

Arkansas Insurance Department

Mike Beebe
Governor



Jay Bradford
Commissioner

BULLETIN NO. 14-2013

DATE: August 5, 2013

TO: ALL LICENSED PREPAID FUNERAL BENEFITS CONTRACT ORGANIZATIONS, OTHER INTERESTED PERSONS

FROM: ARKANSAS INSURANCE DEPARTMENT

SUBJECT: NON-SPECIFIED PREPAID FUNERAL BENEFITS CONTRACTS

The purpose of this bulletin is to notify prepaid funeral benefits contract organizations (“Organizations”) of Act 476 of 2013 by the Arkansas State Legislature (“Act 476”) related to the sale and regulation of “non-specified prepaid funeral benefits contracts.” Act 476 requires the Arkansas Insurance Commissioner (“Commissioner”) to regulate the sale of “non-specified prepaid funeral benefits contracts” (hereafter, “non-specified contracts”) effective August 16, 2013. This bulletin is also intended to advise the industry of this regulation and to provide temporary contract form filing requirements for “non-specified contracts,” pending the promulgation of a Rule by the Arkansas Insurance Department (“Department”) in the fall of 2013.

Non-specified contracts are defined by Act 476 to be “prepaid funeral benefit contracts” in which (A) there is no selection (by the contract holder) of specific funeral merchandise or funeral services when the contract is executed; (B) the selection of funeral merchandise or funeral services is made at the time of need; and (C) the contract funds are applied to the cost of funeral merchandise or funeral services at the time of need. Non-specified contracts are essentially contracts for funeral services or merchandise in which there is no guarantee or commitment by the organization to provide specified funeral services or merchandise for a fixed or guaranteed amount, regardless of the cost of the cost of merchandise or services at the date of the beneficiary’s death. Act 476 requires that non-specified contracts provide the contract holder with interest or earnings during the term of the non-specified prepaid contract unless or until the non-specified contract is cancelled.

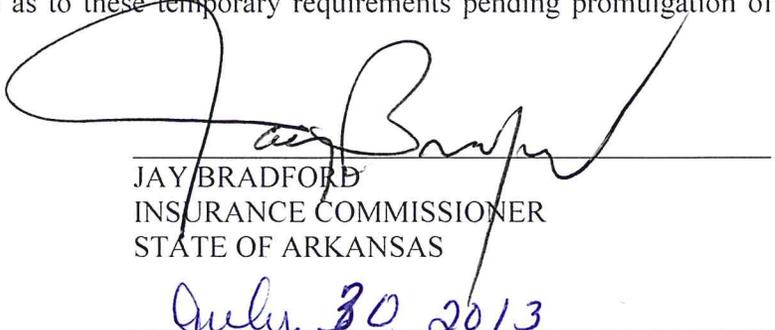
Act 476 requires that non-specified contracts be in writing and for the Commissioner to review and approve such contracts prior to sale.

The Department is currently drafting a Rule to provide comprehensive standards related to contract forms, and requirements concerning the sale of non-specified contracts for such contracts issued by Organizations on or after August 16, 2013. Pending promulgation of a final Rule with these standards, Organizations desiring to sell non-specified contracts on and after August 16, 2013 are hereby advised to obtain the prior approval of such contracts from the Department’s Prepaid Funeral Benefit Division. At this time, pending promulgation of a final Rule, the Department will require in

non-specified contract forms, or in substantially similar form, the following provisions in non-specified contracts:

- (1) The contract shall be in writing;
- (2) The contract shall contain a provision in substantially the following form: NOTICE. The Buyer understands that this is a non-specified prepaid funeral benefits contract. The Buyer understands that the seller does not agree to provide specified funeral services or merchandise for a fixed or guaranteed amount, regardless of the cost of the cost of merchandise or services at the date of the beneficiary's death. The Buyer understands that the final cost of funeral services and merchandise will depend upon the cost of the services or merchandise selected upon the death of the beneficiary. These costs may exceed the amount paid by the Buyer upon the date set forth below, including future payments and accumulated interest or earnings the Buyer may make or earn after this contract is executed.
- (3) The contract shall contain a provision in substantially the following form: NOTICE. The Buyer of this contract is entitled to all interest or earnings accumulated on deposits, policies or annuity contracts used to fund this contract, during the term of this contract. However, in the event of cancellation of this contract, the Seller may retain any interest accumulated on deposits or earnings on insurance policies or annuities funding this contract. In the event of cancellation, the remedies or requirements in Ark. Code Ann. Sec 23-40-122 and Rules of the Arkansas Insurance Department governing cancellation remedies and requirements shall apply to this contract.
- (4) The contract may have additional provisions subject to the review and approval by the Arkansas Insurance Department's Prepaid Funeral Benefits Contracts Division.

Questions concerning this Bulletin may be directed to the Legal Division at (501) 371-2820 or by e-mail at insurance.legal@arkansas.gov. The Department is attaching or making available electronically a check list or guide as to these temporary requirements pending promulgation of a Rule.



JAY BRADFORD
INSURANCE COMMISSIONER
STATE OF ARKANSAS

July 30, 2013
DATE

**Requirements for Specimen Non-Specific
Prepaid Funeral Benefits Contracts**

1. Seller's name, address, and phone number.
2. Buyer's name, address, phone number and social security number.
3. Contract Beneficiary's name, address, phone number and social security number.
4. Bold type and ALL caps: Non-Specific Prepaid Funeral Contract or Non-Guaranteed Prepaid Funeral Contract.
5. Line for Purchaser to write date of execution of contract.
6. Line for Purchaser's and Seller's wet signatures.
7. A provision stating whether the non-specific contract is being funded by cash, insurance policy or by an annuity policy.
8. If funded by a life policy or annuity policy, the name, address, and phone number of the insurer, and a description of the policy or annuity purchased with a statement describing the premium payment choice or obligation.
9. A statement that "the Purchaser may cancel this non-specific contract, whether revocable or irrevocable, whether cash, insurance or annuity-funded, at any time prior to the performance of the contract by the Seller.
10. A statement describing the disposition of the insurance or annuity policy contract proceeds upon cancellation of the contract prior to or after the death of the contract beneficiary.
11. A statement describing the disposition of the trust proceeds upon cancellation of the contract prior to or after the death of the contract beneficiary.

12. A statement describing the possibility of the Purchaser having to suffer a surrender penalty upon cancellation of a contract funded by life insurance or by an annuity policy.
13. A statement that the Arkansas Insurance Department regulates the sale(s) of non-specific prepaid funeral benefits contracts. Also, the address and phone number of the Arkansas Insurance Department must be provided.
14. The contract SHALL contain a provision in substantially the following form:
NOTICE: The Purchaser understands that this is a non-specific prepaid funeral benefits contract. The Purchaser understands that the Seller does not agree to provide specific funeral merchandise or services for a fixed or guaranteed amount, regardless of the cost of the merchandise and services at the date of the contract beneficiary's death. The Purchaser understands that the final cost of funeral services and merchandise will depend upon the cost of the services or merchandise selected upon the death of the contract beneficiary. These costs MAY exceed the amount paid by the Purchaser upon the death set forth below, including future payments and accumulated interest or earnings the Purchaser may make or earn after this contract is executed.
15. The contract SHALL contain a provision in substantially the following form:
NOTICE: The Purchaser of this contract is entitled to all interest or earnings accumulated on deposits, insurance or annuity policies used to fund this contract, during the term of this contract. However, in the event the Purchaser cancels this contract, the Seller may retain any interest accumulated on deposits or earnings on insurance or annuity policies funding this contract. In the event of cancellation, the remedies or requirements in Arkansas Code Annotated Section §23-40-122 and Rules of the Insurance Department governing cancellation remedies and requirements shall apply to this contract.
16. The contract may have additional provisions subject to the review and approval by the Arkansas Insurance Department's Division of Prepaid Funeral Benefits.