

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.
Act 715 of the Regular Session

1 State of Arkansas
2 87th General Assembly
3 Regular Session, 2009
4

A Bill

HOUSE BILL 2055

5 By: Representative Dismang
6
7

For An Act To Be Entitled

9 AN ACT TO AMEND THE CEMETERY ACT FOR PERPETUALLY
10 MAINTAINED CEMETERIES, § 20-17-1001 ET SEQ.; AND
11 FOR OTHER PURPOSES.
12

Subtitle

13 TO AMEND THE CEMETERY ACT FOR
14 PERPETUALLY MAINTAINED CEMETERIES, § 20-
15 17-1001 ET SEQ.
16
17
18

19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
20

21 SECTION 1. Arkansas Code § 20-17-1002(4), concerning the definition of
22 "cemetery company" is amended to read as follows:

23 (4) "Cemetery company" means an individual, partnership,
24 corporation, limited liability company, or association, now or hereafter
25 organized, owning or controlling cemetery lands or property and conducting
26 the business of a cemetery or making an application with the board to own or
27 control the lands or conduct the business;
28

29 SECTION 2. Arkansas Code § 20-17-1002(12), concerning the definition
30 of "perpetual care cemetery", is amended to read as follows:

31 (12) "Perpetual care cemetery" means a cemetery for the benefit
32 of which a ~~perpetual care fund~~ permanent maintenance fund has been
33 established in accordance with this subchapter; and
34

35 SECTION 3. Arkansas Code § 20-17-1004(b), concerning alternate and



1 disqualified board members, is amended to read as follows:

2 (b)(1) The Governor shall appoint one (1) alternate member for the
3 same term and having the same qualifications as a regular member. This member
4 shall substitute for any regular member when a conflict of interest
5 disqualifies a regular member.

6 (2) ~~Whenever~~ If a matter comes before the board involving a
7 cemetery in which ~~any~~ a member has a financial interest, then the member
8 ~~shall be~~ is disqualified from participating in the discussion or vote on the
9 matter, and the alternate member shall substitute for the disqualified member
10 ~~in that instance only.~~

11 (3) The alternative member shall substitute for an absent member
12 if necessary to constitute a quorum under § 20-17-1005(c).

13
14 SECTION 4. Arkansas Code § 20-17-1007(a)(2), concerning the number of
15 examiners from the Securities Department that may examine a cemetery company,
16 is amended to read as follows:

17 (2) However, all examinations shall be conducted by ~~a single~~
18 ~~examiner~~ at least one (1) examiner or board member, and the examinations
19 shall be conducted only pursuant to an order of the board.

20
21 SECTION 5. Arkansas Code § 20-17-1009 is amended to read as follows:
22 20-17-1009. Permit – Investigation by ~~Division of Health of the~~ Department of
23 ~~Health and Human Services.~~

24 (a) Upon ~~receipt~~ submission of an application to the Arkansas Cemetery
25 Board for the issuance of a permit for a new cemetery or for an extension of
26 the boundaries of an existing cemetery, the ~~Arkansas Cemetery Board shall~~
27 ~~cause~~ applicant shall request that the ~~Division of Health of the Department~~
28 ~~of Health and Human Services~~ Department of Health ~~to make an investigation of~~
29 investigate the proposed cemetery location or extension, ~~with respect to a~~
30 ~~sanitary viewpoint~~ to determine if the proposed new or expanded location will
31 be sanitary.

32 (b) In making the investigation, the ~~division~~ department shall take
33 into consideration the proximity of the proposed cemetery, or extension, to
34 human habitation, the nature of the soil, the drainage of the ground, the
35 danger of pollution of springs or streams of water, and ~~such~~ any other
36 conditions ~~as would bear upon the situation~~ concerning whether the proposed

1 new or expanded location will be sanitary.

2 (c)(1) ~~Having completed this~~ After completing the investigation, the
3 ~~division~~ department shall promptly submit in writing its approval or
4 disapproval of the proposed new or expanded location from a sanitary
5 standpoint to the board.

6 (2) If the ~~division~~ department disapproves the proposed cemetery
7 location or extension, further action on the application shall be suspended
8 until the applicant acquires a location which meets with the approval of the
9 ~~division~~ department or until other action, as necessary, is taken.

10 (d) The cemetery shall pay the ~~division~~ department any fee required by
11 law.

12

13 SECTION 6. Arkansas Code § 20-17-1010(a), concerning the investigation
14 and approval of a cemetery company’s permit application, is amended to read
15 as follows:

16 (a) If the cemetery company has fully complied with this subchapter
17 and if the ~~Division of Health of the Department of Health and Human Services~~
18 Department of Health approves the location of the new cemetery or the
19 extension of the boundaries of an existing cemetery, then the application
20 shall be submitted to the Arkansas Cemetery Board for investigation and for
21 approval or disapproval.

22

23 SECTION 7. Arkansas Code § 20-17-1011(a), concerning the amendment of
24 a cemetery company’s permit, is amended to read as follows:

25 (a) Whenever it is proposed that any cemetery subject to this
26 subchapter amend its present permit, whether for construction of a mausoleum,
27 reduction of boundaries, reduction or increase in percentage of gross sales
28 proceeds to be placed in the permanent maintenance fund, or other amendment,
29 then the cemetery company shall file an application for amendment of the
30 permit.

31

32 SECTION 8. Arkansas Code § 20-17-1011(b)(4)(B), concerning the
33 requirements of an application for the construction of a mausoleum or similar
34 structure, is amended to read as follows:

35 (B) A report of the inspection of the plans by the
36 ~~Division of Health of the Department of Health and Human Services~~ Department

1 of Health;

2

3 SECTION 9. Arkansas Code § 20-17-1021 is amended to read as follows:
4 20-17-1021. Disposition of contributions and fees.

5 (a) All contributions imposed ~~pursuant to~~ under this subchapter shall
6 be:

7 (1) ~~deposited~~ Deposited into the respective permanent
8 maintenance fund of the cemetery company upon which the contribution is
9 imposed; and

10 (2) Paid within forty-five (45) days of imposition.

11 (b) All fees imposed ~~pursuant to~~ under this subchapter shall be paid
12 to the Arkansas Cemetery Board.

13

14 SECTION 10. Arkansas Code § 20-17-1024 is repealed.

15 ~~20-17-1024. Preexisting cemeteries.~~

16 ~~(a) All cemetery companies in existence at the time of the passage of~~
17 ~~this act shall be permitted to continue operation under their present permits~~
18 ~~except that those cemetery companies which are subject to this subchapter and~~
19 ~~have not been filing annual reports with the Arkansas Cemetery Board shall,~~
20 ~~by January 1, 1978, file the following information and shall be subject to~~
21 ~~the jurisdiction of the board;~~

22 ~~(1) The name of the owner and operator of the cemetery and a~~
23 ~~statement of the form of business organization, that is, corporation,~~
24 ~~nonprofit corporation, partnership, etc., along with a copy of the article,~~
25 ~~bylaws, or applicable organization documents;~~

26 ~~(2) The location and legal description of the cemetery,~~
27 ~~including a survey and map of the cemetery delineating the lots, plots,~~
28 ~~pathways, etc.;~~

29 ~~(3) The rules and regulations for the use, care, management, and~~
30 ~~protection of the cemetery, including a list of lot prices and all charges~~
31 ~~and assessments made by the cemetery company;~~

32 ~~(4) Details concerning the permanent maintenance trust fund~~
33 ~~including a copy of the trust agreement, the name of the trustee, the report~~
34 ~~of the trustee, etc.;~~

35 ~~(5) A copy of the present permit and proof of registration with~~
36 ~~the Division of Health of the Department of Health and Human Services;~~

