

Senate Amendments to House Bill No. 1198

TO THE CLERK OF THE HOUSE:

THIS IS TO INFORM YOU THAT THE SENATE HAS ADOPTED THE AMENDMENTS SET OUT BELOW:

AMENDMENT NO. 1

Amend by striking all after the enacting clause and inserting in lieu thereof the following:

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

72 73-11-33. Sections 73-11-41 through 73-11-69, which create
73 the State Board of Funeral Service and prescribe its duties and
74 powers, shall stand repealed as of July 1, 2010.

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

77 73-11-41. The following terms shall have the meanings
78 ascribed herein unless the context shall otherwise require:

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

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

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

89 (d) "Funeral establishment" means a fixed place or
90 premise duly licensed by the board that is devoted to or used in
91 the immediate post death activities of custody, shelter, care,
92 preparation and/or embalming for final disposition of the body; or
93 used for religious services or other rites or ceremonies
94 associated with the final disposition of human dead; or maintained
95 or held out to the public by advertising or otherwise as such, for

96 the convenience and comfort of the bereaved and the community for
97 viewing or other services in connection with the human dead, and
98 as the office or place for carrying on the profession of funeral
99 service and/or funeral directing.

100 (e) "License for funeral establishment" means a license
101 issued to a place or premise devoted to or used in the immediate
102 post-death activities of custody, shelter, care, preparation
103 and/or embalming for final disposition of the body; or used for
104 religious services or other rites or ceremonies associated with
105 the final disposition of human dead; or maintained for the
106 convenience and comfort of the bereaved and the community for
107 viewing or other services in connection with the human dead, and
108 as the office or place for carrying on the profession of funeral
109 service and/or funeral directing.

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

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

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

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

119 (ii) Conducting immediate post-death activities;

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

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

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

126 (vi) The sale of funeral merchandise; or

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

130 This definition shall not include persons or corporations
131 engaging only in the preneed sale of funeral merchandise or
132 service.

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

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

142 (k) "Casket" is defined as a rigid container that is
143 designed for the encasement of human remains and that is usually
144 constructed of wood, metal, fiberglass, plastic or like material
145 and ornamented and lined with fabric.

146 (l) "Cremation" is the technical process, using heat,
147 that reduces human remains to bone fragments.

148 (m) "Crematory" is defined as any person, partnership
149 or corporation that performs cremation. A crematory must comply
150 with any applicable public health laws and rules and must contain
151 the equipment and meet all of the standards established by the
152 rules and regulations adopted by the board.

153 (n) "Direct cremation" means a disposition of human
154 remains by cremation without formal viewing, visitation or
155 ceremony with the body present.

156 (o) "Crematory operator" means the legal entity that
157 operates a crematory and performs cremations.

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

160 73-11-43. There is hereby created the State Board of Funeral
161 Service which shall consist of seven (7) members, one (1) funeral
162 service licensee and one (1) funeral director licensee to be
163 appointed from each Mississippi Supreme Court district. Three (3)
164 members shall have been licensed for the practice of funeral

165 service under this chapter for five (5) consecutive years and/or
166 have had at least five (5) consecutive years' experience as a
167 funeral director and embalmer in this state immediately preceding
168 his appointment. Three (3) members shall have been licensed for
169 the practice of funeral directing under this chapter for five (5)
170 consecutive years and/or have had at least five (5) consecutive
171 years' experience as a funeral director immediately preceding his
172 appointment. One (1) member shall be a public member and be
173 appointed from the public at large. The members of the board
174 shall be appointed by the Governor with the advice and consent of
175 the Senate. All appointments shall be for terms of four (4) years
176 from the expiration date of the previous term. No board member
177 shall serve more than two (2) consecutive full terms. Vacancies
178 in office shall be filled by appointment by the Governor in the
179 same manner as the appointment to the position which becomes
180 vacant, subject to the advice and consent of the Senate at the
181 next regular session of the Legislature. Appointments for
182 vacancies in office, except those from the public at large, may be
183 made from a joint list of four (4) qualified persons, two (2) each
184 submitted by the Mississippi Funeral Directors Association and the
185 Mississippi Funeral Directors and Morticians Association. Nothing
186 in this chapter or any other statute shall preclude the members of
187 the State Embalming Board from serving as members of the State
188 Board of Funeral Service.

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

191 73-11-45. The members of the board, before entering upon
192 their duties, shall take and subscribe to the oath of office
193 prescribed for other state officers, which oath shall be
194 administered by properly qualified authority and shall be filed in
195 the Office of the Secretary of State.

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

198 73-11-47. The board shall hold not less than two (2)
199 meetings annually for the purpose of conducting the business of

200 the board and for examining applications for licenses. Four (4)
201 or more members shall comprise a quorum. Any member who shall not
202 attend two (2) consecutive meetings of the board shall be subject
203 to removal by the Governor. The chairman of the board shall
204 notify the Governor in writing when any such member has failed to
205 attend two (2) consecutive regular meetings.

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

208 73-11-49. (1) The board is authorized to select from its
209 own membership a chairman, vice chairman and secretary-treasurer.
210 Election of officers shall be held at the first regularly
211 scheduled meeting of the fiscal year.

212 (2) All members of the board shall be reimbursed for their
213 necessary traveling expenses and mileage incident to their
214 attendance upon the business of the board, as provided in Section
215 25-3-41, and shall receive a per diem as provided in Section
216 25-3-69 for every day actually spent upon the business of the
217 board, not to exceed twenty (20) days per year unless authorized
218 by a majority vote of the board.

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

226 (4) The board shall employ an administrator of the board,
227 who shall have complete supervision and be held responsible for
228 the direction of the office of the board, shall have supervision
229 over field inspections and enforcement of the provisions of this
230 chapter, shall have such other duties as may be assigned by the
231 board, shall be responsible and answerable to the board. The
232 board may employ such other clerical assistants and employees as
233 may be necessary to carry out the provisions of this chapter, and
234 the terms and conditions of such employment shall be determined by

235 the board in accordance with applicable state law and rules and
236 regulations of the State Personnel Board.

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

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

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

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

269 (9) The board shall not adopt any rule or regulation
270 pertaining to the transportation of dead bodies, and shall not
271 adopt any rule or regulation requiring dead bodies to be embalmed
272 except as required by the State Department of Health's Rule 43 or
273 any subsequent rule adopted by the department.

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

276 73-11-51. (1) No person shall engage in the business or
277 practice of funeral service, including embalming, and/or funeral
278 directing or hold himself out as transacting or practicing or
279 being entitled to transact or practice funeral service, including
280 embalming, and/or funeral directing in this state unless duly
281 licensed under the provisions of this chapter.

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

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

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

290 (b) Have a high school diploma or the equivalent
291 thereof;

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

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

298 (e) Be of good moral character.

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

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

302 (b) Have a high school diploma or the equivalent
303 thereof;

304 (c) Have successfully completed twelve (12) months or
305 more of academic and professional instruction from an institution
306 accredited by the United States Department of Education for
307 funeral service education and have a certificate of completion
308 from an institution accredited by the American Board of Funeral
309 Service Education or any other successor recognized by the United
310 States Department of Education for funeral service education;

311 (d) Have served as a resident trainee for not less than
312 twelve (12) months, either before or after graduation from an
313 accredited institution mentioned above, under the supervision of a
314 person licensed for the practice of funeral service in this state
315 and in an establishment licensed in this state;

316 (e) Have successfully passed the National Conference of
317 Funeral Examiners examination as approved by the board; and

318 (f) Be of good moral character.

319 (5) All applications for examination and license for the
320 practice of funeral service or funeral directing shall be upon
321 forms furnished by the board and shall be accompanied by an
322 examination fee, a licensing fee and a nonrefundable application
323 fee in amounts fixed by the board in accordance with Section
324 73-11-56. The fee for an initial license, however, may be
325 prorated in proportion to the period of time from the date of
326 issuance to the date of biennial license renewal prescribed in
327 subsection (8) of this section. All applications for examination
328 shall be filed with the board office at least sixty (60) days
329 before the date of examination. A candidate shall be deemed to
330 have abandoned the application for examination if he does not
331 appear on the scheduled date of examination unless such failure to
332 appear has been approved by the board.

333 (6) The practice of funeral service or funeral directing
334 must be engaged in at a licensed funeral establishment, at least
335 one (1) of which is listed as the licensee's place of business;
336 and no person, partnership, corporation, association or other
337 organization shall open or maintain a funeral establishment at
338 which to engage in or conduct or hold himself or itself out as

339 engaging in the practice of funeral service or funeral directing
340 until such establishment has complied with the licensing
341 requirements of this chapter. A license for the practice of
342 funeral service or funeral directing shall be used only at
343 licensed funeral establishments; however, this provision shall not
344 prevent a person licensed for the practice of funeral service or
345 funeral directing from conducting a funeral service at a church, a
346 residence, public hall, lodge room or cemetery chapel, if such
347 person maintains a fixed licensed funeral establishment of his own
348 or is in the employ of or an agent of a licensed funeral
349 establishment.

350 (7) Any person holding a valid, unrevoked and unexpired
351 nonreciprocal license in another state or territory having
352 requirements greater than or equal to those of this state as
353 determined by the board may apply for a license to practice in
354 this state by filing with the board a certified statement from the
355 secretary of the licensing board of the state or territory in
356 which the applicant holds his license certifying to his
357 qualifications and good standing with that board by having
358 successfully passed a written and/or oral examination on the
359 Mississippi Funeral Service licensing law and rules and
360 regulations as prepared or approved by the board, and by paying a
361 nonrefundable application fee set by the board under Section
362 73-11-56. If the board finds that the applicant has fulfilled
363 substantially similar requirements, the board shall grant such
364 license upon receipt of a fee in an amount equal to the renewal
365 fee set by the board for a license for the practice of funeral
366 service or funeral directing, as the case may be, in this state.
367 The board may issue a temporary funeral service or funeral
368 directing work permit before a license is granted, before the next
369 regular meeting of the board, if the applicant for a reciprocal
370 license has complied with all requirements, rules and regulations
371 of the board. The temporary permit will expire at the next
372 regular meeting of the board.

373 (8) (a) Any person holding a license for the practice of
374 funeral service or funeral directing may have the same renewed for
375 a period of two (2) years by making and filing with the board an
376 application on or before the due date. Payment of the renewal fee
377 shall be in an amount set by the board in accordance with Section
378 73-11-56. The board shall mail the notice of renewal and the due
379 date for the payment of the renewal fee to the last known address
380 of each licensee at least thirty (30) days before that date. It
381 is the responsibility of the licensee to notify the board in
382 writing of any change of address. An application will be
383 considered late if the application and proper fees are not in the
384 board's office or postmarked by the due date.

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

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

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

406 (11) * * * A person who is licensed for the practice of
407 funeral service by another state is authorized to make a removal

408 of a deceased person, embalm a deceased person or conduct a
409 funeral or burial service in this state, and a funeral director
410 who is licensed by another state is authorized to conduct a
411 funeral or burial service in this state, in the same manner and to
412 the same extent as provided by the laws of that state to persons
413 licensed by the State of Mississippi for the practice of funeral
414 service or for the practice of funeral directing. The board is
415 authorized to enter into written agreements with those states
416 detailing the manner and extent to which persons licensed by the
417 State of Mississippi may practice funeral service or directing in
418 that state.

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

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

438 * * *

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

441 73-11-53. (1) A person desiring to become a resident
442 trainee for the practice of funeral service or funeral directing

443 shall make application to the board. Such application shall be
444 sustained by the licensee under whom the applicant is serving, and
445 shall be accompanied by a nonrefundable application fee in an
446 amount set by the board in accordance with Section 73-11-56. When
447 the board is satisfied as to the qualifications of an applicant,
448 it shall issue a certificate of resident traineeship. No credit
449 toward the resident traineeship will be allowed before the receipt
450 of a properly completed application and applicable fee at the
451 board office.

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

455 * * *

456 (3) A resident trainee must serve the apprenticeship in a
457 funeral establishment that is licensed by the State of Mississippi
458 and the preceptor must be a Mississippi licensee who is employed
459 by a Mississippi licensed funeral establishment.

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

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

469 73-11-55. (1) No person or party shall conduct, maintain,
470 manage or operate a funeral establishment or branch thereof unless
471 a license for each such establishment has been issued by the board
472 and is conspicuously displayed in such funeral establishment. In
473 case of funeral services held in any private residence, church,
474 cemetery, cemetery chapel, cemetery facility, or lodge hall, no
475 license shall be required.

476 (2) To be licensed as a funeral establishment, a place or
477 premise must be at a fixed and specified address or location and

478 must be used for immediate post-death activities, whether used for
479 the custody, shelter, care, preparation and/or embalming of the
480 human dead. Every funeral establishment shall be under the charge
481 and personal supervision of a Mississippi funeral director
482 licensee or a Mississippi funeral service licensee. The licensee
483 in charge and the licensee with personal supervisory
484 responsibilities need not be the same licensee. Each licensed
485 funeral establishment shall be inspected at least once during each
486 licensing period. Such inspections may be unannounced. After
487 inspection of a funeral establishment, if the board cites the
488 funeral establishment for failure to comply with any provision of
489 this chapter or a rule or regulation of the board, the funeral
490 establishment shall resolve the violation to the satisfaction of
491 the board and be in full compliance with this chapter and board
492 rules and regulations not later than thirty (30) days after the
493 board files the inspection report.

494 (3) (a) A funeral establishment must contain a preparation
495 and/or embalming room, adequate casket and/or vault selection
496 room, and holding facilities or proper room or rooms in which
497 rites and ceremonies may be held. A funeral establishment shall
498 be subject to an inspection at least once during a two-year
499 license period. Each new establishment must be inspected before
500 the opening. All portions of each facility licensed under this
501 section shall be kept in a clean and sanitary condition.

502 (b) A branch establishment must contain an office
503 and/or an arrangement room, and a room for viewing and/or a chapel
504 or proper place for ceremonies. A branch establishment need not
505 meet all requirements specified in paragraph (a) of this
506 subsection and need not be under the personal supervision of a
507 Mississippi funeral director licensee or a Mississippi funeral
508 service licensee.

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

512 supervision of a Mississippi funeral director licensee or a
513 Mississippi funeral service licensee.

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

518 (4) Applications for funeral establishment licenses, branch
519 establishment licenses or commercial mortuary service licenses
520 shall be made on blanks furnished by the board and shall be
521 accompanied by a fee in an amount fixed by the board under Section
522 73-11-56. All establishment licenses shall be issued for a period
523 of two (2) years, except initial licenses may be prorated from the
524 date of issuance to the next renewal date.

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

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

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

543 (7) A license for each new establishment * * * shall not be
544 issued until an inspection has been made, license and inspection
545 fees have been paid, and the licensee in charge and/or owners of

546 such establishment has been interviewed by the board or its
547 designee.

548 * * *

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

552 **SECTION 10.** Section 73-11-56, Mississippi Code of 1972, is
553 reenacted as follows:

554 73-11-56. On or before October 1 of each year, the board
555 shall determine the amount of funds that will be required during
556 the next ensuing two (2) years to properly administer the laws
557 which the board is directed to enforce and administer and by rule
558 and regulation shall fix fees in such reasonable sums as may be
559 necessary for such purposes within the following limitations:

560 Funeral establishment:

561	Application fee, not more than.....	\$150.00
562	Inspection fee, not more than.....	\$ 75.00
563	Funeral establishment license fee, not more than....	\$150.00
564	Branch establishment license fee, not more than.....	\$150.00
565	Commercial mortuary service license fee, not	
566	more than.....	\$150.00
567	Renewal application and license fee, not more than...	\$300.00
568	Special work permit.....	\$150.00

569 Funeral service:

570	Application fee, not more than.....	\$ 50.00
571	Reciprocal application fee, not more than.....	\$100.00
572	License fee, not more than.....	\$ 75.00
573	Renewal license fee, not more than.....	\$ 75.00
574	Work permit, not more than.....	\$ 50.00
575	Examination fee.....	Cost of the examination

576 Funeral director:

577	Application fee, not more than.....	\$ 50.00
578	Reciprocal application fee, not more than.....	\$100.00
579	License fee, not more than.....	\$ 50.00
580	Renewal license fee, not more than.....	\$ 50.00

581 Work permit, not more than..... \$ 50.00
582 Examination fee..... Cost of the examination
583 Resident trainee certificate:
584 Funeral service application fee, not more than..... \$ 50.00
585 Funeral director application fee, not more than..... \$ 50.00
586 Funeral service renewal application fee,
587 not more than..... \$ 50.00
588 Funeral director renewal application fee,
589 not more than..... \$ 50.00
590 Other fees:
591 Duplicate license fee, not more than..... \$ 25.00
592 Reinstatement of lapsed license fee, equal to the
593 amount of the applicable license fee.

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

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

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

602 73-11-57. (1) The board may refuse to examine or to issue
603 or renew, or may suspend or revoke, any license, or may reprimand
604 or place the holder thereof on a term of probation, after proper
605 hearing, upon finding the holder of such license to be guilty of
606 acts of commission or omission including the following:

- 607 (a) The employment of fraud or deception in applying
608 for a license or in passing the examination provided for in this
609 chapter;
- 610 (b) The erroneous issuance of a license to any person;
- 611 (c) The conviction of a felony by any court in this
612 state or any federal court or by the court of any other state or
613 territory of the United States;
- 614 (d) The practice of embalming under a false name or
615 without a license for the practice of funeral service;

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

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

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

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

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

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

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

650 * * *

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

654 (m) Knowingly making a false statement on death
655 certificates; or

656 (n) Unprofessional conduct which includes, but is not
657 limited to:

658 (i) Retaining a dead human body for the payment of
659 a fee for the performance of services that are not
660 authorized * * *;

661 (ii) Knowingly performing any act which in any way
662 assists an unlicensed person to practice funeral service or
663 funeral directing;

664 (iii) Being guilty of any dishonorable conduct
665 likely to deceive, defraud or harm the public;

666 (iv) Any act or omission in the practice of
667 funeral service or directing which constitutes dishonesty, fraud
668 or misrepresentation with the intent to benefit the licensee,
669 another person or funeral establishment, or with the intent to
670 substantially injure another person, licensee or funeral
671 establishment; or

672 (v) Any act or conduct, whether the same or of a
673 different character than specified above, which constitutes or
674 demonstrates bad faith, incompetency or untrustworthiness; or
675 dishonest, fraudulent or improper dealing; or any other violation
676 of the provisions of this chapter, the rules and regulations
677 established by the board or any rule or regulation promulgated by
678 the Federal Trade Commission relative to the practice of funeral
679 service or funeral directing.

680 (2) The board may, upon satisfactory proof that the
681 applicant or licensee has been guilty of any of the offenses above
682 enumerated, refuse to examine or issue a license to the applicant,
683 or may refuse to renew or revoke or suspend the license of the
684 licensee, or place on probation or reprimand him, upon a majority
685 vote of the board members, after a hearing thereon. The board

686 is * * * vested with full power and authority to hold and conduct
687 such hearings, compel the attendance of witnesses and the
688 production of books, records and documents, issue subpoenas
689 therefor, administer oaths, examine witnesses, and do all things
690 necessary to properly conduct such hearings. The board may waive
691 the necessity of a hearing if the person accused of a violation
692 admits that he has been guilty of such offense. Any person who
693 has been refused a license or whose license has been revoked or
694 suspended may, within thirty (30) days after the decision of the
695 board, file with the board a written notice stating that he feels
696 himself aggrieved by such decision and may appeal therefrom to the
697 circuit court of the county and judicial district of residence of
698 the person, or if the person is a nonresident of the State of
699 Mississippi, to the Circuit Court of the First Judicial District
700 of Hinds County. Upon the filing of such notice, the secretary of
701 the board shall transmit to the clerk of the circuit court the
702 records and findings of such proceedings. The circuit court shall
703 hear and determine as to whether the action of the board was in
704 accord or consistent with law, or was arbitrary, unwarranted or in
705 abuse of discretion. An appeal from the circuit court judgment or
706 decree may be reviewed by the Supreme Court as is provided by law
707 for other appeals. An appeal of a decision or order of the board
708 does not act as a supersedeas.

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

715 (a) For the first violation of any of the subparagraphs
716 of subsection (1) of this section, a monetary penalty of * * *
717 Five Hundred Dollars (\$500.00).

718 (b) For the second violation of any of the
719 subparagraphs of subsection (1) of this section, a monetary
720 penalty of * * * One Thousand Dollars (\$1,000.00).

721 (c) For the third and any subsequent violation of any
722 of the subparagraphs of subsection (1) of this section, a monetary
723 penalty of * * * Five Thousand Dollars (\$5,000.00).

724 (d) For any violation of any of the subparagraphs of
725 subsection (1) of this section, those reasonable costs that are
726 expended by the board in the investigation and conduct of a
727 proceeding for licensure revocation or suspension, including, but
728 not limited to, the cost of process service, court reporters,
729 expert witnesses and investigators.

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

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

740 (6) Any monetary penalty assessed and levied under this
741 section shall not take effect until after the time for appeal
742 shall have expired.

743 (7) A monetary penalty assessed and levied under this
744 section shall be paid to the board by the licensee upon the
745 expiration of the period allowed for appeal of such penalties
746 under this section or may be paid sooner if the licensee elects.
747 With the exception of subsection (3)(d) of this section, monetary
748 penalties collected by the board under this section shall be
749 deposited in the State Treasury to the credit of the State Board
750 of Funeral Service. Any monies collected by the board under
751 subsection (3)(d) of this section shall be deposited into the
752 special fund operating account of the board.

753 (8) When payment of a monetary penalty assessed and levied
754 by the board against a licensee in accordance with this section is
755 not paid by the licensee when due under this section, the board

756 shall have power to institute and maintain proceedings in its name
757 for enforcement of payment in the chancery court of the county and
758 judicial district of residence of the licensee, or if the licensee
759 is a nonresident of the State of Mississippi, * * * in the
760 Chancery Court of the First Judicial District of Hinds County,
761 Mississippi.

762 (9) In addition to the reasons specified in subsection (1)
763 of this section, the board shall be authorized to suspend the
764 license of any licensee for being out of compliance with an order
765 for support, as defined in Section 93-11-153. The procedure for
766 suspension of a license for being out of compliance with an order
767 for support, and the procedure for the reissuance or reinstatement
768 of a license suspended for that purpose, and the payment of any
769 fees for the reissuance or reinstatement of a license suspended
770 for that purpose, shall be governed by Section 93-11-157 or
771 93-11-163, as the case may be. Actions taken by the board in
772 suspending a license when required by Section 93-11-157 or
773 93-11-163 are not actions from which an appeal may be taken under
774 this section. Any appeal of a license suspension that is required
775 by Section 93-11-157 or 93-11-163 shall be taken in accordance
776 with the appeal procedure specified in Section 93-11-157 or
777 93-11-163, as the case may be, rather than the procedure specified
778 in this section. If there is any conflict between any provision
779 of Section 93-11-157 or 93-11-163 and any provision of this
780 chapter, the provisions of Section 93-11-157 or 93-11-163, as the
781 case may be, shall control.

782 **SECTION 12.** The following shall be codified as Section
783 73-11-58, Mississippi Code of 1972:

784 73-11-58. (1) If a decedent has left no written
785 authorization for the cremation and or disposition of the
786 decedent's body as permitted by law, the following competent
787 persons, in the order of priority listed below, may authorize the
788 type, method, place, cremation and or other disposition of the
789 decedent's body:

790 (a) The surviving spouse.

791 (b) The surviving children who are at least eighteen
792 (18) years of age and can be located after reasonable efforts.

793 (c) The surviving parents.

794 (d) The surviving siblings who are at least eighteen
795 (18) years of age and can be located after reasonable efforts.

796 (e) A person in the class of the next degree of
797 kinship, in descending order, who, under state law, would inherit
798 the decedent's estate if the decedent died intestate who are at
799 least eighteen (18) years of age and can be located with
800 reasonable effort.

801 (f) A person who has exhibited special care and concern
802 for the decedent and is willing and able to make decisions about
803 the cremation and disposition.

804 (g) In the case of indigents or any other individuals
805 whose final disposition is the responsibility of the state or any
806 of its instrumentalities, a public administrator, medical
807 examiner, coroner, state-appointed guardian, or any other public
808 official charged with arranging the final disposition of the
809 decedent may serve as the authorizing agent.

810 (h) In the case of individuals who have donated their
811 bodies to science or whose death occurred in a nursing home or
812 private institution and in which the institution is charged with
813 making arrangements for the final disposition of the decedent, a
814 representative of the institution may serve as the authorizing
815 agent in the absence of any of the above.

816 (i) In the absence of any of the above, any person
817 willing to assume responsibility for the cremation and disposition
818 of the decedent.

819 (2) No funeral establishment shall accept a dead human body
820 from any public officer or employee or from the official of any
821 institution, hospital or nursing home, or from a physician or any
822 person having a professional relationship with a decedent, without
823 having first made due inquiry as to the desires of the persons who
824 have the legal authority to direct the disposition of the
825 decedent's body. If any persons are found, their authority and

826 directions shall govern the disposal of the remains of the
827 decedent. Any funeral establishment receiving the remains in
828 violation of this subsection shall make no charge for any service
829 in connection with the remains before delivery of the remains as
830 stipulated by the persons having legal authority to direct the
831 disposition of the body. This section shall not prevent any
832 funeral establishment from charging and being reimbursed for
833 services rendered in connection with the removal of the remains of
834 any deceased person in case of accidental or violent death and
835 rendering necessary professional services required until the
836 persons having legal authority to direct the disposition of the
837 body have been notified,

838 **SECTION 13.** Section 73-11-59, Mississippi Code of 1972, is
839 reenacted and amended as follows:

840 73-11-59. Any person, partnership, corporation, association
841 or his or her or its agents or representatives who shall violate
842 any of the provisions of this chapter shall be deemed guilty of a
843 misdemeanor and, upon conviction thereof, shall be punished by a
844 fine of Five Thousand Dollars (\$5,000.00), or by imprisonment for
845 not more than six (6) months in the county jail, or by both such
846 fine and imprisonment.

847 **SECTION 14.** Section 73-11-61, Mississippi Code of 1972, is
848 reenacted as follows:

849 73-11-61. Every funeral director or funeral service licensee
850 shall provide, before the rendering of services, the funeral
851 establishment's current general price list, casket price list,
852 outer container price list, and a statement of goods and services
853 to the person or persons who authorize the services and is
854 responsible for payment of the expenses therefor, in a manner and
855 format as prescribed by the Federal Trade Commission's Funeral
856 Rule of 1984 and any future changes with regard to required
857 disclosures. The general price list must be made available to any
858 person upon request.

859 **SECTION 15.** Section 73-11-63, Mississippi Code of 1972, is
860 reenacted and amended as follows:

861 73-11-63. Nothing in this chapter shall be construed to
862 authorize the regulation or licensing of cemeteries or cemetery
863 chapels * * * by the board, except the regulation or licensing of
864 any funeral establishment operated by a cemetery. In addition,
865 nothing in this chapter shall be construed to prevent or interfere
866 with the ceremonies, customs, religious rites or religion of any
867 people, denomination, or sect, or to prevent or interfere with any
868 religious denomination, sect or anybody composed of persons of a
869 denomination, or to prevent or interfere with any church or
870 synagogue from having its committee or committees prepare human
871 bodies for burial or the families, friends or neighbors of
872 deceased persons who prepare and bury their dead without charge.

873 **SECTION 16.** Section 73-11-65, Mississippi Code of 1972, is
874 reenacted as follows:

875 73-11-65. Every funeral service or interment, or part
876 thereof, that is conducted in Mississippi must be in the actual
877 charge and under the supervision of a funeral director or funeral
878 service licensee who is licensed under this chapter. However,
879 this section shall not prevent a family from burying its own dead
880 without charge.

881 **SECTION 17.** Section 73-11-67, Mississippi Code of 1972, is
882 reenacted and amended as follows:

883 73-11-67. Every person, establishment or company not
884 licensed under this chapter that sells caskets at retail shall
885 register annually with the board. * * * The names of registrants
886 under this section shall be made available to any person upon
887 request during the regular business hours of the board. The
888 procedure for conducting a disciplinary proceeding against any
889 casket retailer accused of failing to register with the board, as
890 well as the penal sanctions available to the board, shall be the
891 same as those set forth in Section 73-11-57.

892 **SECTION 18.** Section 73-11-69, Mississippi Code of 1972, is
893 reenacted and amended as follows:

894 73-11-69. (1) No person shall operate a crematory facility
895 in this state unless the person is licensed by the State Board of

896 Funeral Service. An application for a crematory facility license
897 shall be accompanied by a fee in an amount not to exceed the fee
898 fixed by the board for a funeral establishment license.

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

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

913 (4) The board shall inspect each licensed crematory facility
914 during each licensure period, and at such other times as
915 necessary, to verify that the crematory facility is in compliance
916 with the requirements of this section. Any person who operates a
917 crematory facility in this state without a license, or any person
918 who otherwise violates any provision of this section, is guilty of
919 a felony. Upon conviction for a violation of this section, in
920 addition to any penalty that may be imposed by the court, the
921 board may revoke the person's crematory facility license.

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

925 (6) Any crematory or funeral establishment may dispose of
926 any remains unclaimed by the family after twelve (12) months after
927 cremation by scattering or burial upon a final notification to the
928 next of kin by certified mail to their last known address.

929 **SECTION 19.** This act shall take effect and be in force from
930 and after July 1, 2005.

Further, amend by striking the title in its entirety and inserting in lieu thereof the following:

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 73-11-69,
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 CERTAIN
8 TERMS; TO AMEND REENACTED SECTION 73-11-49, MISSISSIPPI CODE OF
9 1972, TO CLARIFY THE LANGUAGE THAT PROHIBITS THE BOARD FROM
10 ADOPTING RULES OR REGULATIONS PERTAINING TO THE TRANSPORTATION OF
11 DEAD BODIES; TO AMEND REENACTED SECTION 73-11-51, MISSISSIPPI CODE
12 OF 1972, TO SPECIFY THE EXAMINATION THAT AN APPLICANT MUST PASS TO
13 BE LICENSED FOR THE PRACTICE OF FUNERAL SERVICE; TO PROVIDE THAT
14 THE BOARD MAY ISSUE LICENSES BY RECIPROCITY TO PERSONS HOLDING A
15 NONRECIPROCAL LICENSE IN ANOTHER STATE HAVING REQUIREMENTS GREATER
16 THAN OR EQUAL TO THOSE OF THIS STATE; TO AUTHORIZE THE BOARD TO
17 ENTER INTO WRITTEN AGREEMENTS WITH OTHER STATES DETAILING THE
18 MANNER AND EXTENT TO WHICH PERSONS LICENSED BY THE STATE OF
19 MISSISSIPPI MAY PRACTICE FUNERAL SERVICE OR DIRECTING IN THOSE
20 STATES; TO AMEND REENACTED SECTION 73-11-53, MISSISSIPPI CODE OF
21 1972, TO PROVIDE THAT RESIDENT TRAINEES MUST SERVE THEIR
22 APPRENTICESHIP IN A FUNERAL ESTABLISHMENT LICENSED BY THE STATE OF
23 MISSISSIPPI AND THEIR PRECEPTOR MUST BE A MISSISSIPPI LICENSEE WHO
24 IS EMPLOYED BY A MISSISSIPPI LICENSED FUNERAL ESTABLISHMENT; TO
25 AMEND REENACTED SECTION 73-11-55, MISSISSIPPI CODE OF 1972, TO
26 REQUIRE FUNERAL ESTABLISHMENTS TO RESOLVE VIOLATIONS FOUND DURING
27 INSPECTIONS AND BE IN FULL COMPLIANCE WITH STATE LAW AND
28 REGULATIONS WITHIN THIRTY DAYS AFTER FILING OF THE INSPECTION
29 REPORT; TO DELETE THE REQUIREMENT FOR INSPECTION AND INTERVIEW
30 BEFORE A CHANGE OF LOCATION, CHANGE OF OWNERSHIP, OR REINSTATEMENT
31 OF AN ESTABLISHMENT IS AUTHORIZED; TO DELETE THE PROHIBITION ON
32 OPERATORS OF A FUNERAL ESTABLISHMENT FROM ALLOWING PERSONS
33 LICENSED FOR THE PRACTICE OF FUNERAL SERVICE OR FUNERAL DIRECTING
34 TO OPERATE OUT OF THE FUNERAL ESTABLISHMENT UNLESS THE LICENSEE IS
35 THE OPERATOR OF OR AN EMPLOYEE OF THE OPERATOR OF A FUNERAL
36 ESTABLISHMENT THAT HAS BEEN ISSUED A LICENSE BY THE BOARD; TO
37 AMEND REENACTED SECTION 73-11-57, MISSISSIPPI CODE OF 1972, TO
38 DELETE AS A GROUND FOR DISCIPLINARY ACTION THE FAILURE TO COMPLY
39 WITH AN ORDER OF THE BOARD WITHIN THIRTY DAYS; TO PROVIDE THAT
40 MAKING A FALSE STATEMENT ON A DEATH CERTIFICATE MUST BE DONE
41 KNOWINGLY IN ORDER TO BE GROUNDS FOR DISCIPLINARY ACTION; TO
42 PROVIDE THAT APPEALS OF DISCIPLINARY ACTIONS OF THE BOARD SHALL BE
43 MADE TO THE CIRCUIT COURT OF THE COUNTY AND JUDICIAL DISTRICT OF
44 RESIDENCE OF THE APPELLANT; TO PROVIDE THAT THE AMOUNT OF THE
45 MONETARY PENALTIES THAT THE BOARD MAY IMPOSE SHALL BE A STATED
46 AMOUNT RATHER THAN HAVING A MINIMUM AND MAXIMUM AMOUNT; TO PROVIDE
47 THAT MONETARY PENALTIES COLLECTED BY THE BOARD SHALL BE DEPOSITED
48 IN THE STATE TREASURY TO THE CREDIT OF THE STATE BOARD OF FUNERAL
49 SERVICE INSTEAD OF THE STATE GENERAL FUND; TO CREATE NEW SECTION
50 73-11-58, MISSISSIPPI CODE OF 1972, TO SPECIFY A LIST OF PERSONS
51 THAT MAY AUTHORIZE THE TYPE, METHOD, PLACE, CREMATION AND OR OTHER
52 DISPOSITION OF A DECEDENT'S BODY IF THE DECEDENT HAS LEFT NO
53 WRITTEN AUTHORIZATION FOR THE CREMATION AND OR DISPOSITION OF HIS
54 BODY; TO AMEND REENACTED SECTION 73-11-59, MISSISSIPPI CODE OF
55 1972, TO PROVIDE THAT THE AMOUNT OF THE CRIMINAL PENALTIES FOR
56 VIOLATIONS OF THE FUNERAL SERVICE LICENSURE LAW SHALL BE A STATED
57 AMOUNT RATHER THAN HAVING A MINIMUM AND MAXIMUM AMOUNT; TO AMEND
58 REENACTED SECTION 73-11-63, MISSISSIPPI CODE OF 1972, TO REMOVE
59 THE PROHIBITION ON THE BOARD REGULATION OF CEMETERY CREMATORIES;
60 TO AMEND REENACTED SECTION 73-11-67, MISSISSIPPI CODE OF 1972, TO
61 DELETE THE PROVISION THAT RETAIL SELLERS OF CASKETS ARE NOT
62 SUBJECT TO REGULATION OR SUPERVISION BY THE BOARD; TO AMEND
63 REENACTED SECTION 73-11-69, MISSISSIPPI CODE OF 1972, TO PROVIDE
64 THAT THE BOARD SHALL INSPECT EACH LICENSED CREMATORY FACILITY

65 DURING EACH LICENSURE PERIOD; TO AUTHORIZE CREMATORIES AND FUNERAL
66 ESTABLISHMENTS TO DISPOSE OF ANY REMAINS UNCLAIMED BY THE FAMILY
67 AFTER TWELVE MONTHS AFTER CREMATION UPON NOTIFICATION TO THE NEXT
68 OF KIN; AND FOR RELATED PURPOSES.

SS26\HB1198PS.J

John O. Gilbert
Secretary of the Senate