

A.C.A. § 23-40-103

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*** CURRENT THROUGH THE 2011 REGULAR SESSION AND UPDATES ***
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Title 23 Public Utilities and Regulated Industries
Subtitle 2. Financial Institutions And Securities
Chapter 40 Sale of Prepaid Funeral Benefits

A.C.A. § 23-40-103 (2011)

23-40-103. Definitions.

As used in this chapter, unless the context otherwise requires:

(1) "Cash accommodation items" means flowers, honorariums, death certificates, sales taxes, grave opening and closing, cemetery charges, and other items incidental to the funeral and disposition of the beneficiary which are to be furnished or provided by a third party at the time of death;

(2) "Contract beneficiary" means any natural person designated in a prepaid funeral benefits contract upon whose death funeral services or funeral merchandise, or both, shall be performed, provided, or delivered;

(3) "Contract price" means the aggregate moneys to be paid and the aggregate stated value of all other direct or indirect consideration to be assigned by purchasers of prepaid funeral benefits as provided in the contract, exclusive of any finance charge;

(4) "Contract proceeds" means the portion of the contract price collected by the seller from a contract for the sale of prepaid funeral benefits;

(5) "Licensee" or "permittee" means a person holding a valid permit or license issued pursuant to this chapter;

(6) "Liquid investments" means investments which can be sold at cost or greater, liquidated without penalty, and collected within five (5) banking days;

(7) "Net investment income" means:

(A) All revenue and earnings of the trust fund, including, but not limited to, interest, dividends, and capital gains; minus

(B) Investment expenses, trustee's fees, capital losses, and all revenue and earnings on cash accommodation funds;

(8) "Net worth" means the difference between the applicant's total assets and total liabilities as reflected in a balance sheet prepared in accordance with accounting principles and procedures approved by the Insurance Commissioner;

(9) (A) "Prearrangement" means an arrangement whereby a person, for himself or on behalf of some other person, makes arrangement for funeral and burial services prior to the death of the person, without consideration and without an agreement or itemization specifying any particular service or merchandise, or the cost thereof, through the assignment or transfer, including the conditions that the assignor or transferor may choose to impose, of ownership to a licensee of an insurance policy or annuity contract, or proceeds thereof, or by the designation of a licensee as

insurance policy or annuity contract, or proceeds thereof, or by the designation of a licensee as beneficiary of any such insurance policy or annuity contract.

(B) An assignment of an insurance policy or annuity or the proceeds thereof to a funeral home or the designation of a funeral home as beneficiary as described in subdivision (9)(A) of this section is not a prepaid funeral benefits contract;

(10) "Prepaid funeral benefits contract" or "prepaid contract" means a contract or agreement for the prepayment and sale in this state of funeral services or funeral merchandise, including caskets, grave vaults, and all other articles of merchandise and services incidental to funeral services, at an agreed-upon price, to be delivered at an undetermined future date depending upon the death of the contract beneficiary. It does not include a prearrangement;

(11) "Seller" means the organization selling prepaid funeral benefits or owning any interest in any contract for prepaid funeral benefits pursuant to this chapter;

(12) "Surplus" means the funds or other property in excess of the undistributed net investment income and aggregate contract proceeds held in the trust fund; and

(13) "Trustee" means a state or national bank or savings and loan association in this state, or, in the reasonable discretion of the Insurance Commissioner upon the terms and conditions that he may require, a securities brokerage firm licensed and in good standing with appropriate state and federal regulatory authorities.

HISTORY: Acts 1985, No. 156, § 1; A.S.A. 1947, § 67-1713; Acts 1995, No. 852, § 1; 1997, No. 372, §§ 1-3.