid Funeral Benefits Law, Arkansas Code § 23-40-101 et seq., as amended by Acts 1995, No. 852.

**Authority.** Arkansas Code §§ 23-40-119, 23-61-108.

### **23 CAR § 122-103. Per-contract fee amounts.**

(a) Effective for all prepaid funeral benefits contracts executed on and after January 1, 2013, until January 1, 2018, each licensee selling a prepaid funeral benefits contract shall remit to the State Insurance Department a one-time per-contract fee of not less than ten dollars (\$10.00) for each prepaid funeral benefits contract, including any amendments thereto, entered into by the licensee, whether cash or trust funded or funded by an insurance policy or annuity contract.

(b) A five-dollar increase in the per-contract fees is needed during the above described period, from January 1, 2013, to January 1, 2018, to increase funds in the Prepaid Funeral Contracts Recovery Program to safely meet potential reparation claims for purchasers from organizations declared insolvent or found deficient under Arkansas Code § 23-40-119(f)(1)(A) or § 23-40-119(f)(1)(B).

(c) For prepaid funeral benefit contracts executed after January 1, 2018, the one-time per-contract fee shall revert to a fee of five dollars (\$5.00) per contract.

**Authority.** Arkansas Code §§ 23-40-119, 23-61-108.