

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 85th General Assembly
3 Regular Session, 2005

A Bill

HOUSE BILL 1310

4
5 By: Representative Mahony
6
7

For An Act To Be Entitled

8
9 AN ACT TO INCREASE THE APPLICATION AND CONTRACT
10 FEES OF THE ARKANSAS CEMETERY BOARD; AND FOR
11 OTHER PURPOSES.
12

Subtitle

13
14 TO INCREASE THE APPLICATION AND CONTRACT
15 FEES OF THE ARKANSAS CEMETERY BOARD.
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18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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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
36 issuance of a permit with the board.



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

3 (3) The application must be accompanied by:

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

11 (B)(i) ~~A fee as the board shall by rule prescribe~~ A fee of
12 one thousand dollars (\$1,000) for filing an application for a new cemetery;
13 or

14 (ii) A fee of one hundred dollars (\$100) for filing
15 an application to extend the boundaries of an existing cemetery;

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

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

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

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

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

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

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

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

35 (K) A current balance sheet of the applicant prepared by
36 an independent certified public accountant in accordance with generally

1 accepted accounting principles which reflects that the applicant has a
2 minimum of twenty thousand dollars (\$20,000) net worth; and

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

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

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

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

14
15 SECTION 2. Arkansas Code § 20-17-1011(b)(1), concerning a cemetery's
16 application fee to amend its permit, is amended to read as follows:

17 (b) The application shall be accompanied by:

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

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

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

25 (A) A fee of ~~one hundred dollars (\$100)~~ four hundred
26 dollars (\$400);

27
28 SECTION 4. Arkansas Code § 20-17-1023(b), concerning a cemetery's
29 annual filing fee, is amended to read as follows:

30 (b) The report shall be accompanied by:

31 (1) a A filing fee in such an amount up to one hundred dollars
32 (~~\$100~~) of five hundred dollars (\$500); as the board may prescribe and

33 (2)(A) A fee of three dollars (\$3.00) for each burial sale
34 contract entered into during the previous calendar year by the cemetery
35 company regardless of the number of spaces sold under the contract including,
36 but not limited to, plots, crypts, or niches.

1 (B) The per-contract fee is due and payable to the board
 2 beginning in 2006 for sales made and reported on the annual report for the
 3 previous calendar year.

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 5 SECTION 5. Arkansas Code § 20-17-1026 is amended to read as follows:
 6 20-17-1026. Annual permit fee.

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

10 (b) Except as provided in subsection (c) of this section for 2005,
 11 each permit holder shall pay to the board by March 1 of each year a per-
 12 contract fee of seven dollars (\$7.00) for each burial sale contract entered
 13 into during the previous calendar year by the cemetery company regardless of
 14 the number of spaces sold under the contract including, but not limited to,
 15 plots, crypts, or niches.

16 (c) By June 30, 2005, the per-contract fee of seven dollars (\$7.00)
 17 will be due and paid to the board by each permit holder for each contract
 18 sale made in calendar year 2004 and reported on the annual report due March
 19 1, 2005.

20 ~~(b)(d)~~ All annual The permit fees and per-contract fees under
 21 subsections (a), (b), and (c) of this section shall be classified as general
 22 funds of the board and shall be used to make loans to receivers and
 23 conservators as provided in § 20-17-1025.

24
 25 SECTION 6. EMERGENCY CLAUSE. It is found and determined by the
 26 General Assembly of the State of Arkansas that the segregated fund of the
 27 Arkansas Cemetery Board created under Arkansas Code § 20-17-1025 is in danger
 28 of becoming insolvent; that this act will replenish the fund through payments
 29 from the cemetery companies benefited by the fund; and that the replenishment
 30 of the fund is immediately necessary to ensure that the state's cemeteries
 31 continue to be properly maintained. Therefore, an emergency is declared to
 32 exist and this act being immediately necessary for the preservation of the
 33 public peace, health, and safety shall become effective on:

34 (1) The date of its approval by the Governor;

35 (2) If the bill is neither approved nor vetoed by the Governor,
 36 the expiration of the period of time during which the Governor may veto the

1 bill; or

2 (3) If the bill is vetoed by the Governor and the veto is
3 overridden, the date the last house overrides the veto.

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