

By: Representative Holland

To: Public Health and Welfare

HOUSE BILL NO. 1007
(As Passed the House)

1 AN ACT TO AMEND SECTION 73-11-33, MISSISSIPPI CODE OF 1972,
2 TO EXTEND THE REPEALER ON THE STATE BOARD OF FUNERAL SERVICE; TO
3 REENACT SECTIONS 73-11-41, 73-11-43, 73-11-45, 73-11-47, 73-11-49,
4 73-11-51, 73-11-53, 73-11-55, 73-11-56, 73-11-57, 73-11-59,
5 73-11-61 AND 73-11-63, MISSISSIPPI CODE OF 1972, WHICH PROVIDE FOR
6 THE LICENSING AND REGULATION OF THE PRACTICE OF FUNERAL SERVICE;
7 TO AMEND REENACTED SECTION 73-11-49, MISSISSIPPI CODE OF 1972, TO
8 SPECIFY WHEN OFFICERS OF THE BOARD SHALL BE ELECTED; TO AMEND
9 REENACTED SECTION 73-11-51, MISSISSIPPI CODE OF 1972, TO REQUIRE
10 THE COMPLETION OF CONTINUING EDUCATION TO BE LICENSED FOR THE
11 PRACTICE OF FUNERAL DIRECTING OR FUNERAL SERVICE; TO AMEND
12 REENACTED SECTION 73-11-57, MISSISSIPPI CODE OF 1972, TO REVISE
13 GROUNDS FOR REFUSAL TO ISSUE, RENEW, SUSPEND OR REVOKE LICENSES;
14 AND FOR RELATED PURPOSES.

15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

16 SECTION 1. Section 73-11-33, Mississippi Code of 1972, is
17 amended as follows:

18 73-11-33. Sections 73-11-41 through 73-11-63, which create
19 the State Board of Funeral Service and prescribe its duties and
20 powers, shall stand repealed as of July 1, 2003.

21 SECTION 2. Section 73-11-41, Mississippi Code of 1972, is
22 reenacted as follows:

23 73-11-41. The following terms shall have the meanings
24 ascribed herein unless the context shall otherwise require:

25 (a) "Board" shall mean the State Board of Funeral
26 Service of the State of Mississippi as created by Section
27 73-11-43, or any successor thereof.

28 (b) "Embalming" shall mean the disinfection of the dead
29 human body by replacing certain body fluids with preserving and
30 disinfecting chemicals.

31 (c) "License for funeral establishment" shall mean a
32 license issued to a place or premise devoted to or used in the
33 immediate post-death activities of custody, shelter, care,

34 preparation and/or embalming for final disposition of the body; or
35 used for religious services or other rites or ceremonies
36 associated with the final disposition of human dead; or maintained
37 for the convenience and comfort of the bereaved and the community
38 for viewing or other services in connection with the human dead,
39 and as the office or place for carrying on the profession of
40 funeral service and/or funeral directing.

41 (d) "License for the practice of funeral directing"
42 shall mean the license given to a person engaging in the "practice
43 of funeral service" who is not engaged in the practice of
44 embalming.

45 (e) "License for the practice of funeral service" shall
46 mean the license given to a person engaging in the "practice of
47 funeral service," including the practice of embalming.

48 (f) "Practice of funeral service" shall mean (i)
49 providing shelter, care and custody of the human dead; (ii)
50 conducting immediate post-death activities; (iii) preparing of the
51 human dead by embalming or other methods for burial or other
52 disposition; (iv) being responsible for the transportation of the
53 human dead, bereaved relatives and friends; (v) making
54 arrangements, financial or otherwise, for the providing of such
55 services; (vi) the sale of funeral merchandise; or (vii) the
56 practice or performance of any function of funeral directing
57 and/or embalming as presently known, including those stipulated
58 herein. This definition shall not include persons or corporations
59 engaging only in the pre-need sale of funeral merchandise or
60 service.

61 (g) "Resident trainee" shall mean a person who is
62 preparing to become licensed for the practice of funeral service
63 or funeral directing and who is serving under the supervision and
64 instruction of a person duly licensed for the practice of funeral
65 service or funeral directing in this state.

66 (h) "Solicitation" means the act or practice of
67 approaching someone with a request or plea, or urging someone
68 toward a particular cause, as it may pertain to the care, custody
69 or disposition of a dead human body.

70 SECTION 3. Section 73-11-43, Mississippi Code of 1972, is
71 reenacted as follows:

72 73-11-43. There is hereby created the State Board of Funeral
73 Service which shall consist of seven (7) members, one (1) funeral
74 service licensee and one (1) funeral director licensee to be
75 appointed from each Mississippi Supreme Court district. Three (3)
76 members shall have been licensed for the practice of funeral
77 service under this chapter for five (5) consecutive years and/or
78 have had at least five (5) consecutive years' experience as a
79 funeral director and embalmer in this state immediately preceding
80 his appointment. Three (3) members shall have been licensed for
81 the practice of funeral directing under this chapter for five (5)
82 consecutive years and/or have had at least five (5) consecutive
83 years' experience as a funeral director immediately preceding his
84 appointment. One (1) member shall be a public member and be
85 appointed from the public at large. The members of the board
86 shall be appointed by the Governor with the advice and consent of
87 the Senate. All appointments shall be for terms of four (4) years
88 from the expiration date of the previous term. No board member
89 shall serve more than two (2) consecutive full terms. Vacancies
90 in office shall be filled by appointment by the Governor in the
91 same manner as the appointment to the position which becomes
92 vacant, subject to the advice and consent of the Senate at the
93 next regular session of the Legislature. Appointments for
94 vacancies in office, except those from the public at large, may be
95 made from a joint list of four (4) qualified persons, two (2) each
96 submitted by the Mississippi Funeral Directors Association and the
97 Mississippi Funeral Directors and Morticians Association. Nothing
98 in this chapter or any other statute shall preclude the members of
99 the State Embalming Board from serving as members of the State
100 Board of Funeral Service.

101 SECTION 4. Section 73-11-45, Mississippi Code of 1972, is
102 reenacted as follows:

103 73-11-45. The members of the board, before entering upon
104 their duties, shall take and subscribe to the oath of office
105 prescribed for other state officers, which oath shall be

106 administered by properly qualified authority and shall be filed in
107 the Office of the Secretary of State.

108 SECTION 5. Section 73-11-47, Mississippi Code of 1972, is
109 reenacted as follows:

110 73-11-47. The board shall hold not less than two (2)
111 meetings annually for the purpose of conducting the business of
112 the board and for examining applications for licenses. Four (4)
113 or more members shall comprise a quorum. Any member who shall not
114 attend two (2) consecutive meetings of the board shall be subject
115 to removal by the Governor. The chairman of the board shall
116 notify the Governor in writing when any such member has failed to
117 attend two (2) consecutive regular meetings.

118 SECTION 6. Section 73-11-49, Mississippi Code of 1972, is
119 reenacted and amended as follows:

120 73-11-49. (1) The board is authorized to select from its
121 own membership a chairman, vice chairman and secretary-treasurer.

122 Election of officers shall be held at the first regularly
123 scheduled meeting of the fiscal year.

124 (2) All members of the board shall be reimbursed for their
125 necessary traveling expenses and mileage incident to their
126 attendance upon the business of the board, as provided in Section
127 25-3-41, and shall receive a per diem as provided in Section
128 25-3-69 for every day actually spent upon the business of the
129 board, not to exceed twenty (20) days per year unless authorized
130 by a majority vote of the board.

131 (3) All monies received by the board shall be paid into a
132 special fund in the State Treasury to the credit of the board and
133 shall be used by the board for paying the traveling and necessary
134 expenses and per diem of the members of the board while on board
135 business, and for paying other expenses necessary for the
136 operation of the board in carrying out and involving the
137 provisions of this chapter.

138 (4) The board shall employ an administrator of the board,
139 who shall have complete supervision and be held responsible for

140 the direction of the office of the board, shall have supervision
141 over field inspections and enforcement of the provisions of this
142 chapter, shall have such other duties as may be assigned by the
143 board, shall be responsible and answerable to the board. The
144 board may employ such other clerical assistants and employees as
145 may be necessary to carry out the provisions of this chapter, and
146 the terms and conditions of such employment shall be determined by
147 the board in accordance with applicable state law and rules and
148 regulations of the State Personnel Board.

149 (5) The board, when it shall deem necessary, shall be
150 represented by an assistant Attorney General duly appointed by the
151 Attorney General of this state, and may also request and receive
152 the assistance of other state agencies and county and district
153 attorneys, all of whom are authorized to provide the assistance
154 requested.

155 (6) The board shall have subpoena power in enforcing the
156 provisions of this chapter.

157 (7) The board shall adopt and promulgate rules and
158 regulations for the transaction of its business in accordance with
159 the provisions of the Mississippi Administrative Procedures Law
160 (Section 25-43-1 et seq.). No rule or regulation promulgated by
161 the board affecting any person or agency outside the board shall
162 be adopted, amended or repealed without a public hearing on the
163 proposed action. The board shall give written notice at least
164 thirty (30) days in advance of any meeting with respect to any
165 proposed adoption, amendment or repeal of a rule or regulation of
166 the board, in accordance with the Administrative Procedures Act,
167 as well as notifying the duly elected presidents and secretaries
168 of the Mississippi Funeral Directors Association and the
169 Mississippi Funeral Directors and Morticians Association, or their
170 successors.

171 (8) The board may designate the administrator to perform
172 inspections under this chapter, may employ an individual to
173 perform such inspections or may contract with any other individual

174 or entity to perform such inspections. Any individual or entity
175 that performs such inspections shall have the right of entry into
176 any place in which the business or practice of funeral service
177 and/or funeral directing is carried on or advertised as being
178 carried on, for the purpose of inspection, for the investigation
179 of complaints coming before the board and for such other matters
180 as the board may direct.

181 (9) The board shall not pass any rule or regulation
182 pertaining to the transportation of dead bodies in any manner or
183 requiring them to be embalmed.

184 SECTION 7. Section 73-11-51, Mississippi Code of 1972, is
185 reenacted and amended as follows:

186 73-11-51. (1) No person shall engage in the business or
187 practice of funeral service, including embalming, and/or funeral
188 directing or hold himself out as transacting or practicing or
189 being entitled to transact or practice funeral service, including
190 embalming, and/or funeral directing in this state unless duly
191 licensed pursuant to the provisions of this chapter.

192 (2) The board is authorized and empowered to examine
193 applicants for licenses for the practice of funeral service and
194 funeral directing and shall issue the proper license to those
195 persons who successfully pass the applicable examination and
196 otherwise comply with the provisions of this chapter.

197 (3) To be licensed for the practice of funeral directing
198 under this chapter, a person must (a) be at least eighteen (18)
199 years of age; (b) have a high school diploma or the equivalent
200 thereof; (c) have served as a resident trainee for not less than
201 twenty-four (24) months under the supervision of a person licensed
202 for the practice of funeral service or funeral directing in this
203 state; (d) have successfully passed a written and/or oral
204 examination as prepared or approved by the board; * * * (e) be of
205 good moral character; and (f) have completed at least three (3)
206 hours of continuing education units in areas related to the
207 federal Occupational Safety and Health Act (OSHA) standards. An

208 individual who has reached the age of sixty (60) and has been
209 licensed for at least fifteen (15) years may be exempted from this
210 requirement.

211 (4) To be licensed for the practice of funeral service under
212 this chapter, a person must (a) be at least eighteen (18) years of
213 age; (b) have a high school diploma or the equivalent thereof; (c)
214 have satisfactorily completed twelve (12) months or more of
215 academic and professional instruction from an institution
216 accredited by the American Board of Funeral Service Education or
217 any other successor recognized by the United States Department of
218 Education for funeral service education; (d) have served as a
219 resident trainee for not less than twelve (12) months, either
220 prior to or after graduation from an accredited institution
221 mentioned above, under the supervision of a person licensed for
222 the practice of funeral service in this state or having the prior
223 equivalent license of this state; (e) have successfully passed a
224 written and/or oral examination as prepared or approved by the
225 board; * * * (f) be of good moral character; and (g) have
226 completed at least three (3) hours of continuing education units
227 in areas related to the federal Occupational Safety and Health Act
228 (OSHA) standards. An individual who has reached the age of sixty
229 (60) and has been licensed for at least fifteen (15) years may be
230 exempted from this requirement.

231 (5) All applications for examination and license for the
232 practice of funeral service or funeral directing shall be upon
233 forms furnished by the board and shall be accompanied by an
234 examination fee, a licensing fee and a nonrefundable application
235 fee in amounts fixed by the board in accordance with Section
236 73-11-56. The fee for an initial license, however, may be
237 prorated in proportion to the period of time from the date of
238 issuance to the date of biennial license renewal prescribed in
239 subsection (8) of this section. All applications for examination
240 shall be filed with the board office at least sixty (60) days
241 prior to date of examination. A candidate shall be deemed to have

242 abandoned the application for examination if he does not appear on
243 the scheduled date of examination unless such failure to appear
244 has been approved by the board.

245 (6) The practice of funeral service or funeral directing
246 must be engaged in at a licensed funeral establishment, at least
247 one (1) of which is listed as the licensee's place of business;
248 and no person, partnership, corporation, association or other
249 organization shall open or maintain a funeral establishment at
250 which to engage in or conduct or hold himself or itself out as
251 engaging in the practice of funeral service or funeral directing
252 until such establishment has complied with the licensing
253 requirements of this chapter. A license for the practice of
254 funeral service or funeral directing shall be used only at
255 licensed funeral establishments; however, this provision shall not
256 prevent a person licensed for the practice of funeral service or
257 funeral directing from conducting a funeral service at a church, a
258 residence, public hall, lodge room or cemetery chapel, if such
259 person maintains a fixed licensed funeral establishment of his own
260 or is in the employ of or an agent of a licensed funeral
261 establishment.

262 (7) Any person holding a valid, unrevoked and unexpired
263 license in another state or territory having requirements
264 substantially similar to those of this state may apply for a
265 license to practice in this state by filing with the board a
266 certified statement from the secretary of the licensing board of
267 the state or territory in which the applicant holds his license
268 certifying to his qualifications and good standing with that board
269 by having successfully passed a written and/or oral examination on
270 the Mississippi Funeral Service licensing law and rules and
271 regulations as prepared or approved by the board, and by paying a
272 nonrefundable application fee set by the board pursuant to Section
273 73-11-56. If the board finds that the applicant has fulfilled
274 substantially similar requirements, the board shall grant such
275 license upon receipt of a fee in an amount equal to the renewal

276 fee set by the board for a license for the practice of funeral
277 service or funeral directing, as the case may be, in this state.
278 The board may issue a temporary funeral service or funeral
279 directing work permit before a license is granted, prior to the
280 next regular meeting of the board, if the applicant for a
281 reciprocal license has complied with all requirements, rules and
282 regulations of the board. The temporary permit will expire at the
283 next regular meeting of the board.

284 (8) (a) Any person holding a license for the practice of
285 funeral service or funeral directing may have the same renewed for
286 a period of two (2) years by making and filing with the board an
287 application therefor within thirty (30) days preceding the
288 expiration of his license on forms provided by the board and upon
289 payment of a renewal fee in an amount set by the board in
290 accordance with Section 73-11-56. The board shall mail a notice
291 of the due date for payment of the renewal fee to the last known
292 address of each licensee at least thirty (30) days prior to such
293 date.

294 (b) If the renewal fee is not paid on or before the
295 date that it is due, a late fee, as prescribed by Section
296 73-11-56, in addition to the regular renewal fee, shall be
297 required. A period of thirty (30) days shall be allowed after the
298 expiration of a license, during which time the license may be
299 renewed on the payment of the renewal fee plus the applicable late
300 fee. If a person fails to renew his license during the aforesaid
301 thirty-day period, the license of such person shall by operation
302 of law automatically expire and become void without further action
303 of the board. The board may reinstate such license if application
304 for licensure is made within a period of five (5) years, upon
305 payment of the renewal fee for the current year, all fees in
306 arrears, late fees and a reinstatement fee as set by the board.
307 After such five-year period, the license may be reinstated only by
308 payment of the renewal fee for the current year, all renewal fees
309 in arrears, late fees plus a reinstatement fee and by the licensee

310 successfully passing a written and/or oral examination as prepared
311 or approved by the board.

312 (c) The expiration date of each license issued or
313 renewed shall be established by rules and regulations of the
314 board. Subject to the provisions of this subsection, each license
315 shall be renewable on a biennial basis upon filing of a renewal
316 application and upon payment of the renewal fee established
317 pursuant to Section 73-11-56. To provide for a system of biennial
318 renewal of licenses, the board may provide by rules and
319 regulations that licenses issued or renewed for the first time
320 after July 1, 1994, may expire less than two (2) years from the
321 date of issuance or renewal. In each case in which a license is
322 issued or renewed for a period of time less than two (2) years,
323 the board shall prorate to the nearest whole month the license or
324 renewal fee established pursuant to Section 73-11-56. The
325 provisions of this paragraph (c) shall not apply to the resident
326 trainee certificate or period of resident traineeship under
327 Section 73-11-53.

328 (9) Any person holding on July 1, 1984, a license to
329 practice embalming shall be entitled to a license for either of
330 the named licenses upon meeting the same terms and conditions as
331 are herein provided for the renewal of licenses of those who may
332 be licensed after July 1, 1984. Any person in this state engaged
333 in the practice of funeral directing on July 1, 1984, either as an
334 owner of a funeral establishment or an employee thereof, who has
335 had experience as a funeral director for at least two (2) years
336 within the five (5) years immediately preceding July 1, 1984,
337 shall be entitled to a license for funeral directing upon meeting
338 the same terms and conditions as are herein provided for the
339 renewal of licenses for the practice of funeral directing.
340 However, from and after July 1, 1991, the board shall issue
341 licenses only as provided for under the provisions of subsections
342 (3) and (4) of this section.

343 (10) The board may, in its discretion, in the event of a

344 major disaster or emergency where human death is likely to occur,
345 temporarily authorize the practice of funeral directing and
346 funeral service by persons licensed to practice in another state
347 but not licensed to practice in this state, provided that such
348 services are only rendered by members of disaster mortuary teams
349 authorized by federal or appropriate local authorities to provide
350 such services. Only persons licensed in this state, however, may
351 sign death certificates.

352 (11) Each application or filing made under this section
353 shall include the social security number(s) of the applicant in
354 accordance with Section 93-11-64, Mississippi Code of 1972.

355 SECTION 8. Section 73-11-53, Mississippi Code of 1972, is
356 reenacted as follows:

357 73-11-53. (1) A person desiring to become a resident
358 trainee for the practice of funeral service or funeral directing
359 shall make application to the board. Such application shall be
360 sustained by the licensee under whom the applicant is serving, and
361 shall be accompanied by a nonrefundable application fee in an
362 amount set by the board in accordance with Section 73-11-56. When
363 the board is satisfied as to the qualifications of an applicant,
364 it shall issue a certificate of resident traineeship. No credit
365 toward the resident traineeship will be allowed prior to the
366 receipt of a properly completed application and applicable fee at
367 the board office.

368 (2) The board shall have the power to suspend or revoke a
369 certificate of a resident traineeship for violation of any
370 provision of this chapter.

371 (3) A resident trainee who has allowed a certificate of
372 resident traineeship to lapse or who has had a resident
373 traineeship suspended or revoked, may, within one (1) year after
374 such lapse, suspension or revocation, make application for
375 reregistration, but no more than two (2) such consecutive
376 registrations shall be allowed by the board.

377 SECTION 9. Section 73-11-55, Mississippi Code of 1972, is

378 reenacted as follows:

379 73-11-55. (1) No person or party shall conduct, maintain,
380 manage or operate a funeral establishment or branch thereof unless
381 a license for each such establishment has been issued by the board
382 and is conspicuously displayed in such funeral establishment. In
383 case of funeral services held in any private residence, church,
384 cemetery, cemetery chapel, cemetery facility, or lodge hall, no
385 license shall be required.

386 (2) To be licensed as a funeral establishment, a place or
387 premise must be at a fixed and specified address or location and
388 must be used for immediate post-death activities, whether used for
389 the custody, shelter, care, preparation and/or embalming of the
390 human dead. Every funeral establishment shall be under the charge
391 and personal supervision of a Mississippi funeral director
392 licensee or a Mississippi funeral service licensee. The licensee
393 in charge and the licensee with personal supervisory
394 responsibilities need not be the same licensee. Each licensed
395 funeral establishment shall be inspected at least once during each
396 licensing period. Such inspections may be unannounced.

397 (3) For the purposes of this section:

398 (a) A funeral establishment must contain a preparation
399 and/or embalming room, adequate casket vault selection room, and
400 holding facilities or proper room or rooms in which rites and
401 ceremonies may be held.

402 (b) A branch is a funeral establishment that is part of
403 a multiunit enterprise within this state. A branch establishment
404 need not meet all requirements specified in paragraph (a) of this
405 subsection and need not be under the personal supervision of a
406 Mississippi funeral director licensee or a Mississippi funeral
407 service licensee if the branch is within seventy (70) miles of the
408 headquarters' location.

409 If the branch meets all requirements of a funeral
410 establishment as specified in paragraph (a) of this subsection,
411 such establishment must be under the charge and personal

412 supervision of a Mississippi funeral director licensee or a
413 Mississippi funeral service licensee.

414 (c) A commercial mortuary service is a funeral
415 establishment that embalms and transports for licensed funeral
416 establishments and does not sell any services or merchandise
417 directly or at retail to the public.

418 (4) Applications for funeral establishment licenses, branch
419 establishment licenses or commercial mortuary service licenses
420 shall be made on blanks furnished by the board and shall be
421 accompanied by a fee in an amount fixed by the board pursuant to
422 Section 73-11-56. All establishment licenses shall be issued for
423 a period of two (2) years, except initial licenses may be prorated
424 from the date of issuance to the next renewal date.

425 Renewal funeral establishment applications and license fees
426 shall be due and payable to the board on or before the expiration
427 date of the license. The board shall mail a notice of the due
428 date for payment of the renewal fee at least thirty (30) days
429 prior to the license expiration date.

430 (5) If the renewal fee is not paid on or before the date
431 that it is due, a late fee, as prescribed by Section 73-11-56,
432 shall be added to the renewal fee. A period of thirty (30) days
433 shall be allowed after the expiration of a license, during which
434 time the funeral establishment, branch establishment or commercial
435 mortuary service license may be renewed on the payment of the
436 renewal fee plus the applicable late fee. If the license is not
437 renewed during the aforesaid thirty-day period, such license shall
438 by operation of law automatically expire and become void without
439 further action of the board. All establishments whose licenses
440 have expired under this section may be reinstated by filing with
441 the board an application for reinstatement, submitting to an
442 inspection during which time the licensee in charge of such
443 establishment shall be interviewed by the board or its designee
444 and by paying all renewal fees in arrears, late fees, a
445 reinstatement fee and an inspection fee.

446 (6) A license for each new establishment, change of
447 location, change of ownership, or reinstatement of an
448 establishment shall not be issued until an inspection has been
449 made, license and inspection fees have been paid, and the licensee
450 in charge of such establishment has been interviewed by the board
451 or its designee.

452 (7) No operator of a funeral establishment shall allow any
453 person licensed for the practice of funeral service or funeral
454 directing, as the case may be, to operate out of such funeral
455 establishment unless such licensee is the operator of or an
456 employee of the operator of a funeral establishment which has been
457 issued a license by the board.

458 (8) The board is authorized to establish rules and
459 regulations for the issuance of a special funeral establishment
460 work permit.

461 SECTION 10. Section 73-11-56, Mississippi Code of 1972, is
462 reenacted as follows:

463 73-11-56. On or before October 1 of each year, the board
464 shall determine the amount of funds that will be required during
465 the next ensuing two (2) years to properly administer the laws
466 which the board is directed to enforce and administer and by rule
467 and regulation shall fix fees in such reasonable sums as may be
468 necessary for such purposes within the following limitations:

469 Funeral establishment:

470	Application fee, not more than.....	\$150.00
471	Inspection fee, not more than.....	\$ 75.00
472	Funeral establishment license fee, not more than....	\$150.00
473	Branch establishment license fee, not more than.....	\$150.00
474	Commercial mortuary service license fee, not	
475	more than.....	\$150.00
476	Renewal application and license fee, not more than...	\$300.00
477	Special work permit.....	\$150.00

478 Funeral service:

479	Application fee, not more than.....	\$ 50.00
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480 Reciprocal application fee, not more than..... \$100.00
481 License fee, not more than..... \$ 75.00
482 Renewal license fee, not more than..... \$ 75.00
483 Work permit, not more than..... \$ 50.00
484 Examination fee..... Cost of the examination

485 Funeral director:

486 Application fee, not more than..... \$ 50.00
487 Reciprocal application fee, not more than..... \$100.00
488 License fee, not more than..... \$ 50.00
489 Renewal license fee, not more than..... \$ 50.00
490 Work permit, not more than..... \$ 50.00
491 Examination fee..... Cost of the examination

492 Resident trainee certificate:

493 Funeral service application fee, not more than..... \$ 50.00
494 Funeral director application fee, not more than..... \$ 50.00
495 Funeral service renewal application fee,
496 not more than..... \$ 50.00
497 Funeral director renewal application fee,
498 not more than..... \$50.00

499 Other fees:

500 Duplicate license fee, not more than..... \$ 25.00
501 Reinstatement of lapsed license fee, not more than
502 one-half (1/2) of the applicable license fee.
503 Late fees, not more than one-half (1/2) of the
504 applicable license fee.

505 At least thirty (30) days prior to the expiration date of any
506 license issued by the board, the board shall notify the licensee
507 of the applicable renewal fee therefor.

508 The fees established by the board under this section
509 immediately before July 1, 1991, shall continue in effect until
510 such fees are fixed by the board by rules and regulations as
511 provided in this section.

512 SECTION 11. Section 73-11-57, Mississippi Code of 1972, is
513 reenacted and amended as follows:

514 73-11-57. (1) The board may refuse to examine or to issue
515 or renew, or may suspend or revoke, any license, or may reprimand
516 or place the holder thereof on a term of probation, after proper
517 hearing, upon finding the holder of such license to be guilty of
518 acts of commission or omission including the following: (a) the
519 employment of fraud or deception in applying for a license or in
520 passing the examination provided for in this chapter; (b) the
521 erroneous issuance of a license to any person; (c) the conviction
522 of a felony by any court in this state or any federal court or by
523 the court of any other state or territory of the United States;
524 (d) the practice of embalming under a false name or without a
525 license for the practice of funeral service; (e) the impersonation
526 of another funeral service or funeral directing licensee; (f) the
527 permitting of a person other than a funeral service or funeral
528 directing licensee to make arrangements for a funeral and/or form
529 of disposition; (g) violation of any provision of this chapter or
530 any rule or regulation of the board; (h) having had a license for
531 the practice of funeral service or funeral directing suspended or
532 revoked in any jurisdiction, having voluntarily surrendered his
533 license in any jurisdiction, having been placed on probation in
534 any jurisdiction, having been placed under disciplinary order(s)
535 or other restriction in any manner for funeral directing and/or
536 funeral service, or operating a funeral establishment (a certified
537 copy of the order of suspension, revocation, probation or
538 disciplinary action shall be prima facie evidence of such action);
539 (i) solicitation of dead human bodies by the licensee, his agents,
540 assistants or employees, whether such solicitation occurs after
541 death or when death is imminent; however, this shall not be deemed
542 to prohibit general advertising; (j) employment directly or
543 indirectly of any apprentice, agent, assistant, employee, or other
544 person, on a part-time or full-time basis or on commission, for
545 the purpose of calling upon individuals or institutions by whose
546 influence dead human bodies may be turned over to a particular
547 funeral establishment; (k) unprofessional conduct which includes

548 but is not limited to: (i) retaining a dead human body for the
549 payment of a fee for the performance of services not authorized in
550 writing; (ii) knowingly performing any act which in any way
551 assists an unlicensed person to practice funeral service or
552 funeral directing; (iii) being guilty of any dishonorable conduct
553 likely to deceive, defraud or harm the public; (iv) any act or
554 omission in the practice of funeral service or directing which
555 constitutes dishonesty, fraud or misrepresentation with the intent
556 to benefit the licensee, another person or funeral establishment,
557 or with the intent to substantially injure another person,
558 licensee or funeral establishment; or (v) any act or conduct,
559 whether the same or of a different character than specified above,
560 which constitutes or demonstrates bad faith, incompetency or
561 untrustworthiness; or dishonest, fraudulent or improper dealing;
562 or any other violation of the provisions of this chapter, the
563 rules and regulations established by the board or any rule or
564 regulation promulgated by the Federal Trade Commission relative to
565 the practice of funeral service or directing.

566 (2) The board may, upon satisfactory proof that the
567 applicant or licensee has been guilty of any of the offenses above
568 enumerated, refuse to examine or issue a license to the applicant,
569 or may refuse to renew or revoke or suspend the license of the
570 licensee, or place on probation or reprimand him, upon a majority
571 vote of the board members, after a hearing thereon. The board is
572 hereby vested with full power and authority to hold and conduct
573 such hearings, compel the attendance of witnesses and the
574 production of books, records and documents, issue subpoenas
575 therefor, administer oaths, examine witnesses, and do all things
576 necessary to properly conduct such hearings. The board may waive
577 the necessity of a hearing if the person accused of a violation
578 admits that he has been guilty of such offense. Any person who
579 has been refused a license or whose license has been revoked or
580 suspended may, within thirty (30) days after the decision of the
581 board, file with the board a written notice stating that he feels

582 himself aggrieved by such decision and appeals therefrom to the
583 circuit court. Upon the filing of such notice, the secretary of
584 the board shall transmit to the clerk of the circuit court the
585 records and findings of such proceedings. The circuit court shall
586 hear and determine as to whether the action of the board was in
587 accord or consistent with law, or was arbitrary, unwarranted or in
588 abuse of discretion. An appeal from the circuit court judgment or
589 decree may be reviewed by the Supreme Court as is provided by law
590 for other appeals.

591 (3) In a proceeding conducted under this section by the
592 board for the revocation or suspension of a license, the board
593 shall have the power and authority for the grounds stated for such
594 revocation or suspension, and in addition thereto or in lieu of
595 such revocation or suspension may assess and levy upon any person
596 licensed under this chapter, a monetary penalty, as follows:

597 (a) For the first violation of any of the subparagraphs
598 of subsection (1) of this section, a monetary penalty of not less
599 than Fifty Dollars (\$50.00) nor more than Five Hundred Dollars
600 (\$500.00).

601 (b) For the second violation of any of the
602 subparagraphs of subsection (1) of this section, a monetary
603 penalty of not less than One Hundred Dollars (\$100.00) nor more
604 than One Thousand Dollars (\$1,000.00).

605 (c) For the third and any subsequent violation of any
606 of the subparagraphs of subsection (1) of this section, a monetary
607 penalty of not less than Five Hundred Dollars (\$500.00) and not
608 more than Five Thousand Dollars (\$5,000.00).

609 (d) For any violation of any of the subparagraphs of
610 subsection (1) of this section, those reasonable costs that are
611 expended by the board in the investigation and conduct of a
612 proceeding for licensure revocation or suspension, including but
613 not limited to the cost of process service, court reporters,
614 expert witnesses and investigators.

615 (4) The power and authority of the board to assess and levy

616 such monetary penalties hereunder shall not be affected or
617 diminished by any other proceeding, civil or criminal, concerning
618 the same violation or violations except as provided in this
619 section.

620 (5) A licensee shall have the right of appeal from the
621 assessment and levy of a monetary penalty as provided in this
622 section under the same conditions as a right of appeal is provided
623 elsewhere for appeals from an adverse ruling, order or decision of
624 the board.

625 (6) Any monetary penalty assessed and levied under this
626 section shall not take effect until after the time for appeal
627 shall have expired. In the event of an appeal, such appeal shall
628 act as a supersedeas.

629 (7) A monetary penalty assessed and levied under this
630 section shall be paid to the board by the licensee upon the
631 expiration of the period allowed for appeal of such penalties
632 under this section or may be paid sooner if the licensee elects.
633 With the exception of subsection (3)(d) of this section, monetary
634 penalties collected by the board under this section shall be
635 deposited to the credit of the General Fund of the State Treasury.
636 Any monies collected by the board under subsection (3)(d) of this
637 section shall be deposited into the special fund operating account
638 of the board.

639 (8) When payment of a monetary penalty assessed and levied
640 by the board against a licensee in accordance with this section is
641 not paid by the licensee when due under this section, the board
642 shall have power to institute and maintain proceedings in its name
643 for enforcement of payment in the chancery court of the county and
644 judicial district of residence of the licensee, and if the
645 licensee be a nonresident of the State of Mississippi, such
646 proceedings shall be in the Chancery Court of the First Judicial
647 District of Hinds County, Mississippi.

648 (9) In addition to the reasons specified in subsection (1)
649 of this section, the board shall be authorized to suspend the

650 license of any licensee for being out of compliance with an order
651 for support, as defined in Section 93-11-153. The procedure for
652 suspension of a license for being out of compliance with an order
653 for support, and the procedure for the reissuance or reinstatement
654 of a license suspended for that purpose, and the payment of any
655 fees for the reissuance or reinstatement of a license suspended
656 for that purpose, shall be governed by Section 93-11-157 or
657 93-11-163, as the case may be. Actions taken by the board in
658 suspending a license when required by Section 93-11-157 or
659 93-11-163 are not actions from which an appeal may be taken under
660 this section. Any appeal of a license suspension that is required
661 by Section 93-11-157 or 93-11-163 shall be taken in accordance
662 with the appeal procedure specified in Section 93-11-157 or
663 93-11-163, as the case may be, rather than the procedure specified
664 in this section. If there is any conflict between any provision
665 of Section 93-11-157 or 93-11-163 and any provision of this
666 chapter, the provisions of Section 93-11-157 or 93-11-163, as the
667 case may be, shall control.

668 SECTION 12. Section 73-11-59, Mississippi Code of 1972, is
669 reenacted as follows:

670 73-11-59. Any person, partnership, corporation, association
671 or his or her or its agents or representatives who shall violate
672 any of the provisions of this chapter shall be deemed guilty of a
673 misdemeanor and, upon conviction thereof, shall be punished by a
674 fine of not less than Five Hundred Dollars (\$500.00) nor more than
675 One Thousand Dollars (\$1,000.00), or by imprisonment for not more
676 than six (6) months in the county jail, or by both such fine and
677 imprisonment.

678 SECTION 13. Section 73-11-61, Mississippi Code of 1972, is
679 reenacted as follows:

680 73-11-61. Every funeral director shall provide, prior to the
681 rendering of services, an itemized written statement of all
682 funeral expenses to the person who authorizes the services and is
683 responsible for payment of the expenses therefor, in a manner and

684 in a form to be prescribed by rule and regulation of the board.

685 SECTION 14. Section 73-11-63, Mississippi Code of 1972, is
686 reenacted as follows:

687 73-11-63. Nothing herein shall be construed to authorize the
688 regulation or licensing of cemeteries, cemetery chapels or
689 cemetery crematories by the board, except the regulation or
690 licensing of any funeral establishment operated by a cemetery.

691 SECTION 15. This act shall take effect and be in force from
692 and after July 1, 1999.