

A.C.A. § 23-40-113

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*** CURRENT THROUGH THE 2011 REGULAR SESSION AND UPDATES ***
*** FROM THE ARKANSAS CODE REVISION COMMISSION THROUGH ***
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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. § 23-40-113 (2011)

23-40-113. Change of ownership.

(a) The seller shall apply for change of ownership or control when:

- (1) The seller transfers all or a portion of the interest in any contract for prepaid funeral benefits;
- (2) The seller transfers one (1) or more of its establishments for providing funeral goods or services;
- (3) All or a portion of the equity ownership of a seller has been transferred which will result in a change of:
 - (A) The controlling interest of a seller when the seller is a corporation;
 - (B) Ownership of a seller when the seller is other than a corporation;
- (4) The seller transfers all of its business assets relating to providing funeral goods or services; or
- (5) The seller terminates its business of providing funeral goods or services.

(b) At least fifteen (15) days prior to the proposed occurrence of an event described in subsection (a) of this section, the seller shall file a verified change of ownership application with the Insurance Commissioner which shall contain the following:

- (1) The name and address of the seller;
- (2) The name and address of the organization proposing to acquire property of the seller, hereinafter referred to as the "transferee";
- (3) A description of the property and of the proposed transaction, as set forth in subsection (a) of this section;
- (4) An accounting of the trust fund and all outstanding contracts, which accounting shall contain all the information required in the annual report, prepared as of a date within thirty (30) days of the required application filing date;
- (5) Any required documents or amendments thereto relating to the trust fund;
- (6) A copy of any notice proposed to be sent to the contract buyers after the transfer;
- (7) A filing fee of five hundred dollars (\$500); and
- (8) Any other information which may reasonably be required by the commissioner pursuant to rule

(8) Any other information which may reasonably be required by the commissioner pursuant to rule or order.

(c) The commissioner shall approve the seller's application for change of ownership by written authorization if:

(1) The transferee or transferees set forth in the application hold a valid, current permit pursuant to the provisions of this chapter;

(2) The accounting required is complete, accurate, and reflects the trust fund whole and intact; and

(3) All required information and documents are filed with and approved by the commissioner.

(d) The commissioner shall have the authority by rule or order to waive or reduce any or all of the requirements contained in subsection (b) of this section as not being necessary or appropriate in the public interest or for the protection of the contract buyers.

(e) The seller, or interest therein, shall remain liable for all funds and transactions to the effective date of the transfer. The commissioner shall recover from the seller, for the benefit and protection of contract buyers, all contract proceeds which the seller has not properly accounted for and deposited into the trust fund.

HISTORY: Acts 1985, No. 156, § 6; A.S.A. 1947, § 67-1718; Acts 1995, No. 852, § 5; 1997, No. 372, § 6; 1999, No. 881, § 2.