

1 State of Arkansas As Engrossed: H3/15/23 S3/30/23

2 94th General Assembly

# A Bill

3 Regular Session, 2023

HOUSE BILL 1543

4

5 By: Representatives Ennett, *Springer*

6 By: Senator D. Wallace

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## For An Act To Be Entitled

9 AN ACT TO AMEND THE CEMETERY ACT FOR PERPETUALLY  
10 MAINTAINED CEMETERIES; TO MODIFY THE LAW CONCERNING  
11 THE STATE BOARD OF EMBALMERS, FUNERAL DIRECTORS,  
12 CEMETERIES, AND BURIAL SERVICES; AND FOR OTHER  
13 PURPOSES.

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## Subtitle

17 TO AMEND THE CEMETERY ACT FOR PERPETUALLY  
18 MAINTAINED CEMETERIES; AND TO MODIFY THE  
19 LAW CONCERNING THE STATE BOARD OF  
20 EMBALMERS, FUNERAL DIRECTORS, CEMETERIES,  
21 AND BURIAL SERVICES.

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

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26 SECTION 1. Arkansas Code Title 20, Chapter 17, Subchapter 10, is  
27 amended to add an additional section to read as follows:

28 20-17-1031. Perpetual care cemetery – Duty to maintain.

29 (a) A cemetery company that holds a permit to own and operate a  
30 perpetual care cemetery under § 23-61-1101 et seq. shall properly care for,  
31 maintain, and preserve the perpetual care cemetery.

32 (b) A cemetery owner is not responsible for faulty monument  
33 installation and upkeep by a monument company or other third party.

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35 SECTION 2. Arkansas Code § 23-61-1103(a)(6), concerning the powers and  
36 duties of the State Board of Embalmers, Funeral Directors, Cemeteries, and



1 Burial Services, is amended to read as follows:

2 (6) Suspend or revoke permits or licenses or impose a civil  
3 penalty not to exceed five hundred dollars (\$500) per violation when a  
4 licensee fails to comply with any of the laws governing the licensee or when  
5 a licensee fails to comply with a rule or order of the board;

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7 SECTION 3. Arkansas Code § 23-61-1109(a), concerning the power of the  
8 State Board of Embalmers, Funeral Directors, Cemeteries, and Burial Services,  
9 is amended to read as follows:

10 (a) The State Board of Embalmers, Funeral Directors, Cemeteries, and  
11 Burial Services may:

12 (1)(A) Conduct periodic, special, or other examinations of a  
13 cemetery or cemetery company, including without limitation an examination of  
14 the physical condition or appearance of the cemetery, the financial condition  
15 of the cemetery company and any trust funds maintained by the cemetery  
16 company, and other examinations that the board or Insurance Commissioner  
17 deems necessary or appropriate in the public interest.

18 (B) An examination under subdivision (a)(1)(A) of this  
19 section shall be carried out by:

20 (i) A member or representative of the board;

21 (ii) A certified public accountant or registered  
22 public accountant as authorized under § 20-17-1007; or

23 (iii) The State Insurance Department;

24 (2) Issue or amend permits to operate a cemetery under this  
25 subchapter;

26 (3) Suspend or revoke permits to operate a cemetery when a  
27 cemetery fails to comply with this subchapter, rules promulgated under this  
28 subchapter, or any order of the board;

29 (4) Make rules and forms to enforce this subchapter;

30 (5) Require cemetery companies to observe minimum accounting  
31 principles and practices and make and keep the books and records for a period  
32 of time as the board may prescribe by rule;

33 (6) Require a cemetery company to properly care for, maintain,  
34 and preserve a cemetery;

35 (7) Require additional contributions to the permanent  
36 maintenance fund of the cemetery under this subchapter, including without

1 limitation contributions not to exceed three thousand dollars (\$3,000)  
2 whenever a cemetery company fails to properly care for and maintain or  
3 preserve the cemetery;

4 (8) Apply to Pulaski County Circuit Court or the circuit court  
5 of the county in which the cemetery is located for appointment of a receiver  
6 or conservator of the cemetery company or its permanent maintenance fund when  
7 it appears to the board that a cemetery company is insolvent or that the  
8 cemetery company, its officers, directors, agents, or the trustees of its  
9 permanent maintenance fund, have violated this subchapter and the rules  
10 promulgated under this subchapter or have failed to comply with any board  
11 order;

12 ~~(8)~~(9) Increase by rule the amount of a deposit required under §  
13 20-17-1016 if the board determines that a greater sum is necessary to assure  
14 that the permanent maintenance fund will earn sufficient income to provide  
15 for the care and maintenance of the cemetery; and

16 ~~(9)(A)~~(10)(A) Purchase insolvent, licensed perpetual care  
17 cemeteries that have been in court-ordered receivership or conservatorship  
18 for at least five (5) years.

19 (B) If the taking of legal possession of the cemetery  
20 under subdivision ~~(a)(9)(A)~~ (a)(10)(A) of this section requires the payment  
21 of consideration, any payment made by the board shall not exceed one thousand  
22 dollars (\$1,000).

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24 /s/Ennett

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27 **APPROVED: 4/10/23**  
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