

State of Arkansas
85th General Assembly
Regular Session, 2005

A Bill

SENATE BILL 561

By: Senator J. Bookout

For An Act To Be Entitled

AN ACT TO PROVIDE INCREASED PENALTIES FOR
VIOLATION OF THE BURIAL ASSOCIATION LAW; AND FOR
OTHER PURPOSES.

Subtitle

AN ACT TO PROVIDE INCREASED PENALTIES
FOR VIOLATION OF THE BURIAL ASSOCIATION
LAW.

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

SECTION 1. Arkansas Code § 23-78-104 is amended to read as follows:
23-78-104. Penalty.

(a)(1) It shall be unlawful for any person, firm, association, copartnership, corporation, company, or other organization to organize, operate, or in any way solicit members for a burial association, or for participation in any plan, scheme, or device similar to burial associations, except in the manner provided by this chapter and the rules and regulations promulgated by the Burial Association Board.

~~(b)(2) Any person, firm, association, copartnership, corporation, company, or other organization violating the provisions of this section subsection (a) of this section shall be guilty of a misdemeanor and, upon conviction, shall be fined not more than two hundred fifty dollars (\$250) or imprisoned not more than six (6) months, or both, Class D felony.~~

(3) In addition to a fine or imprisonment, or both, a person convicted of a violation of this subsection shall be ordered to pay restitution to persons aggrieved by the violation.



1 (b)(1) Any officer, agent, employee, or other individual who collects
2 proceeds or assessments from members of burial associations shall be guilty
3 of a Class D felony if he or she:

4 (A) Fails to deposit the collected amounts in the trust
5 fund of the burial association; or

6 (B) Fails or knowingly makes or allows to be made a false
7 entry on the record of the burial association with:

8 (i) Intent to deceive or defraud any member of the
9 burial association; or

10 (ii) Intent to conceal the true financial condition
11 of the burial association from regulators.

12 (2) Any officer, agent, employee, or other individual who
13 diverts funds from a burial association for his or her personal use or to pay
14 expenses of the contract funeral home not authorized by this subchapter shall
15 be guilty of a Class D felony.

16 (3) In addition to a fine or imprisonment, or both, a person
17 convicted of a violation of this subsection shall be ordered to pay
18 restitution to the Burial Association Board or to persons aggrieved by the
19 violation.