

Title 23. Public Utilities and Regulated Industries

Chapter IV. State Board of Embalmers, Funeral Directors, Cemeteries, and Burial Services, State Insurance Department, Department of Commerce

Subchapter A. Generally

Part 330. Burial Association Bylaws

Subpart 1. Generally

23 CAR § 330-101. Bylaws.

All burial associations shall have and maintain bylaws embodying the following:

"Article 1. The name of this Association shall be _____
a mutual benevolent association and the principal place of business of the Association shall be _____.

Article 2. The objects and purposes for which this Association is formed and the purposes for which it has been organized shall be to provide a plan for each member of this Association for the payment of all or a part of the funeral expenses of such member, or a plan for the furnishing of undertaking to furnish merchandise, supplies and services or any other character of burial benefits to such member, or a plan for the issuance of a certificate which provides for the payment of funeral benefits to such member in merchandise, services or supplies, including the services of funeral directors and embalmers.

Article 3. Any person who is in good health may become a member of this Association. The correct age of each person to be covered by the certificate for which application is made must be written in the application, and shall be subject to verification of any record this Association may deem necessary to prove or establish the true date of the birth of such person. Any certificate shall be incontestable, except for fraud, after the same has been in effect for one year.

Article 4. The first meeting of the Association shall be held on _____ at the principal office of the Association, and successive annual meetings shall be held on the corresponding date of each year at said place, at which meeting the owner of a certificate of membership shall be entitled to vote, either in person or by proxy, One certificate, one vote. The "owner" of a certificate of membership is hereby defined as the person who signed the Application for Membership.

In the event the owner of the certificate is not a member, the right to vote or give proxy devolves to the person remaining on the certificate, who assumes responsibility for payment of dues/premiums. Should the owner of the certificate die, become delinquent, or transfer to another certificate, the right to vote or give proxy devolves to the person remaining on the certificates who assumes responsibility for payment of dues/premiums. In those instances in which the person giving proxy in the application for membership dies, it shall be presumed that the original proxy is valid. A member is hereby defined as a person entitled to receive benefits from the Association.

Special meetings of the Board of Directors may be called by an officer of the Association to elect officers to fill a vacancy or to conduct other business of the Association between annual meetings. Action taken at these special meetings must be ratified at the next annual meeting. (Effective July 1, 1995)

Article 5. Any number of members in good standing present at an annual meeting, in person, or by proxy, shall constitute a quorum for the transaction of business, and any action taken by a majority at such annual meeting shall be binding upon the Association as a whole.

Article 6. The officers of the Association shall consist of a President, vice President, Secretary/Treasurer and other officers or members of the Board of Directors as deemed necessary by the Association and approved by the State Board of Embalmers, Funeral Directors, Cemeteries, and Burial Services, and who shall be elected at the annual meeting of the Association, except as provided for above. They shall serve for a term

of one year and until their successors are elected and qualified. The Board of Directors shall have full power and authority to manage and direct the affairs of the Association in compliance with the by-laws. In the event of the death, incapacitate, or resignation of an officer, the senior officer shall call a special meeting of the remaining officers in order to elect someone to fill the vacancy. A simple majority of the remaining officers is required to constitute a quorum for the conduct of business. Should only one officer remain in office, he shall call a special meeting of the membership, within 90 days, to elect new officers. This meeting may be advertised by inserting a "notice" in a local newspaper of general circulation and shall run for a minimum of three consecutive publication dates prior to the meeting. (Effective July 1, 1985).

Article 7. The Secretary-Treasurer shall be the executive officer of the Association and shall keep all records, books and accounts, approve or reject applications and issue certificates of memberships, levy and collect all assessments or memberships dues, sign all checks, contracts and other documents for the Association, employ all agents and do and perform all things necessary or proper in the operation of the Association and to its best interest in accordance with these by-laws, the laws of the State of Arkansas and the Rules of the State Board of Embalmers, Funeral Directors, Cemeteries, and Burial Services. He shall make a good and sufficient bond, payable to the Association, for the use and benefit of this Association, in a sum fixed by the said Association to account for all money and property of the Association coming into his hands. The Association may at any time require an increase in the amount of such bond. Premium of such bond shall be paid by the Association.

Article 8. No person shall be eligible to serve as an officer or director of the Association unless he or she is a member in good standing.

Article 9. The books and records of the Association shall be kept so as to accurately reflect the actual condition of the Association at all times.

Article 10. Salaries and the cost of necessary records, forms, stationery, stamps and miscellaneous office expense are to be paid by check signed by the Secretary-Treasurer, and in no event shall expenses for any year exceed twenty-five percent (25%) of the gross receipts for such year, (Amendment by Act 360 of 1981).

Article 11. The Association shall not borrow money nor shall its assets be pledged for any purpose.

Article 12. Application for membership shall be made in writing and certification by the applicant or a relative or guardian; shall state the correct age and condition of health of each person for whom a membership is desired and any misstatement of age of an applicant for membership shall change the amount of benefits of such member to the benefits which such member would have received based upon the amounts of membership dues paid by or for him or her had his or her correct age been stated in the application and certificate issued thereon.

Article 13. Membership in the Association shall be upon application and payment of a membership fee. The application must be approved by the Secretary-Treasurer. If the application is rejected, the fee will be returned to the applicant.

Article 14. The Association shall make such minimum assessments and collect such dues as shall be provided by law.

Article 15. The membership fee equal to two quarterly assessments may be paid to the Secretary-Treasurer or to some other person appointed by the Association as solicitor and licensed by the State Board of Embalmers, Funeral Directors, Cemeteries, and Burial Services. (Effective July 1, 1985)

Article 16. Each certificate issued by the Association shall contain, among other things, a summary of the By-laws of the Association.

Article 17. Assessments or membership dues shall be levied against all persons who have been members of the Association for thirty days or more, and notice of said assessment or accrual of membership dues shall be mailed/delivered to the address of the member shown on the application for membership unless notice of change of address should be given the association. Changes of address should be given promptly to avoid failure to receive notice of assessment or accrual of membership dues. Failure to receive a notice of assessment or accrual of membership dues shall not relieve the member of the responsibility for making the assessment/premium payment when due. (Effective July 1, 1985)

Article 18. All funds received by the Association shall be placed in an insured bank to the credit of the Association, and all disbursements shall be by check, signed by the Secretary-Treasurer.

Article 19. The service and casket to members holding benefit certificates with the Association shall be up to the standard of and in keeping with the services and caskets sold at similar prices by funeral directors of this and other towns in this territory.

Article 20. If any member's certificate shall lapse for non-payment of assessment or membership dues, such certificate may be reinstated within 12 months thereafter by payment of all defaulted amounts, and the furnishing of a certificate of good health. (Effective July 1, 1985)

Article 21. Members whose health has failed or who have passed into a new group since the certificate of membership lapsed cannot be reinstated and any misrepresentation as to the state of health or age of any member made for the purpose of obtaining reinstatement as a member of the Association shall render the certificate issued as a result of such misrepresentation null and void and the Association will not be liable for any claim made on account of such certificate.

Article 22. The service area of a Burial Association shall be considered 25 miles. If a member dies outside the service area of the Association to which he belongs and funeral service and burial is to be out of such service area, notification of death is not necessary in order for the minimum benefit (not less than 80%) to be collectible on the certificate. Payment of claims outside the service area shall be made within 30 days after receipt of a certified copy of the death certificate. Certified copies of death certificates are not required in cases of death within the State.

If a member dies within the service area of the Association to which he belongs and preparation of the remains, funeral service and/or burial are not conducted by the contract funeral home, the Association shall refund 75% of the dues paid in behalf of the deceased member, such refund shall not exceed 75% of the face amount of the certificate, except as provided below:

When proper notification is made to the Association, merchandise and/or services may be provided by the contract funeral home of the Association up to the face amount of the certificate of Membership. Provided however, that such services and/or merchandise must be agreed to by those responsible for making arrangements and the contract funeral home of the Association. Proper notification is hereby defined as the providing, by the servicing funeral home, of a desk copy of the death certificate before the funeral service. This desk copy need not be signed by the attending physician or coroner. (Effective July 1, 1985)

Article 23. If the body of any member shall be lost, destroyed or be rendered incapable of burial, then upon proof satisfactory to the Association of such fact, the Association shall refund all of the assessments or membership dues paid to the Association for benefits for such member. The refund shall be made to the person paying such assessments or membership dues or to the executor or administrator of the estate of the deceased.

In the event of cremation outside the service area of the Association, and preparation of the remains of the deceased member is made outside the service area of

the Association, the Association shall be liable for the cost of preparation and cremation up to 80% of the face amount of the certificate/policy.

In the event of disposal, in which there are no costs incurred by the family, the Association shall refund 75% of dues paid in behalf of the deceased member. (Effective July 1, 1985)

Article 25. If at the end of any calendar year, the funds in the treasury of the Association are more than sufficient to meet losses and expenses for such year, than the surplus shall be carried as a reserve for the sole purpose of meeting future losses and expenses.

Article 26. If at any time the funeral home customarily employed by the Association cannot service the funeral then the Secretary-Treasurer shall pay at least 80% of the face value of the certificate to the servicing funeral director.”

Authority. Arkansas Code § 23-78-121.