

By: Representative Holland

To: Public Health and  
WelfareCOMMITTEE SUBSTITUTE  
FOR  
HOUSE BILL NO. 957

1 AN ACT TO AMEND SECTION 73-11-33, MISSISSIPPI CODE OF 1972,  
2 TO EXTEND THE DATE OF THE REPEALER ON THE PROVISIONS OF LAW THAT  
3 CREATE THE STATE BOARD OF FUNERAL SERVICE AND PRESCRIBE ITS DUTIES  
4 AND POWERS; TO REENACT SECTIONS 73-11-41 THROUGH 73-11-63,  
5 MISSISSIPPI CODE OF 1972, WHICH CREATE THE STATE BOARD OF FUNERAL  
6 SERVICE AND PRESCRIBE ITS DUTIES AND POWERS; TO AMEND REENACTED  
7 SECTION 73-11-41, MISSISSIPPI CODE OF 1972, TO DEFINE "BRANCH  
8 ESTABLISHMENT" AND "FUNERAL ESTABLISHMENT"; TO AMEND REENACTED  
9 SECTION 73-11-49, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THE  
10 BOARD SHALL NOT PASS ANY REGULATION PERTAINING TO THE  
11 TRANSPORTATION OF DEAD BODIES OR REQUIRING THEM TO BE EMBALMED  
12 EXCEPT AS REQUIRED BY RULE OF THE STATE DEPARTMENT OF HEALTH; TO  
13 AMEND REENACTED SECTION 73-11-51, MISSISSIPPI CODE OF 1972, TO  
14 REVISE CERTAIN REQUIREMENTS FOR LICENSES FOR THE PRACTICE OF  
15 FUNERAL DIRECTING AND LICENSES FOR THE PRACTICE OF FUNERAL  
16 SERVICE; TO REVISE CERTAIN PROVISIONS RELATING TO THE RENEWAL OF  
17 THOSE LICENSES; TO PROVIDE THAT IF THE LICENSE RENEWAL FEE IS NOT  
18 PAID IN TIME, THE LICENSE WILL AUTOMATICALLY EXPIRE; TO PROVIDE  
19 THAT LICENSES ARE NOT ASSIGNABLE OR VALID FOR ANY PERSON OTHER  
20 THAN THE ORIGINAL LICENSEE; TO DIRECT THE BOARD TO ISSUE A LICENSE  
21 FOR THE PRACTICE OF FUNERAL DIRECTING TO CERTAIN PERSONS WHO MAKE  
22 APPLICATION WITHIN A THIRTY-DAY PERIOD; TO AMEND REENACTED SECTION  
23 73-11-53, MISSISSIPPI CODE OF 1972, TO REQUIRE A RESIDENT TRAINEE  
24 FOR A LICENSE TO SERVE THE APPRENTICESHIP IN A FUNERAL  
25 ESTABLISHMENT LICENSED IN MISSISSIPPI; TO AMEND REENACTED SECTION  
26 73-11-55, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR THE REGULAR  
27 INSPECTION OF FUNERAL ESTABLISHMENTS; TO PROVIDE THE MINIMUM  
28 PHYSICAL REQUIREMENTS FOR BRANCH ESTABLISHMENTS; TO REVISE CERTAIN  
29 PROVISIONS RELATING TO THE RENEWAL OF FUNERAL ESTABLISHMENT  
30 LICENSES; TO PROVIDE THAT IF THE LICENSE RENEWAL FEE IS NOT PAID  
31 IN TIME, THE LICENSE WILL AUTOMATICALLY EXPIRE; TO PROVIDE THAT  
32 FUNERAL ESTABLISHMENT LICENSES ARE NOT ASSIGNABLE OR VALID FOR ANY  
33 ESTABLISHMENT OTHER THAN THE ORIGINAL LICENSEE; TO AMEND REENACTED  
34 SECTION 73-11-56, MISSISSIPPI CODE OF 1972, TO INCREASE LICENSE  
35 REINSTATEMENT FEES TO BE EQUAL TO THE AMOUNT OF THE LICENSE FEES;  
36 TO DELETE LATE FEES; TO PROVIDE THAT ALL LICENSES WILL HAVE A  
37 REINSTATEMENT FEE ADDED TO THE RENEWAL FEE IF THE PAYMENT IS NOT  
38 RECEIVED IN TIME; TO AMEND REENACTED SECTION 73-11-57, MISSISSIPPI  
39 CODE OF 1972, TO SPECIFY ADDITIONAL GROUNDS FOR THE SUSPENSION OR  
40 REVOCATION OF LICENSES; TO PROVIDE THAT APPEALS OF ORDERS OF THE  
41 BOARD DO NOT ACT AS SUPERSEDEAS; TO AMEND REENACTED SECTION  
42 73-11-61, MISSISSIPPI CODE OF 1972, TO REQUIRE LICENSEES TO  
43 PROVIDE A PRICE LIST AND A STATEMENT OF GOODS AND SERVICES TO THE  
44 PERSONS WHO AUTHORIZE THE SERVICES; TO AMEND REENACTED SECTION  
45 73-11-63, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THIS CHAPTER  
46 DOES NOT PREVENT OR INTERFERE WITH RELIGIOUS CEREMONIES OR  
47 CUSTOMS; TO CODIFY NEW SECTION 73-11-65, MISSISSIPPI CODE OF 1972,  
48 TO PROVIDE THAT EVERY FUNERAL SERVICE INTERMENT CONDUCTED IN THE  
49 STATE MUST BE UNDER THE SUPERVISION OF A LICENSED FUNERAL DIRECTOR  
50 OR FUNERAL SERVICE LICENSEE; TO CODIFY NEW SECTION 73-11-67,  
51 MISSISSIPPI CODE OF 1972, TO REQUIRE EVERY PERSON THAT SELLS  
52 CASKETS AT RETAIL TO REGISTER ANNUALLY WITH THE BOARD; TO PROVIDE



53 THAT THOSE PERSONS ARE NOT SUBJECT TO REGULATION OR SUPERVISION BY  
54 THE BOARD; AND FOR RELATED PURPOSES.

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

56 **SECTION 1.** Section 73-11-33, Mississippi Code of 1972, is  
57 amended as follows:

58 73-11-33. Sections 73-11-41 through 73-11-67, which create  
59 the State Board of Funeral Service and prescribe its duties and  
60 powers, shall stand repealed as of July 1, 2006.

61 **SECTION 2.** Section 73-11-41, Mississippi Code of 1972, is  
62 reenacted and amended as follows:

63 73-11-41. The following terms shall have the meanings  
64 ascribed herein unless the context shall otherwise require:

65 (a) "Board" \* \* \* means the State Board of Funeral  
66 Service of the State of Mississippi as created by Section  
67 73-11-43, or any successor thereof.

68 (b) "Branch establishment" means an auxiliary facility  
69 or division of a main funeral establishment licensed under this  
70 chapter that is within seventy-five (75) miles of the main  
71 facility.

72 (c) "Embalming" \* \* \* means the disinfection of the  
73 dead human body by replacing certain body fluids with preserving  
74 and disinfecting chemicals.

75 (d) "Funeral establishment" means a fixed place or  
76 premise duly licensed by the board that is devoted to or used in  
77 the immediate post death activities of custody, shelter, care,  
78 preparation and/or embalming for final disposition of the body; or  
79 used for religious services or other rites or ceremonies  
80 associated with the final disposition of human dead; or maintained  
81 or held out to the public by advertising or otherwise as such, for  
82 the convenience and comfort of the bereaved and the community for  
83 viewing or other services in connection with the human dead, and  
84 as the office or place for carrying on the profession of funeral  
85 service and/or funeral directing.



86           (e) "License for funeral establishment" \* \* \* means a  
87 license issued to a place or premise devoted to or used in the  
88 immediate post-death activities of custody, shelter, care,  
89 preparation and/or embalming for final disposition of the body; or  
90 used for religious services or other rites or ceremonies  
91 associated with the final disposition of human dead; or maintained  
92 for the convenience and comfort of the bereaved and the community  
93 for viewing or other services in connection with the human dead,  
94 and as the office or place for carrying on the profession of  
95 funeral service and/or funeral directing.

96           (f) "License for the practice of funeral  
97 directing" \* \* \* means the license given to a person engaging in  
98 the "practice of funeral service" who is not engaged in the  
99 practice of embalming.

100           (g) "License for the practice of funeral service" \* \* \*  
101 means the license given to a person engaging in the "practice of  
102 funeral service," including the practice of embalming.

103           (h) "Practice of funeral service" \* \* \* means:

104                   (i) Providing shelter, care and custody of the  
105 human dead;

106                   (ii) Conducting immediate post-death activities;

107                   (iii) Preparing of the human dead by embalming or  
108 other methods for burial or other disposition;

109                   (iv) Being responsible for the transportation of  
110 the human dead, bereaved relatives and friends;

111                   (v) Making arrangements, financial or otherwise,  
112 for the providing of such services;

113                   (vi) The sale of funeral merchandise; or

114                   (vii) The practice or performance of any function  
115 of funeral directing and/or embalming as presently known,  
116 including those stipulated herein.



117 This definition shall not include persons or corporations  
118 engaging only in the preneed sale of funeral merchandise or  
119 service.

120 (i) "Resident trainee" \* \* \* means a person who is  
121 preparing to become licensed for the practice of funeral service  
122 or funeral directing and who is serving under the supervision and  
123 instruction of a person duly licensed for the practice of funeral  
124 service or funeral directing in this state.

125 (j) "Solicitation" means the act or practice of  
126 approaching someone with a request or plea, or urging someone  
127 toward a particular cause, as it may pertain to the care, custody  
128 or disposition of a dead human body.

129 **SECTION 3.** Section 73-11-43, Mississippi Code of 1972, is  
130 reenacted as follows:

131 73-11-43. There is hereby created the State Board of Funeral  
132 Service which shall consist of seven (7) members, one (1) funeral  
133 service licensee and one (1) funeral director licensee to be  
134 appointed from each Mississippi Supreme Court district. Three (3)  
135 members shall have been licensed for the practice of funeral  
136 service under this chapter for five (5) consecutive years and/or  
137 have had at least five (5) consecutive years' experience as a  
138 funeral director and embalmer in this state immediately preceding  
139 his appointment. Three (3) members shall have been licensed for  
140 the practice of funeral directing under this chapter for five (5)  
141 consecutive years and/or have had at least five (5) consecutive  
142 years' experience as a funeral director immediately preceding his  
143 appointment. One (1) member shall be a public member and be  
144 appointed from the public at large. The members of the board  
145 shall be appointed by the Governor with the advice and consent of  
146 the Senate. All appointments shall be for terms of four (4) years  
147 from the expiration date of the previous term. No board member  
148 shall serve more than two (2) consecutive full terms. Vacancies  
149 in office shall be filled by appointment by the Governor in the



150 same manner as the appointment to the position which becomes  
151 vacant, subject to the advice and consent of the Senate at the  
152 next regular session of the Legislature. Appointments for  
153 vacancies in office, except those from the public at large, may be  
154 made from a joint list of four (4) qualified persons, two (2) each  
155 submitted by the Mississippi Funeral Directors Association and the  
156 Mississippi Funeral Directors and Morticians Association. Nothing  
157 in this chapter or any other statute shall preclude the members of  
158 the State Embalming Board from serving as members of the State  
159 Board of Funeral Service.

160       **SECTION 4.** Section 73-11-45, Mississippi Code of 1972, is  
161 reenacted as follows:

162       73-11-45. The members of the board, before entering upon  
163 their duties, shall take and subscribe to the oath of office  
164 prescribed for other state officers, which oath shall be  
165 administered by properly qualified authority and shall be filed in  
166 the Office of the Secretary of State.

167       **SECTION 5.** Section 73-11-47, Mississippi Code of 1972, is  
168 reenacted as follows:

169       73-11-47. The board shall hold not less than two (2)  
170 meetings annually for the purpose of conducting the business of  
171 the board and for examining applications for licenses. Four (4)  
172 or more members shall comprise a quorum. Any member who shall not  
173 attend two (2) consecutive meetings of the board shall be subject  
174 to removal by the Governor. The chairman of the board shall  
175 notify the Governor in writing when any such member has failed to  
176 attend two (2) consecutive regular meetings.

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

179       73-11-49. (1) The board is authorized to select from its  
180 own membership a chairman, vice chairman and secretary-treasurer.  
181 Election of officers shall be held at the first regularly  
182 scheduled meeting of the fiscal year.



183           (2) All members of the board shall be reimbursed for their  
184 necessary traveling expenses and mileage incident to their  
185 attendance upon the business of the board, as provided in Section  
186 25-3-41, and shall receive a per diem as provided in Section  
187 25-3-69 for every day actually spent upon the business of the  
188 board, not to exceed twenty (20) days per year unless authorized  
189 by a majority vote of the board.

190           (3) All monies received by the board shall be paid into a  
191 special fund in the State Treasury to the credit of the board and  
192 shall be used by the board for paying the traveling and necessary  
193 expenses and per diem of the members of the board while on board  
194 business, and for paying other expenses necessary for the  
195 operation of the board in carrying out and involving the  
196 provisions of this chapter.

197           (4) The board shall employ an administrator of the board,  
198 who shall have complete supervision and be held responsible for  
199 the direction of the office of the board, shall have supervision  
200 over field inspections and enforcement of the provisions of this  
201 chapter, shall have such other duties as may be assigned by the  
202 board, shall be responsible and answerable to the board. The  
203 board may employ such other clerical assistants and employees as  
204 may be necessary to carry out the provisions of this chapter, and  
205 the terms and conditions of such employment shall be determined by  
206 the board in accordance with applicable state law and rules and  
207 regulations of the State Personnel Board.

208           (5) The board, when it shall deem necessary, shall be  
209 represented by an assistant Attorney General duly appointed by the  
210 Attorney General of this state, and may also request and receive  
211 the assistance of other state agencies and county and district  
212 attorneys, all of whom are authorized to provide the assistance  
213 requested.

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



216 (7) The board shall adopt and promulgate rules and  
217 regulations for the transaction of its business in accordance with  
218 the provisions of the Mississippi Administrative Procedures Law  
219 (Section 25-43-1 et seq.). No rule or regulation promulgated by  
220 the board affecting any person or agency outside the board shall  
221 be adopted, amended or repealed without a public hearing on the  
222 proposed action. The board shall give written notice at least  
223 thirty (30) days in advance of any meeting with respect to any  
224 proposed adoption, amendment or repeal of a rule or regulation of  
225 the board, in accordance with the Administrative Procedures Act,  
226 as well as notifying the duly elected presidents and secretaries  
227 of the Mississippi Funeral Directors Association and the  
228 Mississippi Funeral Directors and Morticians Association, or their  
229 successors.

230 (8) The board may designate the administrator to perform  
231 inspections under this chapter, may employ an individual to  
232 perform such inspections or may contract with any other individual  
233 or entity to perform such inspections. Any individual or entity  
234 that performs such inspections shall have the right of entry into  
235 any place in which the business or practice of funeral service  
236 and/or funeral directing is carried on or advertised as being  
237 carried on, for the purpose of inspection, for the investigation  
238 of complaints coming before the board and for such other matters  
239 as the board may direct.

240 (9) The board shall not pass any rule or regulation  
241 pertaining to the transportation of dead bodies \* \* \* or requiring  
242 them to be embalmed except as required by the State Department of  
243 Health's Rule 43 or any subsequent rule adopted by the department.

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

246 73-11-51. (1) No person shall engage in the business or  
247 practice of funeral service, including embalming, and/or funeral  
248 directing or hold himself out as transacting or practicing or



249 being entitled to transact or practice funeral service, including  
250 embalming, and/or funeral directing in this state unless duly  
251 licensed pursuant to the provisions of this chapter.

252 (2) The board is authorized and empowered to examine  
253 applicants for licenses for the practice of funeral service and  
254 funeral directing and shall issue the proper license to those  
255 persons who successfully pass the applicable examination and  
256 otherwise comply with the provisions of this chapter.

257 (3) To be licensed for the practice of funeral directing  
258 under this chapter, a person must:

259 (a) Be at least eighteen (18) years of age;

260 (b) Have a high school diploma or the equivalent  
261 thereof;

262 (c) Have served as a resident trainee for not less than  
263 twenty-four (24) months under the supervision of a person licensed  
264 for the practice of funeral service or funeral directing in this  
265 state;

266 (d) Have successfully passed a written and/or oral  
267 examination as prepared or approved by the board; and (e) be of  
268 good moral character \* \* \*.

269 (4) To be licensed for the practice of funeral service under  
270 this chapter, a person must:

271 (a) Be at least eighteen (18) years of age;

272 (b) Have a high school diploma or the equivalent  
273 thereof;

274 (c) Have successfully completed twelve (12) months or  
275 more of academic and professional instruction from an institution  
276 accredited by the \* \* \* United States Department of Education for  
277 funeral service education and have a certificate of completion  
278 from an institution accredited by the American Board of Funeral  
279 Service Education or any other successor recognized by the United  
280 States Department of Education for funeral service education;





281 (d) Have served as a resident trainee for not less than  
282 twelve (12) months, either prior to or after graduation from an  
283 accredited institution mentioned above, under the supervision of a  
284 person licensed for the practice of funeral service in this state  
285 and in an establishment licensed in this state;

286 (e) Have successfully passed a written and/or oral  
287 examination as prepared or approved by the board; and

288 (f) Be of good moral character \* \* \*.

289 (5) All applications for examination and license for the  
290 practice of funeral service or funeral directing shall be upon  
291 forms furnished by the board and shall be accompanied by an  
292 examination fee, a licensing fee and a nonrefundable application  
293 fee in amounts fixed by the board in accordance with Section  
294 73-11-56. The fee for an initial license, however, may be  
295 prorated in proportion to the period of time from the date of  
296 issuance to the date of biennial license renewal prescribed in  
297 subsection (8) of this section. All applications for examination  
298 shall be filed with the board office at least sixty (60) days  
299 prior to date of examination. A candidate shall be deemed to have  
300 abandoned the application for examination if he does not appear on  
301 the scheduled date of examination unless such failure to appear  
302 has been approved by the board.

303 (6) The practice of funeral service or funeral directing  
304 must be engaged in at a licensed funeral establishment, at least  
305 one (1) of which is listed as the licensee's place of business;  
306 and no person, partnership, corporation, association or other  
307 organization shall open or maintain a funeral establishment at  
308 which to engage in or conduct or hold himself or itself out as  
309 engaging in the practice of funeral service or funeral directing  
310 until such establishment has complied with the licensing  
311 requirements of this chapter. A license for the practice of  
312 funeral service or funeral directing shall be used only at  
313 licensed funeral establishments; however, this provision shall not



314 prevent a person licensed for the practice of funeral service or  
315 funeral directing from conducting a funeral service at a church, a  
316 residence, public hall, lodge room or cemetery chapel, if such  
317 person maintains a fixed licensed funeral establishment of his own  
318 or is in the employ of or an agent of a licensed funeral  
319 establishment.

320 (7) Any person holding a valid, unrevoked and unexpired  
321 license in another state or territory having requirements  
322 substantially similar to those of this state may apply for a  
323 license to practice in this state by filing with the board a  
324 certified statement from the secretary of the licensing board of  
325 the state or territory in which the applicant holds his license  
326 certifying to his qualifications and good standing with that board  
327 by having successfully passed a written and/or oral examination on  
328 the Mississippi Funeral Service licensing law and rules and  
329 regulations as prepared or approved by the board, and by paying a  
330 nonrefundable application fee set by the board pursuant to Section  
331 73-11-56. If the board finds that the applicant has fulfilled  
332 substantially similar requirements, the board shall grant such  
333 license upon receipt of a fee in an amount equal to the renewal  
334 fee set by the board for a license for the practice of funeral  
335 service or funeral directing, as the case may be, in this state.  
336 The board may issue a temporary funeral service or funeral  
337 directing work permit before a license is granted, prior to the  
338 next regular meeting of the board, if the applicant for a  
339 reciprocal license has complied with all requirements, rules and  
340 regulations of the board. The temporary permit will expire at the  
341 next regular meeting of the board.

342 (8) (a) Any person holding a license for the practice of  
343 funeral service or funeral directing may have the same renewed for  
344 a period of two (2) years by making and filing with the board an  
345 application on or before the due date. Payment of the renewal fee  
346 shall be in an amount set by the board in accordance with Section



347 73-11-56. The board shall mail the notice of renewal and the due  
348 date for the payment of the renewal fee to the last known address  
349 of each licensee at least thirty (30) days before that date. It  
350 is the responsibility of the licensee to notify the board in  
351 writing of any change of address. An application will be  
352 considered late if the application and proper fees are not in the  
353 board's office or postmarked by the due date.

354 (b) If the renewal fee is not paid on or postmarked by  
355 the due date, the license of such person shall by operation of law  
356 automatically expire and become void without further action of the  
357 board. The board may reinstate such license if application for  
358 licensure is made within a period of five (5) years, upon payment  
359 of the renewal fee for the current year, all renewal fees in  
360 arrears, \* \* \* and a reinstatement fee \* \* \*. After a period of  
361 five (5) years, the licensee must make application, pay the  
362 current renewal fee, all \* \* \* fees in arrears, and pass a  
363 written and/or oral examination as prepared or approved by the  
364 board.

365 \* \* \*

366 (9) \* \* \* No license shall be assignable or valid for any  
367 person other than the original licensee.

368 (10) The board may, in its discretion, in the event of a  
369 major disaster or emergency where human death is likely to occur,  
370 temporarily authorize the practice of funeral directing and  
371 funeral service by persons licensed to practice in another state  
372 but not licensed to practice in this state, provided that such  
373 services are only rendered by members of disaster mortuary teams  
374 authorized by federal or appropriate local authorities to provide  
375 such services. Only persons licensed in this state, however, may  
376 sign death certificates.

377 (11) On an individual basis, a person who is licensed for  
378 the practice of funeral service by another state is authorized to  
379 make a removal of a deceased person, embalm a deceased person or



380 conduct a funeral or burial service in this state, and a funeral  
381 director who is licensed by another state is authorized to conduct  
382 a funeral or burial service in this state, in the same manner and  
383 to the same extent as provided by the laws of that state to  
384 persons licensed by the State of Mississippi for the practice of  
385 funeral service or for the practice of funeral directing.

386 (12) Any funeral service technology or mortuary science  
387 program accredited by the American Board of Funeral Service  
388 Education in the State of Mississippi, as well as students  
389 enrolled in such a program, shall be exempt from licensing under  
390 this chapter when embalming or otherwise preparing a deceased  
391 human body for disposition as part of a student practicum  
392 experience, when the student is directly supervised by an  
393 instructor or preceptor who holds a current funeral service  
394 license. This exemption shall apply to practicum experiences  
395 performed at an accredited institution of funeral service  
396 technology or mortuary science program or at a duly licensed  
397 funeral establishment or commercial mortuary service. Nothing in  
398 this subsection shall be construed to allow any funeral service  
399 technology or mortuary science program, or those students enrolled  
400 in such a program, to engage in practicum experiences for  
401 remuneration.

402 (13) Each application or filing made under this section  
403 shall include the social security number(s) of the applicant in  
404 accordance with Section 93-11-64.

405 (14) Notwithstanding any provision of this chapter, the  
406 board shall issue a license for the practice of funeral directing  
407 to any person who (a) is at least sixty (60) years of age, (b) has  
408 not less than five (5) years' experience as an employee at a  
409 licensed funeral establishment in Mississippi, (c) is presently  
410 employed at a licensed funeral establishment in Mississippi, and  
411 (d) makes application to the board for the license during the  
412 period from July 1, 2002, through July 31, 2002. The board shall



413 furnish persons seeking licensure under this subsection an  
414 application form upon request. The applicant's previous  
415 experience and current employment at a licensed funeral  
416 establishment in Mississippi must be documented in writing by the  
417 owner, management or licensee in charge of the funeral  
418 establishment and included with the application to the board.

419 **SECTION 8.** Section 73-11-53, Mississippi Code of 1972, is  
420 reenacted and amended as follows:

421 73-11-53. (1) A person desiring to become a resident  
422 trainee for the practice of funeral service or funeral directing  
423 shall make application to the board. Such application shall be  
424 sustained by the licensee under whom the applicant is serving, and  
425 shall be accompanied by a nonrefundable application fee in an  
426 amount set by the board in accordance with Section 73-11-56. When  
427 the board is satisfied as to the qualifications of an applicant,  
428 it shall issue a certificate of resident traineeship. No credit  
429 toward the resident traineeship will be allowed prior to the  
430 receipt of a properly completed application and applicable fee at  
431 the board office.

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

435 (3) A resident trainee who has allowed a certificate of  
436 resident traineeship to lapse or who has had a resident  
437 traineeship suspended or revoked, may, within one (1) year after  
438 such lapse, suspension or revocation, make application for  
439 reregistration, but no more than two (2) such consecutive  
440 registrations shall be allowed by the board.

441 (4) A resident trainee must serve the apprenticeship in a  
442 funeral establishment that is licensed by the State of Mississippi  
443 and the preceptor must be a Mississippi licensee.

444 (5) A resident traineeship certificate shall be renewable  
445 upon payment of a renewal fee as set by the board. The



446 certificate will expire on December 31 of each year. The fee and  
447 application will be considered late if the fee and application are  
448 not in the office or show a postmark of December 31. Applications  
449 received late may be reinstated by the payment of a renewal fee  
450 and a reinstatement fee.

451 **SECTION 9.** Section 73-11-55, Mississippi Code of 1972, is  
452 reenacted and amended as follows:

453 73-11-55. (1) No person or party shall conduct, maintain,  
454 manage or operate a funeral establishment or branch thereof unless  
455 a license for each such establishment has been issued by the board  
456 and is conspicuously displayed in such funeral establishment. In  
457 case of funeral services held in any private residence, church,  
458 cemetery, cemetery chapel, cemetery facility, or lodge hall, no  
459 license shall be required.

460 (2) To be licensed as a funeral establishment, a place or  
461 premise must be at a fixed and specified address or location and  
462 must be used for immediate post-death activities, whether used for  
463 the custody, shelter, care, preparation and/or embalming of the  
464 human dead. Every funeral establishment shall be under the charge  
465 and personal supervision of a Mississippi funeral director  
466 licensee or a Mississippi funeral service licensee. The licensee  
467 in charge and the licensee with personal supervisory  
468 responsibilities need not be the same licensee. Each licensed  
469 funeral establishment shall be inspected at least once during each  
470 licensing period. Such inspections may be unannounced.

471 (3) \* \* \* (a) A funeral establishment must contain a  
472 preparation and/or embalming room, adequate casket and/or vault  
473 selection room, and holding facilities or proper room or rooms in  
474 which rites and ceremonies may be held. A funeral establishment  
475 shall be subject to an inspection at least once during a two-year  
476 license period. Each new establishment must be inspected before  
477 the opening. All portions of each facility licensed under this  
478 section shall be kept in a clean and sanitary condition.



479 (b) A branch \* \* \* establishment must contain an office  
480 and/or an arrangement room, and a room for viewing and/or a chapel  
481 or proper place for ceremonies. A branch establishment need not  
482 meet all requirements specified in paragraph (a) of this  
483 subsection and need not be under the personal supervision of a  
484 Mississippi funeral director licensee or a Mississippi funeral  
485 service licensee \* \* \*.

486 If the branch meets all requirements of a funeral  
487 establishment as specified in paragraph (a) of this subsection,  
488 such establishment must be under the charge and personal  
489 supervision of a Mississippi funeral director licensee or a  
490 Mississippi funeral service licensee.

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

495 (4) Applications for funeral establishment licenses, branch  
496 establishment licenses or commercial mortuary service licenses  
497 shall be made on blanks furnished by the board and shall be  
498 accompanied by a fee in an amount fixed by the board pursuant to  
499 Section 73-11-56. All establishment licenses shall be issued for  
500 a period of two (2) years, except initial licenses may be prorated  
501 from the date of issuance to the next renewal date.

502 Renewal funeral establishment and branch establishment  
503 license applications and license fees shall be due and payable to  
504 the board on or before the expiration date of the license. The  
505 board shall mail the notice of renewal and the due date for  
506 payment of the renewal fee at least thirty (30) days before that  
507 date.

508 (5) If the renewal fee is not paid on or postmarked by the  
509 due date, the license shall by operation of law automatically  
510 expire and become void without further action of the board. All  
511 establishments whose licenses have expired under this section may



512 be reinstated by filing with the board an application for  
513 reinstatement, submitting to an inspection during which time the  
514 licensee in charge of such establishment shall be interviewed by  
515 the board or its designee and by paying all renewal fees in  
516 arrears and a reinstatement fee \* \* \*.

517 (6) No license shall be assignable or transferable or valid  
518 for any establishment other than the original licensee. License  
519 fees and application fees are nonrefundable.

520 (7) A license for each new establishment, change of  
521 location, change of ownership, or reinstatement of an  
522 establishment shall not be issued until an inspection has been  
523 made, license and inspection fees have been paid, and the licensee  
524 in charge of such establishment has been interviewed by the board  
525 or its designee.

526 (8) No operator of a funeral establishment shall allow any  
527 person licensed for the practice of funeral service or funeral  
528 directing, as the case may be, to operate out of such funeral  
529 establishment unless such licensee is the operator of or an  
530 employee of the operator of a funeral establishment which has been  
531 issued a license by the board.

532 (9) The board is authorized to establish rules and  
533 regulations for the issuance of a special funeral establishment  
534 work permit.

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

537 73-11-56. On or before October 1 of each year, the board  
538 shall determine the amount of funds that will be required during  
539 the next ensuing two (2) years to properly administer the laws  
540 which the board is directed to enforce and administer and by rule  
541 and regulation shall fix fees in such reasonable sums as may be  
542 necessary for such purposes within the following limitations:

543 Funeral establishment:

544 Application fee, not more than..... \$150.00





545 Inspection fee, not more than..... \$ 75.00

546 Funeral establishment license fee, not more than.... \$150.00

547 Branch establishment license fee, not more than..... \$150.00

548 Commercial mortuary service license fee, not

549 more than..... \$150.00

550 Renewal application and license fee, not more than... \$300.00

551 Special work permit..... \$150.00

552 Funeral service:

553 Application fee, not more than..... \$ 50.00

554 Reciprocal application fee, not more than..... \$100.00

555 License fee, not more than..... \$ 75.00

556 Renewal license fee, not more than..... \$ 75.00

557 Work permit, not more than..... \$ 50.00

558 Examination fee..... Cost of the examination

559 Funeral director:

560 Application fee, not more than..... \$ 50.00

561 Reciprocal application fee, not more than..... \$100.00

562 License fee, not more than..... \$ 50.00

563 Renewal license fee, not more than..... \$ 50.00

564 Work permit, not more than..... \$ 50.00

565 Examination fee..... Cost of the examination

566 Resident trainee certificate:

567 Funeral service application fee, not more than..... \$ 50.00

568 Funeral director application fee, not more than..... \$ 50.00

569 Funeral service renewal application fee,

570 not more than..... \$ 50.00

571 Funeral director renewal application fee,

572 not more than..... \$50.00

573 Other fees:

574 Duplicate license fee, not more than..... \$ 25.00

575 Reinstatement of lapsed license fee, equal to the

576 amount of the applicable license fee.

577 \* \* \*



578 All licenses will have a reinstatement fee added to the  
579 renewal fee if the payment is not in the board's office or  
580 postmarked by the due date.

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

584 \* \* \*

585 **SECTION 11.** Section 73-11-57, Mississippi Code of 1972, is  
586 reenacted and amended as follows:

587 73-11-57. (1) The board may refuse to examine or to issue  
588 or renew, or may suspend or revoke, any license, or may reprimand  
589 or place the holder thereof on a term of probation, after proper  
590 hearing, upon finding the holder of such license to be guilty of  
591 acts of commission or omission including the following:

592 (a) The employment of fraud or deception in applying  
593 for a license or in passing the examination provided for in this  
594 chapter;

595 (b) The erroneous issuance of a license to any person;

596 (c) The conviction of a felony by any court in this  
597 state or any federal court or by the court of any other state or  
598 territory of the United States;

599 (d) The practice of embalming under a false name or  
600 without a license for the practice of funeral service;

601 (e) The impersonation of another funeral service or  
602 funeral directing licensee;

603 (f) The permitting of a person other than a funeral  
604 service or funeral directing licensee to make arrangements for a  
605 funeral and/or form of disposition;

606 (g) Violation of any provision of this chapter or any  
607 rule or regulation of the board;

608 (h) Having had a license for the practice of funeral  
609 service or funeral directing suspended or revoked in any  
610 jurisdiction, having voluntarily surrendered his license in any



611 jurisdiction, having been placed on probation in any jurisdiction,  
612 having been placed under disciplinary order(s) or other  
613 restriction in any manner for funeral directing and/or funeral  
614 service, or operating a funeral establishment (a certified copy of  
615 the order of suspension, revocation, probation or disciplinary  
616 action shall be prima facie evidence of such action);

617 (i) Solicitation of dead human bodies by the licensee,  
618 his agents, assistants or employees, whether such solicitation  
619 occurs after death or when death is imminent; if the person  
620 solicited has made known a desire not to receive the  
621 communication, or if the solicitation involves coercion, duress or  
622 harassment, or if the solicitation takes place at the residence of  
623 the client or prospective client, is uninvited by the client or  
624 prospective client and has not been previously agreed to by the  
625 client or prospective client; however, this shall not be deemed to  
626 prohibit general advertising;

627 (j) Employment directly or indirectly of any  
628 apprentice, agent, assistant, employee, or other person, on a  
629 part-time or full-time basis or on commission, for the purpose of  
630 calling upon individuals or institutions by whose influence dead  
631 human bodies may be turned over to a particular funeral  
632 establishment;

633 (k) Failure to make responses to communications or  
634 requests of the board within thirty (30) days;

635 (l) Failure to comply with an order of the board within  
636 thirty (30) days;

637 (m) Knowingly performing any act that in any way  
638 assists an unlicensed person to practice funeral service or  
639 funeral directing;

640 (n) Making a false statement on death certificates; or

641 (o) Unprofessional conduct which includes but is not  
642 limited to:



643 (i) Retaining a dead human body for the payment of  
644 a fee for the performance of services not authorized in writing;  
645 (ii) Knowingly performing any act which in any way  
646 assists an unlicensed person to practice funeral service or  
647 funeral directing;  
648 (iii) Being guilty of any dishonorable conduct  
649 likely to deceive, defraud or harm the public;  
650 (iv) Any act or omission in the practice of  
651 funeral service or directing which constitutes dishonesty, fraud  
652 or misrepresentation with the intent to benefit the licensee,  
653 another person or funeral establishment, or with the intent to  
654 substantially injure another person, licensee or funeral  
655 establishment; or  
656 (v) Any act or conduct, whether the same or of a  
657 different character than specified above, which constitutes or  
658 demonstrates bad faith, incompetency or untrustworthiness; or  
659 dishonest, fraudulent or improper dealing; or any other violation  
660 of the provisions of this chapter, the rules and regulations  
661 established by the board or any rule or regulation promulgated by  
662 the Federal Trade Commission relative to the practice of funeral  
663 service or funeral directing.

664 (2) The board may, upon satisfactory proof that the  
665 applicant or licensee has been guilty of any of the offenses above  
666 enumerated, refuse to examine or issue a license to the applicant,  
667 or may refuse to renew or revoke or suspend the license of the  
668 licensee, or place on probation or reprimand him, upon a majority  
669 vote of the board members, after a hearing thereon. The board is  
670 hereby vested with full power and authority to hold and conduct  
671 such hearings, compel the attendance of witnesses and the  
672 production of books, records and documents, issue subpoenas  
673 therefor, administer oaths, examine witnesses, and do all things  
674 necessary to properly conduct such hearings. The board may waive  
675 the necessity of a hearing if the person accused of a violation



676 admits that he has been guilty of such offense. Any person who  
677 has been refused a license or whose license has been revoked or  
678 suspended may, within thirty (30) days after the decision of the  
679 board, file with the board a written notice stating that he feels  
680 himself aggrieved by such decision and appeals therefrom to the  
681 circuit court. Upon the filing of such notice, the secretary of  
682 the board shall transmit to the clerk of the circuit court the  
683 records and findings of such proceedings. The circuit court shall  
684 hear and determine as to whether the action of the board was in  
685 accord or consistent with law, or was arbitrary, unwarranted or in  
686 abuse of discretion. An appeal from the circuit court judgment or  
687 decree may be reviewed by the Supreme Court as is provided by law  
688 for other appeals. An appeal of a decision or order of the board  
689 does not act as a supersedeas.

690 (3) In a proceeding conducted under this section by the  
691 board for the revocation or suspension of a license, the board  
692 shall have the power and authority for the grounds stated for such  
693 revocation or suspension, and in addition thereto or in lieu of  
694 such revocation or suspension may assess and levy upon any person  
695 licensed under this chapter, a monetary penalty, as follows:

696 (a) For the first violation of any of the subparagraphs  
697 of subsection (1) of this section, a monetary penalty of not less  
698 than Fifty Dollars (\$50.00) nor more than Five Hundred Dollars  
699 (\$500.00).

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

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



708 (d) For any violation of any of the subparagraphs of  
709 subsection (1) of this section, those reasonable costs that are  
710 expended by the board in the investigation and conduct of a  
711 proceeding for licensure revocation or suspension, including but  
712 not limited to the cost of process service, court reporters,  
713 expert witnesses and investigators.

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

719 (5) A licensee shall have the right of appeal from the  
720 assessment and levy of a monetary penalty as provided in this  
721 section under the same conditions as a right of appeal is provided  
722 elsewhere for appeals from an adverse ruling, order or decision of  
723 the board.

724 (6) Any monetary penalty assessed and levied under this  
725 section shall not take effect until after the time for appeal  
726 shall have expired. \* \* \*

727 (7) A monetary penalty assessed and levied under this  
728 section shall be paid to the board by the licensee upon the  
729 expiration of the period allowed for appeal of such penalties  
730 under this section or may be paid sooner if the licensee elects.  
731 With the exception of subsection (3)(d) of this section, monetary  
732 penalties collected by the board under this section shall be  
733 deposited to the credit of the General Fund of the State Treasury.  
734 Any monies collected by the board under subsection (3)(d) of this  
735 section shall be deposited into the special fund operating account  
736 of the board.

737 (8) When payment of a monetary penalty assessed and levied  
738 by the board against a licensee in accordance with this section is  
739 not paid by the licensee when due under this section, the board  
740 shall have power to institute and maintain proceedings in its name



741 for enforcement of payment in the chancery court of the county and  
742 judicial district of residence of the licensee, and if the  
743 licensee be a nonresident of the State of Mississippi, such  
744 proceedings shall be in the Chancery Court of the First Judicial  
745 District of Hinds County, Mississippi.

746 (9) In addition to the reasons specified in subsection (1)  
747 of this section, the board shall be authorized to suspend the  
748 license of any licensee for being out of compliance with an order  
749 for support, as defined in Section 93-11-153. The procedure for  
750 suspension of a license for being out of compliance with an order  
751 for support, and the procedure for the reissuance or reinstatement  
752 of a license suspended for that purpose, and the payment of any  
753 fees for the reissuance or reinstatement of a license suspended  
754 for that purpose, shall be governed by Section 93-11-157 or  
755 93-11-163, as the case may be. Actions taken by the board in  
756 suspending a license when required by Section 93-11-157 or  
757 93-11-163 are not actions from which an appeal may be taken under  
758 this section. Any appeal of a license suspension that is required  
759 by Section 93-11-157 or 93-11-163 shall be taken in accordance  
760 with the appeal procedure specified in Section 93-11-157 or  
761 93-11-163, as the case may be, rather than the procedure specified  
762 in this section. If there is any conflict between any provision  
763 of Section 93-11-157 or 93-11-163 and any provision of this  
764 chapter, the provisions of Section 93-11-157 or 93-11-163, as the  
765 case may be, shall control.

766 **SECTION 12.** Section 73-11-59, Mississippi Code of 1972, is  
767 reenacted as follows:

768 73-11-59. Any person, partnership, corporation, association  
769 or his or her or its agents or representatives who shall violate  
770 any of the provisions of this chapter shall be deemed guilty of a  
771 misdemeanor and, upon conviction thereof, shall be punished by a  
772 fine of not less than Five Hundred Dollars (\$500.00) nor more than  
773 One Thousand Dollars (\$1,000.00), or by imprisonment for not more



774 than six (6) months in the county jail, or by both such fine and  
775 imprisonment.

776 **SECTION 13.** Section 73-11-61, Mississippi Code of 1972, is  
777 reenacted and amended as follows:

778 73-11-61. Every funeral director or funeral service licensee  
779 shall provide, before the rendering of services, the funeral  
780 establishment's current general price list, casket price list,  
781 outer container price list, and a statement of goods and services  
782 to the person or persons who authorize the services and is  
783 responsible for payment of the expenses therefor, in a manner and  
784 format as prescribed by the Federal Trade Commission's Funeral  
785 Rule of 1984 and any future changes with regard to required  
786 disclosures. The general price list must be made available to any  
787 person upon request.

788 **SECTION 14.** Section 73-11-63, Mississippi Code of 1972, is  
789 reenacted and amended as follows:

790 73-11-63. Nothing in this chapter shall be construed to  
791 authorize the regulation or licensing of cemeteries, cemetery  
792 chapels or cemetery crematories by the board, except the  
793 regulation or licensing of any funeral establishment operated by a  
794 cemetery. In addition, nothing in this chapter shall be construed  
795 to prevent or interfere with the ceremonies, customs, religious  
796 rites or religion of any people, denomination, or sect, or to  
797 prevent or interfere with any religious denomination, sect or  
798 anybody composed of persons of a denomination, or to prevent or  
799 interfere with any church or synagogue from having its committee  
800 or committees prepare human bodies for burial or the families,  
801 friends or neighbors of deceased persons who prepare and bury  
802 their dead without charge.

803 **SECTION 15.** The following shall be codified as Section  
804 73-11-65, Mississippi Code of 1972:

805 73-11-65. Every funeral service or interment, or part  
806 thereof, that is conducted in Mississippi must be in the actual





807 charge and under the supervision of a funeral director or funeral  
808 service licensee who is licensed under this chapter. However,  
809 this section shall not prevent a family from burying its own dead  
810 without charge.

811         **SECTION 16.** The following shall be codified as Section  
812 73-11-67, Mississippi Code of 1972:

813         73-11-67. Every person, establishment or company not  
814 licensed under this chapter that sells caskets at retail shall  
815 register annually with the board. However, those persons,  
816 establishments and companies are not subject to the other  
817 provisions of this chapter and are not subject to regulation or  
818 supervision by the board. The names of registrants under this  
819 section shall be made available to any person upon request during  
820 the regular business hours of the board.

821         **SECTION 17.** This act shall take effect and be in force from  
822 and after July 1, 2002.

