

By: Representative Banks

To: Insurance

HOUSE BILL NO. 1386

1 AN ACT TO AMEND SECTION 73-11-51, MISSISSIPPI CODE OF 1972,
2 TO REQUIRE THE REGISTRATION OF SELLERS OF PRENEED FUNERAL
3 SERVICES; TO AMEND SECTION 75-63-65, MISSISSIPPI CODE OF 1972, IN
4 CONFORMITY THERETO; AND FOR RELATED PURPOSES.

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

6 **SECTION 1.** Section 73-11-51, Mississippi Code of 1972, is
7 amended as follows:

8 73-11-51. (1) No person shall engage in the business or
9 practice of funeral service, including embalming, and/or funeral
10 directing or hold himself out as transacting or practicing or
11 being entitled to transact or practice funeral service, including
12 embalming, and/or funeral directing in this state unless duly
13 licensed pursuant to the provisions of this chapter.

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

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

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

22 (b) Have a high school diploma or the equivalent
23 thereof;

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

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

30 (e) Be of good moral character.

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

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

34 (b) Have a high school diploma or the equivalent
35 thereof;

36 (c) Have successfully completed twelve (12) months or
37 more of academic and professional instruction from an institution
38 accredited by the United States Department of Education for
39 funeral service education and have a certificate of completion
40 from an institution accredited by the American Board of Funeral
41 Service Education or any other successor recognized by the United
42 States Department of Education for funeral service education;

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

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

50 (f) Be of good moral character.

51 (5) All applications for examination and license for the
52 practice of funeral service or funeral directing shall be upon
53 forms furnished by the board and shall be accompanied by an
54 examination fee, a licensing fee and a nonrefundable application
55 fee in amounts fixed by the board in accordance with Section
56 73-11-56. The fee for an initial license, however, may be
57 prorated in proportion to the period of time from the date of
58 issuance to the date of biennial license renewal prescribed in
59 subsection (8) of this section. All applications for examination
60 shall be filed with the board office at least sixty (60) days

61 prior to date of examination. A candidate shall be deemed to have
62 abandoned the application for examination if he does not appear on
63 the scheduled date of examination unless such failure to appear
64 has been approved by the board.

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

82 (7) Any person holding a valid, unrevoked and unexpired
83 license in another state or territory having requirements
84 substantially similar to those of this state may apply for a
85 license to practice in this state by filing with the board a
86 certified statement from the secretary of the licensing board of
87 the state or territory in which the applicant holds his license
88 certifying to his qualifications and good standing with that board
89 by having successfully passed a written and/or oral examination on
90 the Mississippi Funeral Service licensing law and rules and
91 regulations as prepared or approved by the board, and by paying a
92 nonrefundable application fee set by the board pursuant to Section
93 73-11-56. If the board finds that the applicant has fulfilled

94 substantially similar requirements, the board shall grant such
95 license upon receipt of a fee in an amount equal to the renewal
96 fee set by the board for a license for the practice of funeral
97 service or funeral directing, as the case may be, in this state.
98 The board may issue a temporary funeral service or funeral
99 directing work permit before a license is granted, prior to the
100 next regular meeting of the board, if the applicant for a
101 reciprocal license has complied with all requirements, rules and
102 regulations of the board. The temporary permit will expire at the
103 next regular meeting of the board.

104 (8) (a) Any person holding a license for the practice of
105 funeral service or funeral directing may have the same renewed for
106 a period of two (2) years by making and filing with the board an
107 application on or before the due date. Payment of the renewal fee
108 shall be in an amount set by the board in accordance with Section
109 73-11-56. The board shall mail the notice of renewal and the due
110 date for the payment of the renewal fee to the last known address
111 of each licensee at least thirty (30) days before that date. It
112 is the responsibility of the licensee to notify the board in
113 writing of any change of address. An application will be
114 considered late if the application and proper fees are not in the
115 board's office or postmarked by the due date.

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

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

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

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

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

159 technology or mortuary science program, or those students enrolled
160 in such a program, to engage in practicum experiences for
161 remuneration.

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

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

179 (15) All sellers of preneed funeral services shall register
180 with the board and pay a registration fee of Twenty-five Dollars
181 (\$25.00) every two (2) years to be eligible to conduct business in
182 the State of Mississippi. Any person, firm, corporation or other
183 entity who does not register and pay the registration fee shall be
184 guilty of a misdemeanor and, upon conviction, shall be fined One
185 Thousand Dollars (\$1,000.00). All registered sellers of preneed
186 funeral services must have a contract with a licensed funeral
187 establishment at a specified price in order to provide such
188 services, and copies of such contracts shall be provided to the
189 board. For the purposes of this subsection, "preneed funeral
190 services" means a contract or agreement for the arrangement for
191 the disposition of dead human bodies, including, but not limited

192 to, the sale of caskets, vaults, clothing, urns and any necessary
193 services related thereto.

194 **SECTION 2.** Section 75-63-65, Mississippi Code of 1972, is
195 amended as follows:

196 75-63-65. (1) Any establishment or organization which
197 engages in the business of selling preneed merchandise and/or
198 services shall register with the Secretary of State and shall pay
199 a registration fee. A separate registration is required for each
200 separate corporation or business entity. The establishment or
201 organization shall pay to the Secretary of State for the
202 registration of the main establishment or organization a fee of
203 Two Hundred Fifty Dollars (\$250.00).

204 (2) Any person who engages in the business of selling
205 preneed contracts shall register with the Secretary of State.

206 (3) The Secretary of State shall establish regulations to
207 register each establishment or organization selling preneed
208 merchandise or services. No establishment or organization shall
209 be registered to sell preneed merchandise or services that the
210 establishment or organization cannot lawfully provide at the time
211 of a person's death. The Secretary of State shall also maintain a
212 record of all individuals who are registered to sell preneed
213 merchandise or services through the registered establishment.

214 (4) The Secretary of State shall establish regulations to
215 register each person selling preneed contracts, including the
216 establishment through which the seller will be selling. No person
217 shall be registered to sell preneed contracts without indicating
218 the establishment for which he or she is selling.

219 (5) The Secretary of State shall develop and furnish the
220 forms necessary for the registration of establishments and
221 individuals selling preneed contracts.

222 (6) In addition to the requirements herein, all sellers of
223 preneed funeral services shall register with the State Board of

224 Funeral Service of the State of Mississippi as required in Section
225 1 of this act.

226 **SECTION 3.** This act shall take effect and be in force
227 from and after July 1, 2004.