

*** CURRENT THROUGH THE 2011 REGULAR SESSION AND UPDATES ***
*** FROM THE ARKANSAS CODE REVISION COMMISSION THROUGH ***
*** JUNE 2, 2011 ***

Title 23 Public Utilities and Regulated Industries
Subtitle 2. Financial Institutions And Securities
Chapter 40 Sale of Prepaid Funeral Benefits

A.C.A. § 23-40-123 (2011)

23-40-123. Delinquency proceedings.

(a) The Insurance Commissioner may apply to a court of competent jurisdiction for an order appointing him in his official capacity as receiver of and directing him to conserve, rehabilitate, or liquidate a prepaid funeral benefits contracts licensee upon one (1) or more of the following grounds:

(1) The licensee has not maintained trust funds received from contracts in the manner required by § 23-40-114;

(2) The licensee has allowed its permit to lapse or be revoked in accordance with this chapter and has not made a full and complete accounting and restitution, if appropriate, of all prepaid funeral benefits contracts funds deposited with it;

(3) The licensee is impaired or insolvent;

(4) The licensee has refused to submit its books, records, accounts, or affairs to reasonable examination by the commissioner;

(5) The licensee or any officer, director, or manager of the licensee has refused to be examined under oath concerning the licensee's affairs;

(6) There is reasonable cause to believe that there has been embezzlement, misappropriation, or other wrongful misapplication or use of trust funds or fraud affecting the ability of the licensee to perform its obligations under prepaid funeral benefits contracts sold or assumed by the licensee; or

(7) The licensee has failed to file its annual report within the time required by law and, after written demand by the commissioner, has failed to promptly give an adequate explanation for such failure.

(b) Circuit courts shall have original jurisdiction of all delinquency proceedings under this chapter, and any such court is authorized to make all necessary or appropriate orders to carry out the purposes of this chapter.

(c) The venue of delinquency proceedings against a licensee shall be in the Circuit Court of Pulaski County.

(d) Delinquency proceedings instituted pursuant to this chapter shall constitute the sole and exclusive method of liquidating, rehabilitating, or conserving a licensee, and no court shall entertain a petition for the commencement of such proceedings unless the petition has been filed in the name of the state on the relation of the commissioner.

(e) (1) The commissioner shall commence any such proceeding by application to the court for an order directing the licensee to show cause why the commissioner should not have the relief prayed

order directing the licensee to show cause why the commissioner should not have the relief prayed for in the application.

(2) On the return of the order to show cause, and after a full hearing, the court shall either deny the application or grant the application, together with such other relief as the nature of the case and the interests of the prepaid contracts purchaser, contract beneficiaries, or the public may require.

(f) An appeal shall lie to the Arkansas Supreme Court from an order granting or refusing rehabilitation, liquidation, or conservation, and from every other order in delinquency proceedings having the character of a final order as to the particular portion of proceedings embraced therein.

HISTORY: Acts 1997, No. 372, § 10.