Arkansas Burial Association Board
Rule Committee Meeting
October 10, 2013 - 11AM
Bail Bonds Conference Room 117
Via Teleconference 877-402-99753

Rule committee members present were: Normal Gilchrest, Steve Ballard, Bob Brooke, Auditor, Kat Hodge, Board Council, and Amy S. Goode, Executive Secretary. John Frazer and Jackie Harris also joined the meeting.

The committee discussed the Fidelity Bond rule for a length of time. Surety covers promise to pay and fidelity bond covers dishonesty. Kat clarified that in Rule 7 that it's referring to approved corporate surety which is an entity that issues that fidelity bond. After significant discussion, the committee agreed to leave the majority of Rule 7 as written, but added that the bond shall not be less than $2,500.

The Board discussed the following other rules and the committee were in agreement with the Board's staff recommendations, with minor language adjustments.

- Rule 10 – Semi-Annual Reports
- Rule 11 – Funeral Directors
- Rule 12 – Minutes of Meeting
- Rule 16 – Applications - the language agreed upon only will affect the sale of new business.
- Rule 20 – Increase in Benefits – added language to be consistent with Rule 16
- Rule 26 – Agent Applications
- Rule 27 – Agent License Fees
- Rule 46 – Penalty Rule

The committee did get into deep discussion on Rule 33. The committee worked on clarifying the language concerning benefits owing. The committee added the language that the contract funeral home shall absorb the loss. Payments owing to the serving funeral home, other than the contract funeral home, shall have priority and paid as funds are available.

Rule 34 was discussed by committee members at length as well. We had some voiced concerns, so the committee worked to clarify that rule. Language was added that upon notification of address change outside the service area that the association shall notify in writing that policy holder of changes in benefits if any.

Rule 48 – Mergers - were discussed and there was additional language to that proposed rule.

Rule 35.8.1 – Jackie Harris Proposal

Jackie Harris was present at the teleconference to discuss the proposed Rule 35.8.1 Dissolution of Burial Association by Insurance Companies. Mr. Harris had only talked to Mr. Horne two times since July. Ms. Hodge had not heard back from Mr. Horne if he were in agreement of the draft proposed by Mr. Harris. Mr. Horne was invited to the teleconference today and was aware this rule would be discussed.

Mr. Harris explained the reason for the Drew County Dissolution. There are not many associations in their position. Mr. Harris proposed this rule as a solution for the Board to consider the dissolution of all burial associations as a whole. Mr. Harris discussed that the proposed rule was similar to the assumption rule, but used the unincorporated association statute for the winding up of the association. They used that process because of the 2007-035 Attorney General's opinion that didn't particular address a voluntary dissolution, but it did address the "last man standing rule". There was some variance in opinions what would happen with the funds. The member would get their benefit, but the remaining funds would remain with the associations. Some committee members thought it would go to the state.

Rule 35.8.2 – Pro-Rata distribution follows the assumption rule. It's based on participation. Hodge had concerns of the policy holder that joined the association with the assumption of getting the full face amount, but if they had only been a member for a short amount of time getting less. Harris stated when they drafted the rule they followed the unincorporated association statute on the calculation of the pro-rata share. Harris discussed that the full face amounts could be considered a part of the associations debts in proposal submitted to the Board then there would be a pro-rata distribution. That was the guidance they were seeking from the Board. Auditor had concerns with someone taking out a policy only paying one premium getting that benefit. Hodge questioned that once the association voted to dissolve would they cease taking memberships. This particular association has, but Harris stated that could be added for more clarification in the rule. However, that would not affect the long term participation.

Mr. Harris noted the concerns the Board had with the members concerning public benefits. They sent out letters and tried to answer questions for those members. Help the members understand the impact of receiving the distribution depending on amount.

Hodge discussed an issue about associations as a whole who want to dissolve and only members present would get the deciding vote. The Board might want a stipulation that at least 50% participation. Harris went back to the By-laws of the association.

Talk more about winding down period. Flush out more language concerning 35.8.8 and tighten it up. Hodge still has a concern that only two people show up to determine the dissolution.

Mr. Gilchrest had concerns about insurability for some members. It was mentioned that they could get a single premium annuity.

The committee would like to know the options for the plan of liquidation and see a thorough breakdown of that plan more. The committee discussed the options to opt out, taking into account a member that could transfer their benefit or premiums to another association if possible. Harris stated he would work on the concerns addressed today and submit a new proposal to Ms. Hodge to submit to the committee. Mr. Harris said he could give the actual breakdown in the rule how the pro-rata shared would be figured.

There was no further discussion.