

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
4

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

A Bill

HOUSE BILL 1310

5 By: Representative Mahony
6
7

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

Subtitle

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:
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
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 five hundred dollars (\$1,500) for filing an application for a
13 new cemetery; or

14 (ii) A fee of four hundred dollars (\$400) 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)~~ one thousand five
26 hundred dollars (\$1,500);

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 three hundred twenty-five dollars (\$325); as the board may
33 prescribe and

34 (2)(A) A fee of seven dollars (\$7.00) for each burial sale
35 contract entered into after July 1, 2005, by the cemetery company regardless
36 of the number of spaces sold under the contract regarding plots, crypts, and

1 niches.

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

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

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

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

14
15 SECTION 6. Arkansas Code Title 20, Chapter 17, Subchapter 10 is
16 amended to add an additional section to read as follows:

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

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

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

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

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

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

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

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

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

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

36 (8) Providing legal representation and assistance through the

1 legal staff of the department to the board in matters pertaining to this
2 subchapter;

3 (9) Acting as a liaison between the board and any court involved
4 in the administration of any perpetual care cemetery placed in receivership;

5 (10) Performing inspections at cemeteries for which complaints
6 have been received by the board;

7 (11) Performing special audits as necessary;

8 (12) Scheduling regular audits of perpetual care cemeteries;

9 (13) Administering the annual perpetual care reporting for all
10 perpetual care cemeteries; and

11 (14) Assisting in the formulation of legislation on behalf of
12 the cemetery industry and the board.

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14 /s/ Mahony
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