



**ARKANSAS DEPARTMENT OF COMMERCE
ARKANSAS INSURANCE DEPARTMENT
PREPAID FUNERAL BENEFITS DIVISION
1 COMMERCE WAY, SUITE 502, LITTLE ROCK, AR 72202-2087
PH (501) 371-2600 | FX (501) 682-0575**

BURIAL ASSOCIATIONS – ARK. CODE ANN.

ARKANSAS BURIAL ASSOCIATIONS LAW

AR - Arkansas Code Annotated >> Title 23 Public Utilities and Regulated Industries >> Subtitle 3. Insurance >> Chapter 78 Burial Associations

CURRENT THROUGH 2020 FIRST EXTRAORDINARY SESSION.

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Tit. 23, Subtit. 3., Ch. 78 Note

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A.C.A. § 23-78-101

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23-78-101. Definitions.

As used in this chapter:

(1) "Association" or "burial association" means:

(A) Any person, firm, association, copartnership, corporation, company, or other organization which, from and after February 18, 1953:

- (i) Undertakes for consideration paid by or on behalf of its members to defray all or a part of the funeral expenses of the members;
- (ii) Furnishes or undertakes to furnish merchandise, supplies, and services or any other character of burial benefits to the members; or
- (iii) Issues a certificate which provides for the payment of funeral benefits to the members in services, merchandise, or supplies, including the services of funeral directors and embalmers; and

(B) Every person, firm, association, copartnership, corporation, or company which, prior to February 18, 1953, has:

- (i) Undertaken for a consideration to pay money to its contributors for the purposes of defraying all or part of the funeral expenses of a deceased person;
- (ii) Furnished or has undertaken to furnish supplies and services or any other character of burial benefits to the contributing person or to his or her beneficiaries or members of his or her family; or
- (iii) Issued any form of contract or certificate which, under its terms, provides for the payment of funeral benefits in money, services, or supplies, including the services of undertakers or embalmers; and

(2) [Repealed.]

History

Acts 1953, No. 91, §§ 1, 2; 1985, No. 679, § 1; A.S.A. 1947, §§ 66-1801, 66-1802; Acts 2017, No. 788, § 67.

A.C.A. § 23-78-102

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23-78-102. Applicability.

(a)

(1) All burial associations organized or operating in the State of Arkansas as of February 18, 1953, shall be deemed in all respects to be organized or operating exclusively under the provisions of this chapter, and to have authority from the State Board of Embalmers, Funeral Directors, Cemeteries, and Burial Services to engage in their business.

(2) A burial association under subdivision (a)(1) of this section shall be subject to the supervision, authority, and control of the board and subject to all the provisions of this chapter.

(b) All burial associations organized in this state from and after February 18, 1953, shall organize exclusively under the provisions of this chapter and shall be subject to the authority, control, and supervision of the board and to all of the provisions of this chapter.

History

Acts 1953, No. 91, § 7; A.S.A. 1947, § 66-1807; Acts 2017, No. 788, § 68.

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A.C.A. § 23-78-103

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23-78-103. Chapter exclusive authority.

- (a) This chapter shall be deemed and held exclusive authority for the organization and operation of burial associations within this state, and the associations shall not be subject to any other laws respecting insurance companies of any class, kind, or character.
- (b) However, this chapter shall not affect the validity of any membership certificate of any burial association issued and outstanding under the provisions of any prior law.

History

Acts 1953, No. 91, § 22; A.S.A. 1947, § 66-1822.

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A.C.A. § 23-78-104

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23-78-104. Penalty.

- (a) A person, firm, association, copartnership, corporation, company, or other organization shall not 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 promulgated by the State Board of Embalmers, Funeral Directors, Cemeteries, and Burial Services.
- (b) Any person, firm, association, copartnership, corporation, company, or other organization violating the provisions of this section shall be guilty of a Class A misdemeanor.

History

Acts 1953, No. 91, § 16; A.S.A. 1947, § 66-1816; Acts 2005, No. 1802, § 1; 2005, No. 1994, § 358; 2017, No. 788, § 69.

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A.C.A. § 23-78-109

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23-78-109. Burial associations under authority, supervision, and control of board.

All burial associations organized or operating in the State of Arkansas are under the authority, supervision, and control of the State Board of Embalmers, Funeral Directors, Cemeteries, and Burial Services.

History

Acts 1953, No. 91, § 6; A.S.A. 1947, § 66-1806; Acts 2017, No. 788, § 74.

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A.C.A. § 23-78-110

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23-78-110. Certificate of authority.

- (a) Applications for a certificate of authority shall be on forms furnished by the State Board of Embalmers, Funeral Directors, Cemeteries, and Burial Services, and a burial association shall not begin operation until the application has been approved and the certificate of authority has been granted by the board.
- (b) The following documents and information shall be filed with the application for a certificate of authority:
 - (1) Consent to service of process upon the secretary of the applicant;
 - (2) A copy of the proposed form of membership application, membership certificate, bylaws, and contracts for service, merchandise, supplies, and any other data requested by the board;
 - (3) References as to character, ability, and integrity of the organizers and of any funeral director or embalmer with whom the applicant proposes to contract;
 - (4) An application fee as determined by rule of the board; and
 - (5)
 - (A) Proof of a deposit to the association's mortuary funds in an amount determined by rule of the board.
 - (B) The deposit required under subdivision (b)(5)(A) of this section shall not exceed ten thousand dollars (\$10,000).
- (c) If the board is satisfied that the applicant is qualified and meets the requirements of this chapter, the board shall issue to the applicant a certificate of authority.

History

Acts 1953, No. 91, § 8; A.S.A. 1947, § 66-1808; Acts 2007, No. 583, § 1; 2011, No. 875, § 2; 2017, No. 788, § 75.

A.C.A. § 23-78-111

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23-78-111. Fees – Oath at payment.

(a)

- (1) In order to meet the expense of supervision and of carrying out the other provisions of this chapter, the State Board of Embalmers, Funeral Directors, Cemeteries, and Burial Services may set license fees for burial associations subject to its jurisdiction as set forth in § 23-78-109.
- (2) The board shall collect the annual license fee from each burial association that is operating and in good standing on or before February 15 of the year in which the license fee is payable.

(b)

- (1) The fee shall be due and payable to the board not later than February 1 of each year, and upon payment of the fee, the board shall issue to each burial association a license that shall entitle the association to do business in the State of Arkansas during the calendar year for which the license is issued.
- (2) If the license fee for any year is not paid within thirty (30) days from the date upon which it is due, the board may revoke and cancel the authorization of the delinquent burial association to transact business in the State of Arkansas.

(c) It shall be the duty of every burial association to certify under oath at the time of the payment of the license fee the true and correct membership of the burial association on January 1 of the applicable year.

(d) If any officer or agent of any burial association knowingly makes any false statement with respect to the information required by this section to be furnished, he or she shall be guilty of a Class A misdemeanor.

(e) The board shall have and is given the power and authority to reduce or increase, temporarily or permanently, the fees set forth in subsection (a) of this section if the board deems such an action advisable.

History

Acts 1953, No. 91, § 14; 1973, No. 515, § 1; 1975, No. 380, § 1; 1979, No. 244, § 1; 1981, No. 494, § 2; 1983, No. 784, § 2; 1985, No. 480, § 1; A.S.A. 1947, § 66-1814; Acts 1989, No. 344, § 1; 1995, No. 485, § 1; 2005, No. 1994, § 457; 2009, No. 552, § 1; 2011, No. 875, § 3; 2017, No. 788, § 76.

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A.C.A. § 23-78-112

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23-78-112. Certificate for benefits – Issuance.

- (a) No burial association shall issue a certificate for benefits for any member in excess of two thousand five hundred dollars (\$2,500), and no certificate shall provide for free service, merchandise, or supplies in addition to the amount of benefits set forth in the certificate.
- (b) If other than the contract funeral home performs the funeral service, the benefit shall be paid to that licensed funeral home on the basis of one hundred percent (100%) of the face amount of the certificate, in cash.

History

Acts 1953, No. 91, § 10; 1985, No. 679, § 3; A.S.A. 1947, § 66-1810; Acts 1987, No. 443, § 1.

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A.C.A. § 23-78-113

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23-78-113. Agent's license required.

- (a) Before an agent or representative represents a burial association in this state, the agent or representative shall first apply to the State Board of Embalmers, Funeral Directors, Cemeteries, and Burial Services for a license.
- (b)
 - (1) The board shall have full power and authority to issue the license upon proof satisfactory to the board that the person is capable of soliciting burial association memberships and is of good moral character and recommended by the association in behalf of which the membership solicitations are to be made.
 - (2) The board may reject the application of any person who does not meet the requirements herein set out.
- (c) The board may revoke the license upon proof satisfactory to it that the licensed agent has violated any section of this chapter.
- (d) The license fee shall be ten dollars (\$10.00), and the license must be renewed for each calendar year at the same fee.
- (e) It shall not be necessary that the president, vice president, or the secretary-treasurer of any burial association obtain a license for soliciting memberships in any association of which the person is president, vice president, or secretary-treasurer.
- (f) Membership certificates shall not be issued by a solicitor in the field, but all applications shall be forwarded to the office of the association, and the certificates shall be issued there and a record made of the issuance at the time the certificate is issued.

History

Acts 1953, No. 91, § 13; 1981, No. 494, § 1; A.S.A. 1947, § 66-1813; Acts 2017, No. 788, § 77.

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A.C.A. § 23-78-114

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23-78-114. False claim, promise, or representation of agent.

Any burial association official or agent or any representative of a burial association who for the purpose of inducing a member of one (1) association to change membership to another association shall make any false claim, promise, or representation not authorized in the bylaws of the association represented by him or her shall be guilty of a Class A misdemeanor.

History

Acts 1953, No. 91, § 18; A.S.A. 1947, § 66-1818; Acts 2005, No. 1994, § 359.

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A.C.A. § 23-78-115

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23-78-115. Rules and bylaws.

All burial associations shall have and maintain rules and bylaws in such form and with such contents as prescribed by the State Board of Embalmers, Funeral Directors, Cemeteries, and Burial Services.

History

Acts 1953, No. 91, § 9; A.S.A. 1947, § 66-1809; Acts 2017, No. 788, § 78.

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A.C.A. § 23-78-116

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23-78-116. Membership dues and assessments.

- (a) From and after February 18, 1953, a burial association organized or operating in this state shall not issue a certificate providing benefits for a member for an assessment or membership dues less than the minimum assessment or minimum dues prescribed for the benefits by the State Board of Embalmers, Funeral Directors, Cemeteries, and Burial Services.
- (b) However, dues and assessments of the membership as of February 18, 1953, shall not be changed by the board.

History

Acts 1953, No. 91, § 11; A.S.A. 1947, § 66-1811; Acts 2017, No. 788, § 79.

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A.C.A. § 23-78-117

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23-78-117. Books, records, accounts, and documents — Inspection and audit.

- (a) The books, records, accounts, and documents of all burial associations organized or operating in this state shall at all times be open for inspection, examination, and audit by the State Board of Embalmers, Funeral Directors, Cemeteries, and Burial Services, its agents and employees.
- (b)
 - (1) Through its agents and employees, the board shall make examinations, from time to time, of all burial associations.
 - (2)
 - (A) If, at the time of an examination or audit, the board determines that a burial association's books, records, accounts, and documents are insufficient, unavailable, or in no condition to be examined or audited, the board may collect a fee not to exceed one thousand dollars (\$1,000) and recover costs incurred, including the following:
 - (i) Round trip mileage from the board office to the burial association, at the travel rate then prevailing for other state employees; and
 - (ii) Per diem expenses at the travel rate then prevailing for other state employees.
 - (B) Any fees or costs incurred shall not be payable from the burial association's mortuary fund.
- (c) The board shall be audited from time to time by the Legislative Joint Auditing Committee.

History

Acts 1953, No. 91, § 12; 1981, No. 360, § 2; A.S.A. 1947, § 66-1812; Acts 1995, No. 485, § 2; 2017, No. 788, § 80.

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A.C.A. § 23-78-118

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23-78-118. Books – False entries prohibited.

A person or burial association official who knowingly makes or allows to be made a false entry on the books of the association with intent to deceive or defraud a member of the association or with intent to conceal the true condition of the association from the State Board of Embalmers, Funeral Directors, Cemeteries, and Burial Services or its agents or employees or any auditor authorized to examine the books of the association under the supervision of the board is guilty of a Class A misdemeanor.

History

Acts 1953, No. 91, § 19; A.S.A. 1947, § 66-1819; Acts 2005, No. 1994, § 360; 2017, No. 788, § 81.

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A.C.A. § 23-78-119

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23-78-119. Records – Failure to maintain.

- (a) A burial association secretary or secretary-treasurer who fails to maintain records to the minimum standards required by the State Board of Embalmers, Funeral Directors, Cemeteries, and Burial Services shall be removed by the board from office and another elected by the association in his or her stead.
- (b) The election shall be immediately upon notice of the removal.

History

Acts 1953, No. 91, § 20; A.S.A. 1947, § 66-1820; Acts 2017, No. 788, § 82.

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A.C.A. § 23-78-120

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23-78-120. Semiannual reports.

(a)

(1) Using forms provided by the State Board of Embalmers, Funeral Directors, Cemeteries, and Burial Services, each burial association or society licensed in this state shall file a semiannual report showing the actual financial condition of the burial association or society as of June 30 and December 31 of each year.

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

(b)

(1)

(A) The report required under this section is due as of June 30 and December 31 each year.

(B) A report is delinquent if:

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

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

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

(3)

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

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

(4)

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

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

- (i) Causes a report that is due as of June 30 to be filed with the board after August 15 of the year it is due; or
 - (ii) Causes a report that is due as of December 31 to be filed with the board after February 15 of the year next following the year it is due.
- (5) A burial association or society whose report is delinquent is subject to a financial penalty established by rule of the board.
- (c) The board shall recover costs incurred in conducting audits and preparing the semiannual report from those associations which fail to file the report prior to the expiration of the deadline referred to in subsection (b) of this section. Costs to be recouped shall include:
 - (1) Round-trip mileage from the board's office to the association, at the rate then prevailing for other state employees engaged in travel;
 - (2) Per diem expenses at the rate then prevailing for other state employees engaged in travel;
 - (3) Plus a two-hundred-fifty-dollar fee for preparing the report.

History

Acts 1953, No. 91, § 14; 1985, No. 480, § 2; A.S.A. 1947, § 66-1814; Acts 2011, No. 875, § 4; 2017, No. 788, § 83.

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A.C.A. § 23-78-121

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23-78-121. Rules.

- (a) The State Board of Embalmers, Funeral Directors, Cemeteries, and Burial Services shall make and promulgate reasonable rules for the administration of this chapter and for the purpose of carrying out the intent of this chapter.
- (b) The rules promulgated under subsection (a) of this section have the full force and effect of statute.

History

Acts 1953, No. 91, § 23; A.S.A. 1947, § 66-1823; Acts 2017, No. 788, § 84.

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A.C.A. § 23-78-122

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23-78-122. Disposition of collections.

(a)

(1)

(A) Seventy-five percent (75%) of the collections of any burial association or society shall be solely for the payment of benefits provided by membership certificates and shall not be used for the payment of operating expenses.

(B) The annual license fee shall not be considered an operating expense, and the annual license fee may be paid from the mortuary fund.

(2) However, subject to the reserve requirements established by the State Board of Embalmers, Funeral Directors, Cemeteries, and Burial Services, the association or society may invest any portion of the seventy-five percent (75%) of the collections not needed for the immediate payment of benefits or not needed for the reasonably anticipated payment of benefits in:

(A) United States Treasury bonds, direct or indirect obligations of the United States Government;

(B) Bonds, notes, debentures, or other obligations issued by an agency of the United States Government, the principal and interest of which are fully guaranteed by the United States Government, and mortgages on real estate which are fully guaranteed as to principal and interest by the United States Government or agency thereof;

(C)

(i) Preferred stocks of corporations created or existing under the laws of the United States or any state thereof.

(ii) However, the funds shall be invested only in preferred stocks designated as "A" rated or the equivalent by one (1) or more nationally recognized investment services, and approved by the board.

(iii) Further, no more than fifteen percent (15%) of the total funds of any burial association or society available for investment shall be invested in preferred stocks;

(D)

- (i) Certificates of deposit of any state or national bank in Arkansas which are insured by the Federal Deposit Insurance Corporation.
- (ii)
 - (a) However, if the certificates of deposit issued by the bank exceed the amount of the certificates of deposit insured by the Federal Deposit Insurance Corporation, the bank shall furnish to the association or secretary and the board or the Insurance Commissioner evidence of the assignment of bonds or other securities issued by the State of Arkansas or the United States to secure the payment of the certificates.
 - (b) This may be done by making the assignment through a federal reserve bank or through a correspondent bank.
 - (c) In the alternative, the issuing bank may make such assignment in such other form or manner as may be approved by the board or the executive secretary;
- (E)
 - (i) Savings accounts of any savings and loan association which are insured by the Federal Deposit Insurance Corporation.
 - (ii)
 - (a) However, if the savings account of the association exceeds the amount of the savings account insured by the Federal Deposit Insurance Corporation, the association shall furnish to the depositing association or secretary and the board or the executive secretary evidence of the assignment of bonds, or other securities issued by the State of Arkansas or the United States, to secure payment of the accounts.
 - (b) The savings and loan association in which the accounts exist shall make the assignment in a form and manner approved by the board or the commissioner;
- (F) "A" rated or better corporate bonds, as designated by one (1) or more nationally recognized investment services; or
- (G)
 - (i) "A" rated state and municipal bonds as designated by one (1) or more nationally recognized investment services.
 - (ii) However, the bonds must be issued by governmental entities in the State of Arkansas, and no more than thirty percent (30%) of the total funds of any burial association or society available for investment shall be invested in state or municipal bonds.
- (b) Seventy-five percent (75%) of the interest derived from the investments shall also not be usable for the payment of operating expenses.

History

Acts 1953, No. 91, § 14; 1973, No. 515, § 1; 1975, No. 380, § 1; 1977, No. 861, § 1; 1981, No. 360, § 3; 1985, No. 679, § 4; A.S.A. 1947, § 66-1814; Acts 1987, No. 443, § 3; 2017, No. 788, §§ 85-87.

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A.C.A. § 23-78-123

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23-78-123. Disposition of fees and charges.

(a)

- (1) All fees and charges collected by the State Board of Embalmers, Funeral Directors, Cemeteries, and Burial Services under this chapter shall be deposited into a cash fund deposited to the State Treasury.
- (2) The board is empowered to expend the funds for the requirements, purposes, and expenses of the board under the provisions of this chapter, upon a voucher approved by the board and signed by the Insurance Commissioner or his or her designee, provided that the total expense for every purpose incurred shall not exceed the total fees and charges collected by the board under the provisions of this chapter.

(b) The operation of the board and the carrying out of the functions set out in this chapter shall be at no expense to the State of Arkansas.

History

Acts 1953, No. 91, § 15; A.S.A. 1947, § 66-1815; Acts 2017, No. 788, § 88.

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A.C.A. § 23-78-124

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23-78-124. Revocation of certificate, license, charter, etc. – Hearing.

- (a) Before revoking a certificate of authority or license granted under this chapter or any charter or other authority granted to a burial association under any law effective before February 18, 1953, the State Board of Embalmers, Funeral Directors, Cemeteries, and Burial Services shall set the matter down for a hearing.
- (b) At least twenty (20) days prior to the date set for the hearing, the board shall notify in writing the burial association or person holding a license of any charges made.
- (c) The board shall afford the burial association or person an opportunity to be heard, at which hearing the association or person may be represented by counsel and shall be allowed oral testimony, affidavits, or depositions in reference thereto.
- (d)
 - (1) The board shall have power to subpoena and bring before it any person in this state or take the testimony by deposition of any person with the same fees and mileage and in the same manner as prescribed by law in judicial procedure in courts of this state in civil cases. The fees and mileage shall be paid by the party at whose request the witness is subpoenaed.
 - (2) The board shall also have the power to order the production of any books, records, and documents at the hearing.
- (e)
 - (1) If the board determines that the burial association or person is guilty of a violation of any provisions of this chapter, its or his or her certificate of authority, charter, license, or other authority shall be revoked.
 - (2) However, if the burial association or person gives notice of appeal from any adverse decision of the board as set forth in § 23-78-125, then the burial association or person may, at the discretion of the board, continue to operate during the pendency of the appeal.
 - (3) If the board chooses not to permit the association or person to operate during the pendency of the appeal, then the board shall appoint a person to conduct the business of the association or person until the appeal has been heard.

History

Acts 1953, No. 91, § 17; 1981, No. 360, § 4; A.S.A. 1947, § 66-1817; Acts 2017, No. 788, § 89.

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A.C.A. § 23-78-125

Current through 2020 First Extraordinary Session.

AR - Arkansas Code Annotated >> Title 23 Public Utilities and Regulated Industries >> Subtitle 3. Insurance >> Chapter 78 Burial Associations

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

- (a) Upon the revocation of a certificate of authority, charter, or other authority by the State Board of Embalmers, Funeral Directors, Cemeteries, and Burial Services under any of the provisions of this chapter, the association or person whose certificate of authority, charter, license, or other authority has been revoked may appeal from the action of the board revoking the certificate of authority, charter, or other authority to the circuit court of the county in which the burial association may be located.
- (b) Appeals shall be made in accordance with the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

History

Acts 1953, No. 91, § 21; 1981, No. 360, § 5; A.S.A. 1947, § 66-1821; Acts 2011, No. 875, § 5; 2017, No. 788, § 90.

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A.C.A. § 23-78-126

Current through 2020 First Extraordinary Session.

AR - Arkansas Code Annotated >> Title 23 Public Utilities and Regulated Industries >> Subtitle 3. Insurance >> Chapter 78 Burial Associations

23-78-126. Plan for excess financial resources – Approval required.

- (a) A burial association that has excess financial resources, as determined by the State Board of Embalmers, Funeral Directors, Cemeteries, and Burial Services, may request that the board approve a plan to pay death benefits in excess of the face value of certificates of benefits issued by the burial association to members of the burial association.
- (b) On the approval of the board, the burial association shall submit a plan to the board to pay death benefits in excess of the face value of certificates of benefits issued by the burial association to members of the burial association.
- (c)
 - (1) The plan described in subsection (b) of this section shall:
 - (A) Be based on the class of business of the burial association; and
 - (B) Require that death benefits are paid on a fair, proportionate, and equitable basis to members of the burial association.
 - (2) The plan shall not impugn the financial integrity of the burial association.
- (d) In determining whether or not a burial association has excess financial resources, the board shall not consider the assets of a burial association that are attributable to certificates written after July 20, 1987, to be commingled with assets attributable to certificates written before July 20, 1987.

History

Acts 2015, No. 1030, § 2; 2017, No. 788, § 91.

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A.C.A. § 23-61-1110

Current through 2020 First Extraordinary Session.

AR - Arkansas Code Annotated >> Title 23 Public Utilities and Regulated Industries >> Subtitle 3. Insurance >> Chapter 61 State Insurance Department >> Subchapter 11 – State Board of Embalmers, Funeral Directors, Cemeteries, and Burial Services

23-61-1110. Burial associations.

- (a) The State Board of Embalmers, Funeral Directors, Cemeteries, and Burial Services may:
- (1) Grant certificates of authority to burial associations;
 - (2) Revoke certificates of authority, charters, or other authority granted to burial associations in this state;
 - (3) Fix the minimum assessments or minimum membership dues for which burial associations may issue certificates for benefits in specified amounts;
 - (4) Supervise the affairs of all burial associations organized or operating in this state;
 - (5) Conduct hearings as provided in this subchapter and collect, receive, hold, and expend annual license fees under this subchapter and § 23-78-101 et seq.;
 - (6) Adopt and enforce such rules as the board deems necessary and expedient for the proper operation of the burial association and the carrying out of the objects and purposes of this subchapter;
 - (7) Establish actuarial rates and reserve requirements necessary to ensure the financial integrity of all burial associations;
 - (8) Approve requests from burial associations that have excess financial resources, as determined by the board, to adopt a plan to pay death benefits in excess of the face value of a certificate of benefits issued by the burial association to members of the burial association; and
 - (9) Approve or disapprove an application for the dissolution, merger, or reorganization of a burial association organized and operating in this state.
- (b) The board may determine issues between different burial associations and between burial associations and their respective members, and render binding decisions, subject to appeal.

History

Acts 2017, No. 788, § 3.