

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.

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.
21
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
36 hundred eighty thousand dollars (\$180,000) within its general operating fund



1 to be known as the insolvent cemetery loan fund administered by the
2 Securities Commissioner and only used to lend a court-appointed receiver or
3 conservator the funds necessary to assure that a cemetery will be properly
4 maintained and will continue to be a going concern, including the funds
5 necessary to pay ~~any~~ a reasonable surety bond premium ~~which~~ that is required
6 to be posted by the court.

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

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

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

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

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

28
29 SECTION 3. Arkansas Code Title 20, Chapter 17 is amended to add an
30 additional subchapter to read as follows:

31 20-17-1301. Title.

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

34

35 20-17-1302. Findings and purpose.

36 The General Assembly finds that:

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

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

6
7 20-17-1303. Insolvent cemetery grant fund.

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

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

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

15
16 20-17-1304. Powers and duties of Arkansas Cemetery Board.

17 The Arkansas Cemetery Board shall:

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

20 (2) Establish by rule:

21 (A) Criteria for grant applications and awards;

22 (B) Oversight of all grant expenditures;

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

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

27
28 20-17-1305. Eligibility for grants.

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

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

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

34 (3) Be owned and controlled by a state, city, or municipal
35 government or by a nonprofit organization as defined by § 501(c)(3) of the
36 Internal Revenue Code, 26 U.S.C. § 501(c)(3).

1
2 20-17-1306. Application.

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

6
7 20-17-1307. Grant payments – Amount.

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

10 (1) Funds appropriated by the General Assembly for that purpose;

11 or

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

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

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

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

22 (1) Sale and conveyance of lots;

23 (2) Opening and closing of graves;

24 (3) Preparation of financial reports and legal documents;

25 (4) Maintenance of driveways and grounds;

26 (5) Removal of trash and debris;

27 (6) Cutting of grass; or

28 (7) Necessary improvements to streets, avenues, walks, or other
29 public grounds of the cemetery.