

By: Senator(s) Canon

To: Business and
Financial
Institutions

SENATE BILL NO. 2847

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 73-11-56, MISSISSIPPI CODE OF 1972, TO REVISE
10 FEES; TO AMEND REENACTED SECTION 73-11-57, MISSISSIPPI CODE OF
11 1972, TO REVISE GROUNDS FOR REFUSAL TO ISSUE, RENEW, SUSPEND OR
12 REVOKE LICENSES; AND FOR RELATED PURPOSES.

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

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

16 73-11-33. Sections 73-11-41 through 73-11-63, which create
17 the State Board of Funeral Service and prescribe its duties and
18 powers, shall stand repealed as of July 1, 2005.

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

21 73-11-41. The following terms shall have the meanings
22 ascribed herein unless the context shall otherwise require:

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

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

29 (c) "License for funeral establishment" shall mean a
30 license issued to a place or premise devoted to or used in the
31 immediate post-death activities of custody, shelter, care,
32 preparation and/or embalming for final disposition of the body; or

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

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

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

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

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

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

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

70 73-11-43. There is hereby created the State Board of Funeral

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

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

101 73-11-45. The members of the board, before entering upon
102 their duties, shall take and subscribe to the oath of office
103 prescribed for other state officers, which oath shall be
104 administered by properly qualified authority and shall be filed in

105 the Office of the Secretary of State.

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

108 73-11-47. The board shall hold not less than two (2)
109 meetings annually for the purpose of conducting the business of
110 the board and for examining applications for licenses. Four (4)
111 or more members shall comprise a quorum. Any member who shall not
112 attend two (2) consecutive meetings of the board shall be subject
113 to removal by the Governor. The chairman of the board shall
114 notify the Governor in writing when any such member has failed to
115 attend two (2) consecutive regular meetings.

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

118 73-11-49. (1) The board is authorized to select from its
119 own membership a chairman, vice-chairman and secretary-treasurer.

120 Election of officers shall be held at the first regularly
121 scheduled meeting of the fiscal year.

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

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

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

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

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

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

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

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

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

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

182 SECTION 7. Section 73-11-51, Mississippi Code of 1972, is
183 reenacted as follows:

184 73-11-51. (1) No person shall engage in the business or
185 practice of funeral service, including embalming, and/or funeral
186 directing or hold himself out as transacting or practicing or
187 being entitled to transact or practice funeral service, including
188 embalming, and/or funeral directing in this state unless duly
189 licensed pursuant to the provisions of this chapter.

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

195 (3) To be licensed for the practice of funeral directing
196 under this chapter, a person must (a) be at least eighteen (18)
197 years of age; (b) have a high school diploma or the equivalent
198 thereof; (c) have served as a resident trainee for not less than
199 twenty-four (24) months under the supervision of a person licensed
200 for the practice of funeral service or funeral directing in this
201 state; (d) have successfully passed a written and/or oral
202 examination as prepared or approved by the board; and (e) be of
203 good moral character.

204 (4) To be licensed for the practice of funeral service under
205 this chapter, a person must (a) be at least eighteen (18) years of
206 age; (b) have a high school diploma or the equivalent thereof; (c)

207 have satisfactorily completed twelve (12) months or more of
208 academic and professional instruction from an institution
209 accredited by the American Board of Funeral Service Education or
210 any other successor recognized by the United States Department of
211 Education for funeral service education; (d) have served as a
212 resident trainee for not less than twelve (12) months, either
213 prior to or after graduation from an accredited institution
214 mentioned above, under the supervision of a person licensed for
215 the practice of funeral service in this state or having the prior
216 equivalent license of this state; (e) have successfully passed a
217 written and/or oral examination as prepared or approved by the
218 board; and (f) be of good moral character.

219 (5) All applications for examination and license for the
220 practice of funeral service or funeral directing shall be upon
221 forms furnished by the board and shall be accompanied by an
222 examination fee, a licensing fee and a nonrefundable application
223 fee in amounts fixed by the board in accordance with Section
224 73-11-56. The fee for an initial license, however, may be
225 prorated in proportion to the period of time from the date of
226 issuance to the date of biennial license renewal prescribed in
227 subsection (8) of this section. All applications for examination
228 shall be filed with the board office at least sixty (60) days
229 prior to date of examination. A candidate shall be deemed to have
230 abandoned the application for examination if he does not appear on
231 the scheduled date of examination unless such failure to appear
232 has been approved by the board.

233 (6) The practice of funeral service or funeral directing
234 must be engaged in at a licensed funeral establishment, at least
235 one (1) of which is listed as the licensee's place of business;
236 and no person, partnership, corporation, association or other
237 organization shall open or maintain a funeral establishment at
238 which to engage in or conduct or hold himself or itself out as
239 engaging in the practice of funeral service or funeral directing
240 until such establishment has complied with the licensing

241 requirements of this chapter. A license for the practice of
242 funeral service or funeral directing shall be used only at
243 licensed funeral establishments; however, this provision shall not
244 prevent a person licensed for the practice of funeral service or
245 funeral directing from conducting a funeral service at a church, a
246 residence, public hall, lodge room or cemetery chapel, if such
247 person maintains a fixed licensed funeral establishment of his own
248 or is in the employ of or an agent of a licensed funeral
249 establishment.

250 (7) Any person holding a valid, unrevoked and unexpired
251 license in another state or territory having requirements
252 substantially similar to those of this state may apply for a
253 license to practice in this state by filing with the board a
254 certified statement from the secretary of the licensing board of
255 the state or territory in which the applicant holds his license
256 certifying to his qualifications and good standing with that board
257 by having successfully passed a written and/or oral examination on
258 the Mississippi Funeral Service licensing law and rules and
259 regulations as prepared or approved by the board, and by paying a
260 nonrefundable application fee set by the board pursuant to Section
261 73-11-56. If the board finds that the applicant has fulfilled
262 substantially similar requirements, the board shall grant such
263 license upon receipt of a fee in an amount equal to the renewal
264 fee set by the board for a license for the practice of funeral
265 service or funeral directing, as the case may be, in this state.
266 The board may issue a temporary funeral service or funeral
267 directing work permit before a license is granted, prior to the
268 next regular meeting of the board, if the applicant for a
269 reciprocal license has complied with all requirements, rules and
270 regulations of the board. The temporary permit will expire at the
271 next regular meeting of the board.

272 (8) (a) Any person holding a license for the practice of
273 funeral service or funeral directing may have the same renewed for
274 a period of two (2) years by making and filing with the board an

275 application therefor within thirty (30) days preceding the
276 expiration of his license on forms provided by the board and upon
277 payment of a renewal fee in an amount set by the board in
278 accordance with Section 73-11-56. The board shall mail a notice
279 of the due date for payment of the renewal fee to the last known
280 address of each licensee at least thirty (30) days prior to such
281 date.

282 (b) If the renewal fee is not paid on or before the
283 date that it is due, a late fee, as prescribed by Section
284 73-11-56, in addition to the regular renewal fee, shall be
285 required. A period of thirty (30) days shall be allowed after the
286 expiration of a license, during which time the license may be
287 renewed on the payment of the renewal fee plus the applicable late
288 fee. If a person fails to renew his license during the aforesaid
289 thirty-day period, the license of such person shall by operation
290 of law automatically expire and become void without further action
291 of the board. The board may reinstate such license if application
292 for licensure is made within a period of five (5) years, upon
293 payment of the renewal fee for the current year, all fees in
294 arrears, late fees and a reinstatement fee as set by the board.
295 After such five-year period, the license may be reinstated only by
296 payment of the renewal fee for the current year, all renewal fees
297 in arrears, late fees plus a reinstatement fee and by the licensee
298 successfully passing a written and/or oral examination as prepared
299 or approved by the board.

300 (c) The expiration date of each license issued or
301 renewed shall be established by rules and regulations of the
302 board. Subject to the provisions of this subsection, each license
303 shall be renewable on a biennial basis upon filing of a renewal
304 application and upon payment of the renewal fee established
305 pursuant to Section 73-11-56. To provide for a system of biennial
306 renewal of licenses, the board may provide by rules and
307 regulations that licenses issued or renewed for the first time
308 after July 1, 1994, may expire less than two (2) years from the

309 date of issuance or renewal. In each case in which a license is
310 issued or renewed for a period of time less than two (2) years,
311 the board shall prorate to the nearest whole month the license or
312 renewal fee established pursuant to Section 73-11-56. The
313 provisions of this paragraph (c) shall not apply to the resident
314 trainee certificate or period of resident traineeship under
315 Section 73-11-53.

316 (9) Any person holding on July 1, 1984, a license to
317 practice embalming shall be entitled to a license for either of
318 the named licenses upon meeting the same terms and conditions as
319 are herein provided for the renewal of licenses of those who may
320 be licensed after July 1, 1984. Any person in this state engaged
321 in the practice of funeral directing on July 1, 1984, either as an
322 owner of a funeral establishment or an employee thereof, who has
323 had experience as a funeral director for at least two (2) years
324 within the five (5) years immediately preceding July 1, 1984,
325 shall be entitled to a license for funeral directing upon meeting
326 the same terms and conditions as are herein provided for the
327 renewal of licenses for the practice of funeral directing.
328 However, from and after July 1, 1991, the board shall issue
329 licenses only as provided for under the provisions of subsections
330 (3) and (4) of this section.

331 (10) The board may, in its discretion, in the event of a
332 major disaster or emergency where human death is likely to occur,
333 temporarily authorize the practice of funeral directing and
334 funeral service by persons licensed to practice in another state
335 but not licensed to practice in this state, provided that such
336 services are only rendered by members of disaster mortuary teams
337 authorized by federal or appropriate local authorities to provide
338 such services. Only persons licensed in this state, however, may
339 sign death certificates.

340 (11) Each application or filing made under this section
341 shall include the Social Security number(s) of the applicant in
342 accordance with Section 93-11-64, Mississippi Code of 1972.

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

345 73-11-53. (1) A person desiring to become a resident
346 trainee for the practice of funeral service or funeral directing
347 shall make application to the board. Such application shall be
348 sustained by the licensee under whom the applicant is serving, and
349 shall be accompanied by a nonrefundable application fee in an
350 amount set by the board in accordance with Section 73-11-56. When
351 the board is satisfied as to the qualifications of an applicant,
352 it shall issue a certificate of resident traineeship. No credit
353 toward the resident traineeship will be allowed prior to the
354 receipt of a properly completed application and applicable fee at
355 the board office.

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

359 (3) A resident trainee who has allowed a certificate of
360 resident traineeship to lapse or who has had a resident
361 traineeship suspended or revoked, may, within one (1) year after
362 such lapse, suspension or revocation, make application for
363 reregistration, but no more than two (2) such consecutive
364 registrations shall be allowed by the board.

365 SECTION 9. Section 73-11-55, Mississippi Code of 1972, is
366 reenacted as follows:

367 73-11-55. (1) No person or party shall conduct, maintain,
368 manage or operate a funeral establishment or branch thereof unless
369 a license for each such establishment has been issued by the board
370 and is conspicuously displayed in such funeral establishment. In
371 case of funeral services held in any private residence, church,
372 cemetery, cemetery chapel, cemetery facility, or lodge hall, no
373 license shall be required.

374 (2) To be licensed as a funeral establishment, a place or
375 premise must be at a fixed and specified address or location and
376 must be used for immediate post-death activities, whether used for

377 the custody, shelter, care, preparation and/or embalming of the
378 human dead. Every funeral establishment shall be under the charge
379 and personal supervision of a Mississippi funeral director
380 licensee or a Mississippi funeral service licensee. The licensee
381 in charge and the licensee with personal supervisory
382 responsibilities need not be the same licensee. Each licensed
383 funeral establishment shall be inspected at least once during each
384 licensing period. Such inspections may be unannounced.

385 (3) For the purposes of this section:

386 (a) A funeral establishment must contain a preparation
387 and/or embalming room, adequate casket vault selection room, and
388 holding facilities or proper room or rooms in which rites and
389 ceremonies may be held.

390 (b) A branch is a funeral establishment that is part of
391 a multi-unit enterprise within this state. A branch establishment
392 need not meet all requirements specified in paragraph (a) of this
393 subsection and need not be under the personal supervision of a
394 Mississippi funeral director licensee or a Mississippi funeral
395 service licensee if the branch is within seventy (70) miles of the
396 headquarters' location.

397 If the branch meets all requirements of a funeral
398 establishment as specified in paragraph (a) of this subsection,
399 such establishment must be under the charge and personal
400 supervision of a Mississippi funeral director licensee or a
401 Mississippi funeral service licensee.

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

406 (4) Applications for funeral establishment licenses, branch
407 establishment licenses or commercial mortuary service licenses
408 shall be made on blanks furnished by the board and shall be
409 accompanied by a fee in an amount fixed by the board pursuant to
410 Section 73-11-56. All establishment licenses shall be issued for

411 a period of two (2) years, except initial licenses may be prorated
412 from the date of issuance to the next renewal date.

413 Renewal funeral establishment applications and license fees
414 shall be due and payable to the board on or before the expiration
415 date of the license. The board shall mail a notice of the due
416 date for payment of the renewal fee at least thirty (30) days
417 prior to the license expiration date.

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

434 (6) A license for each new establishment, change of
435 location, change of ownership, or reinstatement of an
436 establishment shall not be issued until an inspection has been
437 made, license and inspection fees have been paid, and the licensee
438 in charge of such establishment has been interviewed by the board
439 or its designee.

440 (7) No operator of a funeral establishment shall allow any
441 person licensed for the practice of funeral service or funeral
442 directing, as the case may be, to operate out of such funeral
443 establishment unless such licensee is the operator of or an
444 employee of the operator of a funeral establishment which has been

445 issued a license by the board.

446 (8) The board is authorized to establish rules and
447 regulations for the issuance of a special funeral establishment
448 work permit.

449 SECTION 10. Section 73-11-56, Mississippi Code of 1972, is
450 reenacted and amended as follows:

451 73-11-56. On or before October 1 of each year, the board
452 shall determine the amount of funds that will be required during
453 the next ensuing two (2) years to properly administer the laws
454 which the board is directed to enforce and administer and by rule
455 and regulation shall fix fees in such reasonable sums as may be
456 necessary for such purposes within the following limitations:

457 Funeral establishment:

458	Application fee, not more than.....	<u>\$300.00</u>
459	Inspection fee, not more than.....	\$ 75.00
460	Funeral establishment license fee, not more than....	\$150.00
461	Branch establishment license fee, not more than.....	\$150.00
462	Commercial mortuary service license fee, not	
463	more than.....	\$150.00
464	Renewal application and license fee, not more than...	\$300.00
465	Special work permit.....	<u>\$200.00</u>

466 Funeral Service:

467	Application fee, not more than.....	\$ 50.00
468	Reciprocal application fee, not more than.....	<u>\$200.00</u>
469	License fee, not more than.....	\$ 75.00
470	Renewal license fee, not more than.....	\$ 75.00
471	Work permit, not more than.....	\$ 50.00
472	Examination fee.....	Cost of the examination

473 Funeral Director:

474	Application fee, not more than.....	\$ 50.00
475	Reciprocal application fee, not more than.....	<u>\$200.00</u>
476	License fee, not more than.....	\$ 50.00
477	Renewal license fee, not more than.....	\$ 50.00
478	Work permit, not more than.....	\$ 50.00

479 Examination fee..... Cost of the examination
480 Resident trainee certificate:
481 Funeral service application fee, not more than..... \$ 50.00
482 Funeral director application fee, not more than..... \$ 50.00
483 Funeral service renewal application fee,
484 not more than..... \$ 50.00
485 Funeral director renewal application fee,
486 not more than..... \$50.00
487 Other fees:
488 Duplicate license fee, not more than..... \$ 25.00
489 Reinstatement of lapsed license fee, not more than
490 one-half (1/2) of the applicable license fee.
491 Late fees, not more than one-half (1/2) of the
492 applicable license fee.

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

496 The fees established by the board under this section
497 immediately before July 1, 1991, shall continue in effect until
498 such fees are fixed by the board by rules and regulations as
499 provided in this section.

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

502 73-11-57. (1) The board may refuse to examine or to issue
503 or renew, or may suspend or revoke, any license, or may reprimand
504 or place the holder thereof on a term of probation, after proper
505 hearing, upon finding the holder of such license to be guilty of
506 acts of commission or omission including the following: (a) the
507 employment of fraud or deception in applying for a license or in
508 passing the examination provided for in this chapter; (b) the
509 erroneous issuance of a license to any person; (c) the conviction
510 of a felony by any court in this state or any federal court or by
511 the court of any other state or territory of the United States;
512 (d) the practice of embalming under a false name or without a

513 license for the practice of funeral service; (e) the impersonation
514 of another funeral service or funeral directing licensee; (f) the
515 permitting of a person other than a funeral service or funeral
516 directing licensee to make arrangements for a funeral and/or form
517 of disposition; (g) violation of any provision of this chapter or
518 any rule or regulation of the board; (h) having had a license for
519 the practice of funeral service or funeral directing suspended or
520 revoked in any jurisdiction, having voluntarily surrendered his
521 license in any jurisdiction, having been placed on probation in
522 any jurisdiction, having been placed under disciplinary order(s)
523 or other restriction in any manner for funeral directing and/or
524 funeral service, or operating a funeral establishment (a certified
525 copy of the order of suspension, revocation, probation or
526 disciplinary action shall be prima facie evidence of such action);
527 (i) solicitation of dead human bodies by the licensee, his agents,
528 assistants or employees, whether such solicitation occurs after
529 death or when death is imminent; however, this shall not be deemed
530 to prohibit general advertising; (j) employment directly or
531 indirectly of any apprentice, agent, assistant, employee, or other
532 person, on a part-time or full-time basis or on commission, for
533 the purpose of calling upon individuals or institutions by whose
534 influence dead human bodies may be turned over to a particular
535 funeral establishment; (k) unprofessional conduct which includes
536 but is not limited to: (i) retaining a dead human body for the
537 payment of a fee for the performance of services not authorized in
538 writing; (ii) knowingly performing any act which in any way
539 assists an unlicensed person to practice funeral service or
540 funeral directing; (iii) being guilty of any dishonorable conduct
541 likely to deceive, defraud or harm the public; (iv) any act or
542 omission in the practice of funeral service or directing which
543 constitutes dishonesty, fraud or misrepresentation with the intent
544 to benefit the licensee, another person or funeral establishment,
545 or with the intent to substantially injure another person,
546 licensee or funeral establishment; or (v) any act or conduct,

547 whether the same or of a different character than specified above,
548 which constitutes or demonstrates bad faith, incompetency or
549 untrustworthiness; or dishonest, fraudulent or improper dealing;
550 or any other violation of the provisions of this chapter, the
551 rules and regulations established by the board or any rule or
552 regulation promulgated by the Federal Trade Commission relative to
553 the practice of funeral service or directing.

554 (2) The board may, upon satisfactory proof that the
555 applicant or licensee has been guilty of any of the offenses above
556 enumerated, refuse to examine or issue a license to the applicant,
557 or may refuse to renew or revoke or suspend the license of the
558 licensee, or place on probation or reprimand him, upon a majority
559 vote of the board members, after a hearing thereon. The board is
560 hereby vested with full power and authority to hold and conduct
561 such hearings, compel the attendance of witnesses and the
562 production of books, records and documents, issue subpoenas
563 therefor, administer oaths, examine witnesses, and do all things
564 necessary to properly conduct such hearings. The board may waive
565 the necessity of a hearing if the person accused of a violation
566 admits that he has been guilty of such offense. Any person who
567 has been refused a license or whose license has been revoked or
568 suspended may, within thirty (30) days after the decision of the
569 board, file with the board a written notice stating that he feels
570 himself aggrieved by such decision and appeals therefrom to the
571 circuit court. Upon the filing of such notice, the secretary of
572 the board shall transmit to the clerk of the circuit court the
573 records and findings of such proceedings. The circuit court shall
574 hear and determine as to whether the action of the board was in
575 accord or consistent with law, or was arbitrary, unwarranted or in
576 abuse of discretion. An appeal from the circuit court judgment or
577 decree may be reviewed by the Supreme Court as is provided by law
578 for other appeals.

579 (3) In a proceeding conducted under this section by the
580 board for the revocation or suspension of a license, the board

581 shall have the power and authority for the grounds stated for such
582 revocation or suspension, and in addition thereto or in lieu of
583 such revocation or suspension may assess and levy upon any person
584 licensed under this chapter, a monetary penalty, as follows:

585 (a) For the first violation of any of the subparagraphs
586 of subsection (1) of this section, a monetary penalty of not less
587 than Fifty Dollars (\$50.00) nor more than Five Hundred Dollars
588 (\$500.00).

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

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

597 (d) For any violation of any of the subparagraphs of
598 subsection (1) of this section, those reasonable costs that are
599 expended by the board in the investigation and conduct of a
600 proceeding for licensure revocation or suspension, including but
601 not limited to the cost of process service, court reporters,
602 expert witnesses and investigators.

603 (4) The power and authority of the board to assess and levy
604 such monetary penalties hereunder shall not be affected or
605 diminished by any other proceeding, civil or criminal, concerning
606 the same violation or violations except as provided in this
607 section.

608 (5) A licensee shall have the right of appeal from the
609 assessment and levy of a monetary penalty as provided in this
610 section under the same conditions as a right of appeal is provided
611 elsewhere for appeals from an adverse ruling, order or decision of
612 the board.

613 (6) Any monetary penalty assessed and levied under this
614 section shall not take effect until after the time for appeal

615 shall have expired. In the event of an appeal, such appeal shall
616 act as a supersedeas.

617 (7) A monetary penalty assessed and levied under this
618 section shall be paid to the board by the licensee upon the
619 expiration of the period allowed for appeal of such penalties
620 under this section or may be paid sooner if the licensee elects.
621 With the exception of subsection (3)(d) of this section, monetary
622 penalties collected by the board under this section shall be
623 deposited to the credit of the General Fund of the State Treasury.
624 Any monies collected by the board under subsection (3)(d) of this
625 section shall be deposited into the special fund operating account
626 of the board.

627 (8) When payment of a monetary penalty assessed and levied
628 by the board against a licensee in accordance with this section is
629 not paid by the licensee when due under this section, the board
630 shall have power to institute and maintain proceedings in its name
631 for enforcement of payment in the chancery court of the county and
632 judicial district of residence of the licensee, and if the
633 licensee be a nonresident of the State of Mississippi, such
634 proceedings shall be in the Chancery Court of the First Judicial
635 District of Hinds County, Mississippi.

636 (9) In addition to the reasons specified in subsection (1)
637 of this section, the board shall be authorized to suspend the
638 license of any licensee for being out of compliance with an order
639 for support, as defined in Section 93-11-153. The procedure for
640 suspension of a license for being out of compliance with an order
641 for support, and the procedure for the reissuance or reinstatement
642 of a license suspended for that purpose, and the payment of any
643 fees for the reissuance or reinstatement of a license suspended
644 for that purpose, shall be governed by Section 93-11-157 or
645 93-11-163, as the case may be. Actions taken by the board in
646 suspending a license when required by Section 93-11-157 or
647 93-11-163 are not actions from which an appeal may be taken under
648 this section. Any appeal of a license suspension that is required

649 by Section 93-11-157 or 93-11-163 shall be taken in accordance
650 with the appeal procedure specified in Section 93-11-157 or
651 93-11-163, as the case may be, rather than the procedure specified
652 in this section. If there is any conflict between any provision
653 of Section 93-11-157 or 93-11-163 and any provision of this
654 chapter, the provisions of Section 93-11-157 or 93-11-163, as the
655 case may be, shall control.

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

658 73-11-59. Any person, partnership, corporation, association
659 or his or her or its agents or representatives who shall violate
660 any of the provisions of this chapter shall be deemed guilty of a
661 misdemeanor and, upon conviction thereof, shall be punished by a
662 fine of not less than Five Hundred Dollars (\$500.00) nor more than
663 One Thousand Dollars (\$1,000.00), or by imprisonment for not more
664 than six (6) months in the county jail, or by both such fine and
665 imprisonment.

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

668 73-11-61. Every funeral director shall provide, prior to the
669 rendering of services, an itemized written statement of all
670 funeral expenses to the person who authorizes the services and is
671 responsible for payment of the expenses therefor, in a manner and
672 in a form to be prescribed by rule and regulation of the board.

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

675 73-11-63. Nothing herein shall be construed to authorize the
676 regulation or licensing of cemeteries, cemetery chapels or
677 cemetery crematories by the board, except the regulation or
678 licensing of any funeral establishment operated by a cemetery.

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