

State of Arkansas
94th General Assembly
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As Engrossed: H3/15/23 S3/30/23
A Bill

HOUSE BILL 1543

By: Representatives Ennett, *Springer*

By: Senator D. Wallace

For An Act To Be Entitled

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

Subtitle

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

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

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

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

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

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

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



Burial Services, is amended to read as follows:

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

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

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

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

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

- (i) A member or representative of the board;
- (ii) A certified public accountant or registered public accountant as authorized under § 20-17-1007; or
- (iii) The State Insurance Department;

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

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

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

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

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

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

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

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

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

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

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

/s/Ennett

APPROVED: 4/10/23