

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 429 of the Regular Session

1 State of Arkansas
2 87th General Assembly
3 Regular Session, 2009

A Bill

SENATE BILL 451

4
5 By: Senator Elliott
6
7

For An Act To Be Entitled

8
9 AN ACT TO ASSIST INSOLVENT PERPETUAL CARE
10 CEMETERIES; TO PROVIDE GRANTS TO QUALIFIED
11 APPLICANTS TO MAINTAIN AND OPERATE INSOLVENT
12 PERPETUAL CARE CEMETERIES; AND FOR OTHER
13 PURPOSES.
14

Subtitle

15
16 TO ASSIST INSOLVENT PERPETUAL CARE
17 CEMETERIES AND TO PROVIDE GRANTS TO
18 QUALIFIED APPLICANTS TO MAINTAIN AND
19 OPERATE INSOLVENT PERPETUAL CARE
20 CEMETERIES.
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22

23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
24

25 SECTION 1. Arkansas Code § 20-17-1012(a), concerning applications for
26 a new permit upon a change of a cemetery company's ownership, is amended to
27 add an additional subdivision to read as follows:

28 (3) The board may for good cause waive all or part of an
29 application requirement if the purchaser of a perpetual care cemetery is a
30 state, city, or municipal government or a nonprofit organization as defined
31 by § 501(c)(3) of the Internal Revenue Code, 26 U.S.C. § 501(c)(3).
32

33 SECTION 2. Arkansas Code § 20-17-1025 is amended to read as follows:
34 20-17-1025. Protection of cemeteries – Power to lend.

35 (a) On August 1, 2001, the Arkansas Cemetery Board shall segregate one



1 hundred eighty thousand dollars (\$180,000) within its general operating fund
 2 to be known as the insolvent cemetery loan fund administered by the
 3 Securities Commissioner and only used to lend a court-appointed receiver or
 4 conservator the funds necessary to assure that a cemetery will be properly
 5 maintained and will continue to be a going concern, including the funds
 6 necessary to pay ~~any~~ a reasonable surety bond premium ~~which~~ that is required
 7 to be posted by the court.

8 (b) The board may take any legal action necessary against a cemetery
 9 company, receiver, or conservator to recover ~~any~~ funds loaned by the board to
 10 or for the benefit of the cemetery, the cemetery company, receiver, or
 11 conservator for the payment of maintenance expenses or unpaid loans.

12 (c) Disbursement from ~~such funds~~ the insolvent cemetery loan fund for
 13 loans to a receiver or conservator shall be made on a “first in, first out”
 14 basis as determined by the commissioner.

15 (d) ~~Donations to the board to fund such loans may be accepted by the~~
 16 ~~commissioner from any cemetery company, organization, or individual.~~ The
 17 commissioner may accept donations to the board from any cemetery company,
 18 organization, or individual to fund loans under this section.

19 (e) The board may waive payment or extend the payment period for ~~any~~ a
 20 loan made to a receiver or conservator if the board determines that it is
 21 unlikely that the receiver or conservator has or will receive sufficient
 22 funds to repay the loan and that the funds were or are needed to maintain and
 23 operate the cemetery for the benefit of the lot owners and the general
 24 public.

25 (f) Any funds that accumulate in the insolvent cemetery loan fund in
 26 excess of one hundred eighty thousand dollars (\$180,000) may at the request
 27 of the board be transferred to the insolvent cemetery grant fund under § 20-
 28 17-1301 et seq.

30 SECTION 3. Arkansas Code Title 20, Chapter 17 is amended to add an
 31 additional subchapter to read as follows:

32 20-17-1301. Title.

33 This subchapter shall be known and may be cited as the “Insolvent
 34 Cemetery Grant Fund Act”.

36 20-17-1302. Findings and purpose.

1 The General Assembly finds that:

2 (1) Perpetual care cemeteries provide historical and cultural
3 benefits to the citizens of the State of Arkansas; and

4 (2) A grant program should be established to provide assistance
5 to an insolvent perpetual care cemetery for its care, maintenance, and
6 operation.

7
8 20-17-1303. Insolvent cemetery grant fund.

9 An insolvent cemetery grant fund is established within the general
10 operating fund of the Arkansas Cemetery Board for the care, maintenance, and
11 operation of a perpetual care cemetery that has been:

12 (1) Declared insolvent by a state or federal court; and

13 (2) Acquired by and is controlled by a state, county, or
14 municipal government or by a nonprofit organization as defined by § 501(c)(3)
15 of the Internal Revenue Code, 26 U.S.C. § 501(c)(3).

16
17 20-17-1304. Powers and duties of Arkansas Cemetery Board.

18 The Arkansas Cemetery Board shall:

19 (1) Review and grant or deny all or part of a grant application
20 submitted under this subchapter; and

21 (2) Establish by rule:

22 (A) Criteria for grant applications and awards;

23 (B) Oversight of all grant expenditures;

24 (C) Criteria for reporting and maintaining all grant
25 moneys and expenditures; and

26 (D) Criteria for the review of grant awards and
27 expenditures to prevent misuse or abuse of grant money.

28
29 20-17-1305. Eligibility for grants.

30 To be eligible to receive a grant under this subchapter a perpetual
31 care cemetery shall:

32 (1) Have been declared insolvent by a state or federal court;

33 (2) Be found by the Arkansas Cemetery Board to have historic
34 significance to the local community or the State of Arkansas; and

35 (3) Be owned and controlled by a state, city, or municipal
36 government or by a nonprofit organization as defined by § 501(c)(3) of the

1 Internal Revenue Code, 26 U.S.C. § 501(c)(3).

2
3 20-17-1306. Application.

4 The owner of an insolvent perpetual care cemetery shall apply for grant
5 payments under this subchapter in accordance with the rules established by
6 the Arkansas Cemetery Board.

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8 20-17-1307. Grant payments – Amount.

9 (a) The Securities Commissioner shall make grant payments under this
10 subchapter from:

11 (1) Funds appropriated by the General Assembly for that purpose;
12 or

13 (2) Excess funds transferred under § 20-17-1025(f) to the
14 insolvent cemetery grant fund from the insolvent cemetery loan fund.

15 (b) The annual amount that the Arkansas Cemetery Board may grant to an
16 insolvent perpetual care cemetery under this subchapter shall not exceed
17 thirty-five thousand dollars (\$35,000).

18
19 20-17-1308. Use of grant awards.

20 A grant award under this subchapter shall be used exclusively for the
21 care, maintenance, and operation of an insolvent perpetual care cemetery,
22 including without limitation the:

- 23 (1) Sale and conveyance of lots;
- 24 (2) Opening and closing of graves;
- 25 (3) Preparation of financial reports and legal documents;
- 26 (4) Maintenance of driveways and grounds;
- 27 (5) Removal of trash and debris;
- 28 (6) Cutting of grass; or
- 29 (7) Necessary improvements to streets, avenues, walks, or other
30 public grounds of the cemetery.

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32 **APPROVED: 3/13/2009**