To: Public Health and Welfare  

MISSISSIPPI LEGISLATURE  
REGULAR SESSION 2002  

By: Representative Holland  

HOUSE BILL NO. 957  
(As Sent to Governor)  

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 73-11-55, 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 LICENSEEES TO  
43 PROVIDE A PRICE LIST AND A STATEMENT OF GOODS AND SERVICES TO THE  
44 PERSONS WHO AUTHORIZED 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  

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THAT THOSE PERSONS ARE NOT SUBJECT TO REGULATION OR SUPERVISION BY
THE BOARD; TO CODIFY NEW SECTION 73-11-69, MISSISSIPPI CODE OF
1972, TO PROVIDE FOR THE LICENSURE AND REGULATION OF CREMATORY
FACILITIES IN THIS STATE BY THE BOARD; AND FOR RELATED PURPOSES.

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

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

73-11-33. Sections 73-11-41 through 73-11-69, which create
the State Board of Funeral Service and prescribe its duties and
powers, shall stand repealed as of July 1, 2006.

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

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

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

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

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

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

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

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

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

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

(ii) Conducting immediate post-death activities;

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

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

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

(vi) The sale of funeral merchandise; or

(vii) The practice or performance of any function of funeral directing and/or embalming as presently known, including those stipulated herein.
This definition shall not include persons or corporations engaging only in the preneed sale of funeral merchandise or service.

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

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

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

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

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

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

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

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

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

73-11-49. (1) The board is authorized to select from its own membership a chairman, vice chairman and secretary-treasurer. Election of officers shall be held at the first regularly scheduled meeting of the fiscal year.
(2) All members of the board shall be reimbursed for their necessary traveling expenses and mileage incident to their attendance upon the business of the board, as provided in Section 25-3-41, and shall receive a per diem as provided in Section 25-3-69 for every day actually spent upon the business of the board, not to exceed twenty (20) days per year unless authorized by a majority vote of the board.

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

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

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

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

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

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

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

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

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

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

(a) Be at least eighteen (18) years of age;
(b) Have a high school diploma or the equivalent thereof;
(c) Have served as a resident trainee for not less than twenty-four (24) months under the supervision of a person licensed for the practice of funeral service or funeral directing in this state;
(d) Have successfully passed a written and/or oral examination as prepared or approved by the board; and
(e) Be of good moral character.

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

(a) Be at least eighteen (18) years of age;
(b) Have a high school diploma or the equivalent thereof;
(c) Have successfully completed twelve (12) months or more of academic and professional instruction from an institution accredited by the United States Department of Education for funeral service education and have a certificate of completion from an institution accredited by the American Board of Funeral Service Education or any other successor recognized by the United States Department of Education for funeral service education;
(d) Have served as a resident trainee for not less than twelve (12) months, either prior to or after graduation from an accredited institution mentioned above, under the supervision of a person licensed for the practice of funeral service in this state and in an establishment licensed in this state;

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

(f) Be of good moral character.

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

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

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

(8) (a) Any person holding a license for the practice of
funeral service or funeral directing may have the same renewed for
a period of two (2) years by making and filing with the board an
application on or before the due date. Payment of the renewal fee
shall be in an amount set by the board in accordance with Section
73-11-56. The board shall mail the notice of renewal and the due date for the payment of the renewal fee to the last known address of each licensee at least thirty (30) days before that date. It is the responsibility of the licensee to notify the board in writing of any change of address. An application will be considered late if the application and proper fees are not in the board's office or postmarked by the due date.

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

* * *

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

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

(11) On an individual basis, a person who is licensed for the practice of funeral service by another state is authorized to make a removal of a deceased person, embalm a deceased person or
conduct a funeral or burial service in this state, and a funeral
director who is licensed by another state is authorized to conduct
a funeral or burial service in this state, in the same manner and
to the same extent as provided by the laws of that state to
persons licensed by the State of Mississippi for the practice of
funeral service or for the practice of funeral directing.

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

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

(14) Notwithstanding any provision of this chapter, the
board shall issue a license for the practice of funeral directing
to any person who (a) is at least sixty (60) years of age, (b) has
not less than five (5) years' experience as an employee at a
licensed funeral establishment in Mississippi, (c) is presently
employed at a licensed funeral establishment in Mississippi, and
(d) makes application to the board for the license during the
period from July 1, 2002, through July 31, 2002. The board shall
furnish persons seeking licensure under this subsection an application form upon request. The applicant's previous experience and current employment at a licensed funeral establishment in Mississippi must be documented in writing by the owner, management or licensee in charge of the funeral establishment and included with the application to the board.

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

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

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

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

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

(5) A resident traineeship certificate shall be renewable upon payment of a renewal fee as set by the board. The
certificate will expire on December 31 of each year. The fee and
application will be considered late if the fee and application are
not in the office or show a postmark of December 31. Applications
received late may be reinstated by the payment of a renewal fee
and a reinstatement fee.

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

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

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

(3) * * * (a) A funeral establishment must contain a
preparation and/or embalming room, adequate casket and/or vault
selection room, and holding facilities or proper room or rooms in
which rites and ceremonies may be held. A funeral establishment
shall be subject to an inspection at least once during a two-year
license period. Each new establishment must be inspected before
the opening. All portions of each facility licensed under this
section shall be kept in a clean and sanitary condition.
(b) A branch establishment must contain an office and/or an arrangement room, and a room for viewing and/or a chapel or proper place for ceremonies. A branch establishment need not meet all requirements specified in paragraph (a) of this subsection and need not be under the personal supervision of a Mississippi funeral director licensee or a Mississippi funeral service licensee.

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

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

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

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

(5) If the renewal fee is not paid on or postmarked by the due date, the license shall by operation of law automatically expire and become void without further action of the board. All establishments whose licenses have expired under this section may
be reinstated by filing with the board an application for reinstatement, submitting to an inspection during which time the licensee in charge of such establishment shall be interviewed by the board or its designee and by paying all renewal fees in arrears and a reinstatement fee.

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

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

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

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

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

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

Funeral establishment:

Application fee, not more than $150.00
<table>
<thead>
<tr>
<th>Service</th>
<th>Fee</th>
</tr>
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<tbody>
<tr>
<td>Inspection fee, not more than</td>
<td>$ 75.00</td>
</tr>
<tr>
<td>Funeral establishment license fee, not more</td>
<td>$150.00</td>
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<tr>
<td>than...</td>
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<tr>
<td>Branch establishment license fee, not more</td>
<td>$150.00</td>
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<td>than...</td>
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<tr>
<td>Commercial mortuary service license fee, not</td>
<td>$150.00</td>
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<td>more than...</td>
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<tr>
<td>Renewal application and license fee, not more</td>
<td>$300.00</td>
</tr>
<tr>
<td>than...</td>
<td></td>
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<tr>
<td>Special work permit</td>
<td>$150.00</td>
</tr>
<tr>
<td>Funeral service:</td>
<td></td>
</tr>
<tr>
<td>Application fee, not more than</td>
<td>$ 50.00</td>
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<tr>
<td>Reciprocal application fee, not more than</td>
<td>$100.00</td>
</tr>
<tr>
<td>License fee, not more than</td>
<td>$ 75.00</td>
</tr>
<tr>
<td>Renewal license fee, not more than</td>
<td>$ 75.00</td>
</tr>
<tr>
<td>Work permit, not more than</td>
<td>$ 50.00</td>
</tr>
<tr>
<td>Examination fee</td>
<td>Cost of the examination</td>
</tr>
<tr>
<td>Funeral director:</td>
<td></td>
</tr>
<tr>
<td>Application fee, not more than</td>
<td>$ 50.00</td>
</tr>
<tr>
<td>Reciprocal application fee, not more than</td>
<td>$100.00</td>
</tr>
<tr>
<td>License fee, not more than</td>
<td>$ 50.00</td>
</tr>
<tr>
<td>Renewal license fee, not more than</td>
<td>$ 50.00</td>
</tr>
<tr>
<td>Work permit, not more than</td>
<td>$ 50.00</td>
</tr>
<tr>
<td>Examination fee</td>
<td>Cost of the examination</td>
</tr>
<tr>
<td>Resident trainee certificate:</td>
<td></td>
</tr>
<tr>
<td>Funeral service application fee, not more</td>
<td>$ 50.00</td>
</tr>
<tr>
<td>Funeral director application fee, not more</td>
<td>$ 50.00</td>
</tr>
<tr>
<td>Funeral service renewal application fee,</td>
<td>$ 50.00</td>
</tr>
<tr>
<td>not more than</td>
<td></td>
</tr>
<tr>
<td>Funeral director renewal application fee,</td>
<td>$50.00</td>
</tr>
<tr>
<td>not more than</td>
<td></td>
</tr>
<tr>
<td>Other fees:</td>
<td></td>
</tr>
<tr>
<td>Duplicate license fee, not more than</td>
<td>$ 25.00</td>
</tr>
<tr>
<td>Reinstatement of lapsed license fee,</td>
<td>equal to the</td>
</tr>
<tr>
<td>amount of the applicable license fee.</td>
<td></td>
</tr>
</tbody>
</table>

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

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

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

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

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

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

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

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

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

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

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

   (h) Having had a license for the practice of funeral service or funeral directing suspended or revoked in any jurisdiction, having voluntarily surrendered his license in any jurisdiction, having voluntarily surrendered his license in any
jurisdiction, having been placed on probation in any jurisdiction, having been placed under disciplinary order(s) or other restriction in any manner for funeral directing and/or funeral service, or operating a funeral establishment (a certified copy of the order of suspension, revocation, probation or disciplinary action shall be prima facie evidence of such action);

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

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

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

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

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

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

(o) Unprofessional conduct which includes but is not limited to:
(i) Retaining a dead human body for the payment of a fee for the performance of services not authorized in writing;
(ii) Knowingly performing any act which in any way assists an unlicensed person to practice funeral service or funeral directing;
(iii) Being guilty of any dishonorable conduct likely to deceive, defraud or harm the public;
(iv) Any act or omission in the practice of funeral service or directing which constitutes dishonesty, fraud or misrepresentation with the intent to benefit the licensee, another person or funeral establishment, or with the intent to substantially injure another person, licensee or funeral establishment; or
(v) Any act or conduct, whether the same or of a different character than specified above, which constitutes or demonstrates bad faith, incompetency or untrustworthiness; or dishonest, fraudulent or improper dealing; or any other violation of the provisions of this chapter, the rules and regulations established by the board or any rule or regulation promulgated by the Federal Trade Commission relative to the practice of funeral service or funeral directing.

(2) The board may, upon satisfactory proof that the applicant or licensee has been guilty of any of the offenses above enumerated, refuse to examine or issue a license to the applicant, or may refuse to renew or revoke or suspend the license of the licensee, or place on probation or reprimand him, upon a majority vote of the board members, after a hearing thereon. The board is hereby vested with full power and authority to hold and conduct such hearings, compel the attendance of witnesses and the production of books, records and documents, issue subpoenas therefor, administer oaths, examine witnesses, and do all things necessary to properly conduct such hearings. The board may waive the necessity of a hearing if the person accused of a violation
admits that he has been guilty of such offense. Any person who
has been refused a license or whose license has been revoked or
suspended may, within thirty (30) days after the decision of the
board, file with the board a written notice stating that he feels
himself aggrieved by such decision and appeals therefrom to the
circuit court. Upon the filing of such notice, the secretary of
the board shall transmit to the clerk of the circuit court the
records and findings of such proceedings. The circuit court shall
hear and determine as to whether the action of the board was in
accord or consistent with law, or was arbitrary, unwarranted or in
abuse of discretion. An appeal from the circuit court judgment or
decree may be reviewed by the Supreme Court as is provided by law
for other appeals. An appeal of a decision or order of the board
does not act as a supersedes.

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

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

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

(c) For the third and any subsequent violation of any
of the subparagraphs of subsection (1) of this section, a monetary
penalty of not less than Five Hundred Dollars ($500.00) and not
more than Five Thousand Dollars ($5,000.00).
For any violation of any of the subparagraphs of subsection (1) of this section, those reasonable costs that are expended by the board in the investigation and conduct of a proceeding for licensure revocation or suspension, including but not limited to the cost of process service, court reporters, expert witnesses and investigators.

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

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

Any monetary penalty assessed and levied under this section shall not take effect until after the time for appeal shall have expired.

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

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

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

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

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

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

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

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

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

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

73-11-65. Every funeral service or interment, or part
thereof, that is conducted in Mississippi must be in the actual
charge and under the supervision of a funeral director or funeral
service licensee who is licensed under this chapter. However,
this section shall not prevent a family from burying its own dead
without charge.

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

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

SECTION 17. The following shall be codified as Section
73-11-69, Mississippi Code of 1972:

73-11-69. (1) No person shall operate a crematory facility
in this state unless the person is licensed by the State Board of
Funeral Service. An application for a crematory facility license
shall be accompanied by a fee in an amount not to exceed the fee
fixed by the board for a funeral establishment license.

(2) The operator of a crematory facility shall issue a
certificate of cremation to the family of each person cremated in
the facility. In addition, the operator of the crematory facility
shall maintain a log of all cremations performed in the facility,
and this log shall match the certificates of cremation that have
been issued by the facility.

(3) No operator of a crematory facility shall knowingly
represent that an urn or temporary container contains the
recovered cremated remains of specific decedent or of body parts
removed from a specific decedent when it does not. This
subsection does not prohibit the making of such a representation
because of the presence in the recovered cremated remains of de
minimis amounts of the cremated remains of another decedent or of body parts.

(4) The board shall inspect each licensed crematory facility on an annual basis, and at such other times as necessary, to verify that the crematory facility is in compliance with the requirements of this section. Any person who operates a crematory facility in this state without a license, or any person who otherwise violates any provision of this section, is guilty of a felony. Upon conviction for a violation of this section, in addition to any penalty that may be imposed by the court, the board may revoke the person's crematory facility license.

(5) The board may promulgate such rules and regulations as deemed necessary for the proper licensure and regulation of crematory facilities in this state.

(6) Any crematory may dispose of any remains unclaimed by the family after six (6) months after cremation by scattering or burial upon a final notification to the next of kin by certified mail.

SECTION 18. This act shall take effect and be in force from and after July 1, 2002.