

By: Banks

To: Insurance

HOUSE BILL NO. 1398

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; AND FOR RELATED PURPOSES.

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

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

7 73-11-51. (1) No person shall engage in the business or
8 practice of funeral service, including embalming, and/or funeral
9 directing or hold himself out as transacting or practicing or
10 being entitled to transact or practice funeral service, including
11 embalming, and/or funeral directing in this state unless duly
12 licensed pursuant to the provisions of this chapter.

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

18 (3) To be licensed for the practice of funeral directing
19 under this chapter, a person must (a) be at least eighteen (18)
20 years of age; (b) have a high school diploma or the equivalent
21 thereof; (c) have served as a resident trainee for not less than
22 twenty-four (24) months under the supervision of a person licensed
23 for the practice of funeral service or funeral directing in this
24 state; (d) have successfully passed a written and/or oral
25 examination as prepared or approved by the board; (e) be of good
26 moral character; and (f) have completed at least three (3) hours

27 of continuing education units in areas related to the federal
28 Occupational Safety and Health Act (OSHA) standards. An
29 individual who has reached the age of sixty (60) and has been
30 licensed for at least fifteen (15) years may be exempted from this
31 requirement.

32 (4) To be licensed for the practice of funeral service under
33 this chapter, a person must (a) be at least eighteen (18) years of
34 age; (b) have a high school diploma or the equivalent thereof; (c)
35 have satisfactorily completed twelve (12) months or more of
36 academic and professional instruction from an institution
37 accredited by the American Board of Funeral Service Education or
38 any other successor recognized by the United States Department of
39 Education for funeral service education; (d) have served as a
40 resident trainee for not less than twelve (12) months, either
41 prior to or after graduation from an accredited institution
42 mentioned above, under the supervision of a person licensed for
43 the practice of funeral service in this state or having the prior
44 equivalent license of this state; (e) have successfully passed a
45 written and/or oral examination as prepared or approved by the
46 board; (f) be of good moral character; and (g) have completed at
47 least three (3) hours of continuing education units in areas
48 related to the federal Occupational Safety and Health Act (OSHA)
49 standards. An individual who has reached the age of sixty (60)
50 and has been licensed for at least fifteen (15) years may be
51 exempted from this requirement.

52 (5) All applications for examination and license for the
53 practice of funeral service or funeral directing shall be upon
54 forms furnished by the board and shall be accompanied by an
55 examination fee, a licensing fee and a nonrefundable application
56 fee in amounts fixed by the board in accordance with Section
57 73-11-56. The fee for an initial license, however, may be
58 prorated in proportion to the period of time from the date of
59 issuance to the date of biennial license renewal prescribed in
60 subsection (8) of this section. All applications for examination
61 shall be filed with the board office at least sixty (60) days
62 prior to date of examination. A candidate shall be deemed to have
63 abandoned the application for examination if he does not appear on

64 the scheduled date of examination unless such failure to appear
65 has been approved by the board.

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

83 (7) Any person holding a valid, unrevoked and unexpired
84 license in another state or territory having requirements
85 substantially similar to those of this state may apply for a
86 license to practice in this state by filing with the board a
87 certified statement from the secretary of the licensing board of
88 the state or territory in which the applicant holds his license
89 certifying to his qualifications and good standing with that board
90 by having successfully passed a written and/or oral examination on
91 the Mississippi Funeral Service licensing law and rules and
92 regulations as prepared or approved by the board, and by paying a
93 nonrefundable application fee set by the board pursuant to Section
94 73-11-56. If the board finds that the applicant has fulfilled
95 substantially similar requirements, the board shall grant such
96 license upon receipt of a fee in an amount equal to the renewal

97 fee set by the board for a license for the practice of funeral
98 service or funeral directing, as the case may be, in this state.
99 The board may issue a temporary funeral service or funeral
100 directing work permit before a license is granted, prior to the
101 next regular meeting of the board, if the applicant for a
102 reciprocal license has complied with all requirements, rules and
103 regulations of the board. The temporary permit will expire at the
104 next regular meeting of the board.

105 (8) (a) Any person holding a license for the practice of
106 funeral service or funeral directing may have the same renewed for
107 a period of two (2) years by making and filing with the board an
108 application therefor within thirty (30) days preceding the
109 expiration of his license on forms provided by the board and upon
110 payment of a renewal fee in an amount set by the board in
111 accordance with Section 73-11-56. The board shall mail a notice
112 of the due date for payment of the renewal fee to the last known
113 address of each licensee at least thirty (30) days prior to such
114 date.

115 (b) If the renewal fee is not paid on or before the
116 date that it is due, a late fee, as prescribed by Section
117 73-11-56, in addition to the regular renewal fee, shall be
118 required. A period of thirty (30) days shall be allowed after the
119 expiration of a license, during which time the license may be
120 renewed on the payment of the renewal fee plus the applicable late
121 fee. If a person fails to renew his license during the aforesaid
122 thirty-day period, the license of such person shall by operation
123 of law automatically expire and become void without further action
124 of the board. The board may reinstate such license if application
125 for licensure is made within a period of five (5) years, upon
126 payment of the renewal fee for the current year, all fees in
127 arrears, late fees and a reinstatement fee as set by the board.
128 After such five-year period, the license may be reinstated only by
129 payment of the renewal fee for the current year, all renewal fees

130 in arrears, late fees plus a reinstatement fee and by the licensee
131 successfully passing a written and/or oral examination as prepared
132 or approved by the board.

133 (c) The expiration date of each license issued or
134 renewed shall be established by rules and regulations of the
135 board. Subject to the provisions of this subsection, each license
136 shall be renewable on a biennial basis upon filing of a renewal
137 application and upon payment of the renewal fee established
138 pursuant to Section 73-11-56. To provide for a system of biennial
139 renewal of licenses, the board may provide by rules and
140 regulations that licenses issued or renewed for the first time
141 after July 1, 1994, may expire less than two (2) years from the
142 date of issuance or renewal. In each case in which a license is
143 issued or renewed for a period of time less than two (2) years,
144 the board shall prorate to the nearest whole month the license or
145 renewal fee established pursuant to Section 73-11-56. The
146 provisions of this paragraph (c) shall not apply to the resident
147 trainee certificate or period of resident traineeship under
148 Section 73-11-53.

149 (9) Any person holding on July 1, 1984, a license to
150 practice embalming shall be entitled to a license for either of
151 the named licenses upon meeting the same terms and conditions as
152 are herein provided for the renewal of licenses of those who may
153 be licensed after July 1, 1984. Any person in this state engaged
154 in the practice of funeral directing on July 1, 1984, either as an
155 owner of a funeral establishment or an employee thereof, who has
156 had experience as a funeral director for at least two (2) years
157 within the five (5) years immediately preceding July 1, 1984,
158 shall be entitled to a license for funeral directing upon meeting
159 the same terms and conditions as are herein provided for the
160 renewal of licenses for the practice of funeral directing.
161 However, from and after July 1, 1991, the board shall issue
162 licenses only as provided for under the provisions of subsections

163 (3) and (4) of this section.

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

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

182 (12) Each application or filing made under this section
183 shall include the social security number(s) of the applicant in
184 accordance with Section 93-11-64, Mississippi Code of 1972.

185 (13) All sellers of preneed funeral services shall register
186 with the board and pay a registration fee of Twenty-five Dollars
187 (\$25.00) every two (2) years to be eligible to conduct business in
188 the State of Mississippi. Any person, firm, corporation or other
189 entity who does not register and pay the registration fee shall be
190 guilty of a misdemeanor and, upon conviction, shall be fined One
191 Thousand Dollars (\$1,000.00). All registered sellers of preneed
192 funeral services must have a contract with a licensed funeral
193 establishment at a specified price in order to provide such
194 services and copies of such contracts shall be provided to the
195 board. For the purposes of this subsection, "preneed funeral

196 services" means a contract or agreement for the arrangement for
197 the disposition of dead human bodies, including, but not limited
198 to, the sale of caskets, vaults, clothing, urns and any necessary
199 services related thereto.

200 SECTION 2. This act shall take effect and be in force from
201 and after July 1, 2000.