

1 State of Arkansas
2 88th General Assembly
3 Regular Session, 2011
4

A Bill

HOUSE BILL 1486

5 By: Representative McLean
6

For An Act To Be Entitled

8 AN ACT TO AMEND ARKANSAS LAW CONCERNING BURIAL
9 ASSOCIATIONS; AND FOR OTHER PURPOSES.
10

Subtitle

11 TO AMEND ARKANSAS LAW CONCERNING BURIAL
12 ASSOCIATIONS.
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17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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19 SECTION 1. Arkansas Code § 23-78-104(b), concerning penalties for
20 violations of laws pertaining to burial associations, is amended to read as
21 follows:

22 (b) Any person, firm, association, copartnership, corporation,
23 company, or other organization violating ~~the provisions of this section shall~~
24 be is guilty of a ~~Class A misdemeanor~~ Class D felony.
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26 SECTION 2. Arkansas Code § 23-78-107(a), concerning offices and
27 employees of the Burial Association Board, is amended to read as follows:

28 (a)(1) The Burial Association Board shall rent or otherwise acquire
29 suitable quarters for an office and employ and fix the duties and the
30 salaries of an executive secretary, two (2) auditors, and such other clerical
31 assistance as may be necessary to carry out ~~the provisions of this chapter.~~

32 ~~(2) The Executive Secretary of the Burial Association Board~~
33 ~~shall furnish to the board, at the expense of the board, bond with approved~~
34 ~~corporate surety in the amount of ten thousand dollars (\$10,000), conditioned~~
35 ~~for his or her faithful application of all funds coming into his or her hands~~
36 ~~by virtue of his or her office.~~



1 ~~(3)~~(2) The board may, if it deems advisable, require other
 2 employees to make a good and sufficient corporate bond to the board at the
 3 expense of the board in such amount as the board shall determine for the
 4 faithful performance of their duties.

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 6 SECTION 3. Arkansas Code § 23-78-110 is amended to read as follows:
 7 23-78-110. Certificate of authority.

8 (a) Applications for certificate of authority shall be on forms
 9 furnished by the Burial Association Board, and no burial association shall
 10 begin operation until the application shall have been approved and
 11 certificate of authority shall have been granted by the board.

12 (b) The following documents and information shall be filed with the
 13 application for a certificate of authority:

14 (1) Consent to service of process upon the secretary of the
 15 applicant;

16 (2) ~~Copy~~ A copy of the proposed form of membership application,
 17 membership certificate, bylaws, and contracts for service, merchandise,
 18 supplies, and any other data requested by the board; ~~and~~

19 (3) References as to character, ability, and integrity of the
 20 organizers and of any funeral director or embalmer with whom the applicant
 21 proposes to contract;

22 (4) An application fee as determined by rule of the board; and

23 (5)(A) Proof of a deposit to the association's mortuary funds in
 24 an amount determined by rule of the board.

25 (B) The deposit required under subdivision (b)(5)(A) of
 26 this section shall not exceed ten thousand dollars (\$10,000).

27 (c) If the board is satisfied that the applicant is qualified and
 28 meets the requirements of this chapter, ~~it~~ the board shall issue to the
 29 applicant a certificate of authority ~~upon receipt of the sum of five hundred~~
 30 ~~dollars (\$500).~~

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 32 SECTION 4. Arkansas Code § 23-78-111(a)(2), concerning burial
 33 association license fees, is amended to read as follows:

34 (2) The board shall collect the annual license fee from each
 35 burial association that is operating and in good standing on ~~January 1~~ or
 36 before February 15 of the year in which the license fee is payable.

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2 SECTION 5. Arkansas Code § 23-78-120(a) and (b), concerning semiannual
3 reports to the Burial Association Board, are amended to read as follows:

4 (a)(1) Each Using forms provided by the Burial Association Board, each
5 burial association or society licensed in this state shall file a semiannual
6 report showing the actual financial condition of the burial association or
7 society as of June 30 and December 31 of each year ~~on forms provided by the~~
8 ~~Burial Association Board.~~

9 (2) The report shall include documents and information as
10 required by rule of the board.

11 (b)(1)(A) The report required under this section is due as of June 30
12 and December 31 of each year ~~and shall be filed within thirty (30) days from~~
13 ~~the date upon which it is due.~~

14 (B) A report is delinquent if:

15 (i) It is due as of June 30, and it is filed with
16 the board after August 15 of the year it is due; or

17 (ii) It is due as of December 31, and it is filed
18 with the board after February 15 of the year next following the year it is
19 due.

20 (2) If a due date under subdivision (b)(1) of this section falls
21 on a weekend or holiday, the report shall be due on the first business day
22 following the weekend or holiday.

23 (3)(A) The board may grant an extension of time to submit a
24 report for good cause.

25 (B) A burial association or society shall file a request
26 for an extension to the board in writing before the due date of the report.

27 (4)(A) A report submitted to the board that omits required
28 documents or information shall not be considered as filed with the board and
29 will be returned to the burial association or society for corrections or
30 completion.

31 (B) A report that omits required documents or information
32 is delinquent if the submission of documents or information to complete the
33 report:

34 (i) Causes a report that is due as of June 30 to be
35 filed with the board after August 15 of the year it is due; or

36 (ii) Causes a report that is due as of December 31

1 to be filed with the board after February 15 of the year next following the
 2 year it is due.

3 (5) A burial association or society whose report is delinquent
 4 is subject to a financial penalty established by rule of the board.

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 6 SECTION 7. Arkansas Code § 23-78-125 is amended to read as follows:

7 23-78-125. Revocation of certificate, license, charter, etc. – Appeal.

8 (a) Upon the revocation of any certificate of authority, charter, or
 9 other authority by the Burial Association Board under any of the provisions
 10 of this chapter, the association or person whose certificate of authority,
 11 charter, license, or other authority has been revoked shall have the right of
 12 appeal from the action of the board revoking the certificate of authority,
 13 charter, or other authority to the circuit court of the county in which the
 14 burial association may be located.

15 (b) Appeals shall be made in accordance with the Arkansas
 16 Administrative Procedure Act, § 25-15-201 et seq.

17 ~~(c) Upon receipt of a notice of appeal, the board shall file with the~~
 18 ~~clerk of the circuit court the decision of the board. The clerk of the~~
 19 ~~circuit court shall then transfer the appeal to the civil docket as in cases~~
 20 ~~of appeal from a justice of the peace.~~

21 ~~(d) The appeal shall be heard de novo by the court without a jury.~~

22 ~~(e) Either party shall have the right of appeal to the Arkansas~~
 23 ~~Supreme Court.~~

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