

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

Act 2169 of the Regular Session

1 State of Arkansas

As Engrossed: H3/16/05 H3/17/05 S4/11/05

2 85th General Assembly

A Bill

3 Regular Session, 2005

HOUSE BILL 1310

4
5 By: Representative Mahony

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8 **For An Act To Be Entitled**

9 AN ACT TO INCREASE THE APPLICATION AND CONTRACT
10 FEES OF THE ARKANSAS CEMETERY BOARD; AND FOR
11 OTHER PURPOSES.

12
13 **Subtitle**

14 TO INCREASE THE APPLICATION AND CONTRACT
15 FEES OF THE ARKANSAS CEMETERY BOARD.

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17
18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

19
20 SECTION 1. Arkansas Code § 20-17-1008 is amended to read as follows:
21 20-17-1008. Permit - Application.

22 (a)(1) Prior to making application to the Arkansas Cemetery Board for
23 a permit to establish and operate a new cemetery or for the extension of the
24 boundaries of an existing cemetery, the person proposing to make application
25 shall cause to be published weekly for three (3) weeks in a newspaper of
26 general circulation in the county in which the proposed cemetery is located a
27 notice that an application will be filed with the board to establish or
28 extend the boundaries of a cemetery in the county.

29 (2) The publication must contain a legal description of the land
30 to be used as a cemetery and a statement that any individual or group of
31 individuals desiring to protest the establishment or extension of the
32 cemetery may do so by filing a statement in writing with the board.

33 (b)(1) Whenever it is proposed to locate a new cemetery or extend the
34 boundaries of an existing cemetery under the provisions of this subchapter,
35 then the cemetery company so proposing shall file an application for the



1 issuance of a permit with the board.

2 (2) The application shall describe accurately the location and
3 boundaries of the proposed cemetery or addition.

4 (3) The application must be accompanied by:

5 (A) The recommendation of the mayor or governing official
6 of the municipality if the cemetery is to be located within the corporate
7 limits of a municipality or the recommendation of the county judge of the
8 county within which the cemetery is to be located if outside the corporate
9 limits of a municipality. The recommendation shall state the need and
10 desirability of the proposed cemetery or extension. This recommendation shall
11 be in lieu of the application and permit required in § 20-17-903;

12 (B)(i) ~~A fee as the board shall by rule prescribe~~ A fee of
13 one thousand five hundred dollars (\$1,500) for filing an application for a
14 new cemetery; or

15 (ii) A fee of four hundred dollars (\$400) for filing
16 an application to extend the boundaries of an existing cemetery;

17 (C) A survey and map of the cemetery or extension;

18 (D) A set of rules and regulations for the use, care,
19 management, and protection of the cemetery;

20 (E) The proposed method of establishing a permanent
21 maintenance fund;

22 (F) Proof of publication as set forth in subsection (a) of
23 this section of the required notice of intention to apply with the board;

24 (G) A copy of a current title opinion by an Arkansas-
25 licensed attorney or title insurance policy which reflects that the applicant
26 has or will have good and merchantable title to the land covered by the
27 permit or extension;

28 (H) A notarized statement disclosing any current or future
29 lien or mortgage on the land covered by the permit;

30 (I) A notarized statement from any current or future
31 lienholder or mortgage holder on the land covered by the permit or extension
32 that all paid-in-full burial spaces will be released from the lien or
33 mortgage at least semi-annually;

34 (J) A copy of the perpetual care trust agreement if the
35 application is for a new cemetery permit;

36 (K) A current balance sheet of the applicant prepared by

1 an independent certified public accountant in accordance with generally
2 accepted accounting principles which reflects that the applicant has a
3 minimum of twenty thousand dollars (\$20,000) net worth; and

4 (L) Any other evidence which would tend to show a public
5 need for the proposed cemetery or extension may be included such as a
6 petition from landowners in the county who believe that a need exists for any
7 additional cemetery or extension.

8 (4) The burden of establishing public need shall be upon the
9 applicant.

10 (c) All applications shall be made under oath and filed with the
11 secretary of the board not less than twenty (20) days prior to the board
12 meeting at which the application is to be considered.

13 (d) The board shall have authority to require any cemetery company to
14 submit additional information as it may by rule or order prescribe.

15
16 SECTION 2. Arkansas Code § 20-17-1011(b)(1), concerning a cemetery's
17 application fee to amend its permit, is amended to read as follows:

18 (b) The application shall be accompanied by:

19 (1) A fee of ~~one hundred dollars (\$100)~~ four hundred dollars
20 (\$400);

21
22 SECTION 3. Arkansas Code § 20-17-1012(a)(2)(A), concerning a
23 cemetery's application fee to change ownership, is amended to read as
24 follows:

25 (2) The application ~~must~~ shall be accompanied by:

26 (A) A fee of ~~one hundred dollars (\$100)~~ one thousand five
27 hundred dollars (\$1,500);

28
29 SECTION 4. Arkansas Code § 20-17-1023(b), concerning a cemetery's
30 annual filing fee, is amended to read as follows:

31 (b) The report shall be accompanied by:

32 (1) a A filing fee ~~in such an amount up to one hundred dollars~~
33 ~~(\$100)~~ of three hundred twenty-five dollars (\$325); as the board may
34 prescribe and

35 (2)(A) A fee of seven dollars (\$7.00) for each burial sale
36 contract entered into after July 1, 2005, by the cemetery company regardless

1 of the number of spaces sold under the contract regarding plots, crypts, and
2 niches.

3 (B)(i) The first payment of fees under subdivision
4 (b)(2)(A) of this section shall be due on or before March 1, 2006, and shall
5 be based on the number of contract sales entered into during the period of
6 July 1, 2005, through December 31, 2005.

7 (ii) Subsequent annual reports shall be based upon
8 contract sales entered into for the previous calendar year.

9
10 SECTION 5. Arkansas Code § 20-17-1026(a), concerning permit renewal
11 fees, is amended to read as follows:

12 (a) ~~On~~ By March 1 of each year, each permit holder shall pay to the
13 Arkansas Cemetery Board a permit renewal fee in the amount of one hundred
14 dollars (\$100).

15
16 SECTION 6. Arkansas Code Title 20, Chapter 17, Subchapter 10 is
17 amended to add an additional section to read as follows:

18 20-17-1027. Duties of State Securities Department.

19 (a) The State Securities Department shall assist the Arkansas Cemetery
20 Board in the performance of its duties.

21 (b) Assistance under subsection (a) of this section shall include, but
22 is not limited to, the following:

23 (1) Receiving and disseminating filings, questions, and requests
24 on behalf of the board to the members of the board in advance of each
25 meeting;

26 (2) Reviewing all filings, questions, and requests on behalf of
27 the board and offering its opinion on the resolution of the matter;

28 (3) Issuing written responses regarding complaints received by
29 the board;

30 (4) Scheduling all meetings in conjunction with the chair of the
31 board;

32 (5) Providing appropriate legal notices for all scheduled
33 meetings;

34 (6) Establishing a site where meeting of the board may be held

35 (7) Scheduling the services of a court reporter for all meetings
36 of the board;

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