

By: Representative Banks

To: Insurance

HOUSE BILL NO. 913

1 AN ACT TO AUTHORIZE A FUNERAL SERVICES PROVIDER TO OBTAIN
 2 CERTAIN INFORMATION REGARDING A DECEASED PERSON'S LIFE INSURANCE;
 3 TO REQUIRE SUCH INFORMATION TO BE PROVIDED WITHIN TWO BUSINESS
 4 DAYS OF RECEIPT OF REQUEST; TO AMEND SECTION 73-11-57, MISSISSIPPI
 5 CODE OF 1972, TO CONFORM TO THE PRECEDING SECTION; AND FOR RELATED
 6 PURPOSES.

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

8 **SECTION 1.** (1) Any person licensed to practice funeral
 9 directing or any employee of a licensed funeral establishment
 10 providing funeral service for a deceased person insured or
 11 believed to be insured under a contract of life insurance or under
 12 a group life insurance policy may request information regarding
 13 the deceased person's life insurance contracts by providing an
 14 insurer with (a) a copy of a notification of death, (b) written
 15 authorization from the person or persons with legal authority to
 16 direct disposition of the deceased's body, and (c) in the case of
 17 a person covered or believed to be covered under a group life
 18 insurance policy, the affiliation of the deceased entitling them
 19 to coverage under the group life insurance policy.



20 (2) Within two (2) business days after receipt of the
21 request made in accordance with subsection (1) of this section,
22 the life insurance company shall inform the person authorized by
23 this section to make an inquiry of the following:

24 (a) The existence of any contract insuring the life of
25 the deceased person.

26 (b) Any beneficiaries on record under any life
27 insurance contract insuring the life of the deceased person.

28 (c) The amount of any liens or loans outstanding on the
29 policy.

30 (d) The amount of benefits payable to the
31 beneficiaries.

32 (e) Whether the policy has been reinstated within the
33 last twenty-four (24) months. The insurer shall provide a claim
34 form to any person or assignee making the request.

35 (3) If any person making a written request under subsection
36 (1) of this section who has provided all the information required
37 by subsection (1) of this section does not receive a response from
38 the insurer within two (2) business days, then the person may
39 refer the request to the Office of Consumer Protection of the
40 Attorney General, which shall treat the referral as a consumer
41 complaint. The referral shall include all the information
42 provided to the insurer under subsection (1) of this section as
43 well as copies of all communications and information received from
44 the insurer regarding the request for information.



45 (4) If the beneficiary of record under the life insurance
46 contract or group life insurance policy is not the estate of the
47 deceased, then any person authorized to request information under
48 subsection (1) of this section shall make reasonable efforts to
49 locate the beneficiaries within one hundred (100) hours of
50 receiving information from the insurance carrier regarding any
51 life insurance contracts or group life insurance policies and
52 shall provide to all beneficiaries all documents and information
53 obtained from the insurance carrier. The person obtaining the
54 information also shall inform all beneficiaries in writing in bold
55 print that "THE BENEFICIARY OF A LIFE INSURANCE POLICY HAS NO
56 LEGAL DUTY OR OBLIGATION TO SPEND ANY OF THAT MONEY ON THE
57 FUNERAL, DEBTS, OR OBLIGATIONS OF THE DECEASED" and shall do so
58 before discussing with the beneficiaries financial arrangements
59 for burial of the deceased.

60 (5) Any licensee or employee of a licensed funeral
61 establishment who makes a false request for information under this
62 section or fails to do that required by subsection (4) of this
63 section shall be deemed to have committed unprofessional conduct
64 in the practice of funeral service or funeral directing as defined
65 in Section 73-11-57(1)(p) and unfit to practice funeral service or
66 be a funeral director.

67 **SECTION 2.** Section 73-11-57, Mississippi Code of 1972, is
68 amended as follows:



69 73-11-57. (1) The board, upon satisfactory proof at proper
70 hearing and in accordance with the provisions of this chapter and
71 the regulations of the board, may suspend, revoke, or refuse to
72 issue or renew any license under this chapter, reprimand or place
73 the holder of a license on a term of probation, and/or take any
74 other action in relation to a license as the board may deem proper
75 under the circumstances upon any of the following grounds:

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

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

80 (c) The conviction of a felony by any court in this
81 state or any federal court or by the court of any other state or
82 territory of the United States; having been convicted of or pled
83 guilty to a felony in the courts of this state or any other state,
84 territory or country which would prevent a person from holding
85 elected office. Conviction, as used in this paragraph, shall
86 include a deferred conviction, deferred prosecution, deferred
87 sentence, finding or verdict of guilt, an admission of guilty, or
88 a plea of nolo contendere;

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

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



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

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

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

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



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

123 (k) Failure to give full cooperation to the board
124 and/or its designees, agents or other representatives in the
125 performance of official duties of the board. Such failure to
126 cooperate includes, but is not limited to:

127 (i) Not furnishing any relevant papers or
128 documents requested by or for the board;

129 (ii) Not furnishing, in writing, an adequate
130 explanation covering the matter contained in a complaint filed
131 with the board;

132 (iii) Not responding without cause to subpoenas
133 issued by the board, whether or not the licensee is the party
134 charged in any proceeding before the board;

135 (iv) Not reasonably providing access, as directed
136 by the board for its authorized agents or representatives seeking
137 to perform reviews or inspections at facilities or places utilized
138 by the license holder in the practice of funeral service or
139 funeral directing and/or in performing any other activity
140 regulated by the board under this chapter;



141 (v) Failure to provide information within the
142 specified time allotted and as required by the board and/or its
143 representatives or designees;

144 (vi) Failure to cooperate with the board or its
145 designees or representatives in the investigation of any alleged
146 misconduct or interfering with a board investigation by willful
147 misrepresentation of facts;

148 (vii) Deceiving or attempting to deceive the board
149 regarding any matter under investigation, including altering or
150 destroying any records; and

151 (viii) Failure, without good cause, to cooperate
152 with any request by the board to appear before it;

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

156 (m) Knowingly making a false statement on death
157 certificates;

158 (n) Conviction of a crime involving moral turpitude;

159 (o) Violating any statute, ordinance, rule or
160 regulation of the state or any of its boards, agencies or
161 political subdivisions affecting the registration of deaths or the
162 handling, custody, care or transportation of dead human bodies; or

163 (p) Unprofessional conduct in the practice of funeral
164 service or funeral directing which includes, but is not limited
165 to:



166 (i) Retaining a dead human body for the payment of
167 a fee for the performance of services that are not authorized;

168 (ii) Knowingly performing any act which in any way
169 assists an unlicensed person to practice funeral service or
170 funeral directing;

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

173 (iv) Any act or omission in the practice of
174 funeral service or directing which constitutes dishonesty, fraud
175 or misrepresentation with the intent to benefit the licensee,
176 another person or funeral establishment, or with the intent to
177 substantially injure another person, licensee or funeral
178 establishment; * * *

179 (v) Any act or conduct, whether the same or of a
180 different character than specified above, which constitutes or
181 demonstrates bad faith, incompetency or untrustworthiness; or
182 dishonest, fraudulent or improper dealing; or any other violation
183 of the provisions of this chapter, the rules and regulations
184 established by the board or any rule or regulation promulgated by
185 the Federal Trade Commission relative to the practice of funeral
186 service or funeral directing * * *; or

187 (vi) Making a false request for information under
188 Section 1 in House Bill No. , 2024 Regular Session, or failing
189 to comply with the provisions of subsection (4) of Section 1 in
190 House Bill No. , 2024 Regular Session.



191 (2) Any person, including a member of the board, may
192 initiate a complaint against a licensee of the board by filing
193 with the board a written complaint on a form prescribed by the
194 board.

195 (a) Upon receipt of a properly verified complaint, the
196 board shall send a copy of the complaint to the affected licensee
197 by certified mail to the address of such licensee appearing of
198 record with the board. The licensee shall answer the complaint in
199 writing within twenty (20) days after receipt of the complaint.
200 The licensee shall mail a copy of his, her or its response to the
201 board and the complainant. Upon receipt of the licensee's
202 response or lapse of twenty (20) days, the board is authorized to
203 investigate a complaint that appears to show the existence of any
204 of the causes or grounds for disciplinary action as provided in
205 Section 73-11-57. Upon finding reasonable cause to believe that
206 the charges are not frivolous, unfounded or filed in bad faith,
207 the board may, in its discretion, cause a hearing to be held, at a
208 time and place fixed by the board, regarding the charges that a
209 violation of this chapter has occurred. The board shall order a
210 hearing for the licensee to appear and show cause why he/she
211 should not be disciplined for a violation of this chapter.

212 (b) The board shall give the complainant and the
213 affected licensee twenty (20) days' notice of any hearing upon a
214 complaint. Such notice shall be by United States certified mail.



215 (c) Any party appearing before the board may be
216 accompanied by counsel.

217 (d) Before commencing a hearing, the chairman or
218 designee of the board shall determine if all parties are present
219 and ready to proceed. If the complainant fails to attend a
220 hearing without good cause shown, the complaint shall be dismissed
221 summarily and all fees and expenses of convening the hearing shall
222 be assessed to, and paid by, the complainant. If any affected
223 licensee fails to appear for a hearing without good cause shown,
224 such licensee shall be presumed to have waived his right to appear
225 before the board and be heard.

226 (e) Upon the chair's determination that all parties are
227 ready to proceed, the chair or designee shall call the hearing to
228 order and the complainant and the licensee may give opening
229 statements. The board may order the sequestration of nonparty
230 witnesses.

231 (f) The complainant shall then present his, her or its
232 complaint. The licensee, any counsel and any member or designee
233 of the board may ask questions of witnesses.

234 (g) The licensee shall then present his, her or its
235 case in rebuttal. The complainant, any counsel and any member or
236 designee of the board may ask questions of witnesses.

237 (h) At the completion of the evidence, all parties may
238 give closing statements.



239 (i) At the conclusion of the hearing, the board may
240 either decide the issue at that time or take the case under
241 advisement for further deliberation. The board shall render its
242 decision not more than ninety (90) days after the close of the
243 hearing and shall forward the decision to the last-known business
244 or residence address of the parties.

245 (3) The board, on its own motion, may file a formal
246 complaint against a licensee.

247 (4) The board may temporarily suspend a license under this
248 chapter without any hearing, simultaneously with the institution
249 of proceedings under this section, if it finds that the evidence
250 in support of the board's determination is clear, competent and
251 unequivocal and that the licensee's continuation in practice would
252 constitute an imminent danger to public health and safety.

253 (5) The board may, upon satisfactory proof that the
254 applicant or licensee has been guilty of any of the offenses above
255 enumerated, take the action authorized by this section against an
256 applicant or licensee of the board upon a majority vote of the
257 board members, after a hearing thereon. The board is vested with
258 full power and authority to hold and conduct such hearings, compel
259 the attendance of witnesses and the production of books, records
260 and documents, issue subpoenas therefor, administer oaths, examine
261 witnesses, and do all things necessary to properly conduct such
262 hearings. The board may waive the necessity of a hearing if the
263 person accused of a violation admits that he has been guilty of



264 such offense. Any person who has been refused a license or whose
265 license has been revoked or suspended may, within thirty (30) days
266 after the decision of the board, file with the board a written
267 notice stating that he feels himself aggrieved by such decision
268 and may appeal therefrom to the circuit court of the county and
269 judicial district of residence of the person, or if the person is
270 a nonresident of the State of Mississippi, to the Circuit Court of
271 the First Judicial District of Hinds County. The circuit court
272 shall determine the action of the board was in accord or
273 consistent with law, or was arbitrary, unwarranted or an abuse of
274 discretion. The appeal shall be perfected upon filing notice of
275 the appeal with the circuit court and by the prepayment of all
276 costs, including the cost of the preparation of the record of the
277 proceedings by the board. An appeal from the circuit court
278 judgment or decree may be reviewed by the Supreme Court as is
279 provided by law for other appeals. An appeal of a decision or
280 order of the board does not act as a supersedeas.

281 (6) In addition to any other power that it has, the board
282 may, upon finding that an applicant or licensee has committed any
283 of the violations listed in Section 73-11-57(1), impose a monetary
284 penalty as follows:

285 (a) For the first violation of any of the subparagraphs
286 of subsection (1) of this section, a monetary penalty of not more
287 than Five Hundred Dollars (\$500.00).



288 (b) For the second violation of any of the
289 subparagraphs of subsection (1) of this section, a monetary
290 penalty of not more than One Thousand Dollars (\$1,000.00).

291 (c) For the third and any subsequent violation of any
292 of the subparagraphs of subsection (1) of this section, a monetary
293 penalty of not more than Five Thousand Dollars (\$5,000.00).

294 (d) For any violation of any of the subparagraphs of
295 subsection (1) of this section, those reasonable costs that are
296 expended by the board in the investigation and conduct of a
297 proceeding for licensure revocation or suspension, including, but
298 not limited to, the cost of process service, court reporters,
299 expert witnesses and investigators.

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

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

310 (9) Any monetary penalty assessed and levied under this
311 section shall not take effect until after the time for appeal
312 shall have expired.



313 (10) A monetary penalty assessed and levied under this
314 section shall be paid to the board by the licensee upon the
315 expiration of the period allowed for appeal of such penalties
316 under this section or may be paid sooner if the licensee elects.

317 With the exception of subsection (5)(d) of this section,
318 monetary penalties collected by the board under this section shall
319 be deposited in the State Treasury to the credit of the State
320 Board of Funeral Service. Any monies collected by the board under
321 subsection (5)(d) of this section shall be deposited into the
322 special fund operating account of the board.

323 (11) When payment of a monetary penalty assessed and levied
324 by the board against a licensee in accordance with this section is
325 not paid by the licensee when due under this section, the board
326 shall have power to institute and maintain proceedings in its name
327 for enforcement of payment in the chancery court of the county and
328 judicial district of residence of the licensee, or if the licensee
329 is a nonresident of the State of Mississippi, in the Chancery
330 Court of the First Judicial District of Hinds County, Mississippi.

331 (12) In any administrative or judicial proceeding in which
332 the board prevails, the board shall have the right to recover
333 reasonable attorney fees.

334 (13) In addition to the reasons specified in subsection (1)
335 of this section, the board shall be authorized to suspend the
336 license of any licensee for being out of compliance with an order
337 for support, as defined in Section 93-11-153. The procedure for



338 suspension of a license for being out of compliance with an order
339 for support, and the procedure for the reissuance or reinstatement
340 of a license suspended for that purpose, and the payment of any
341 fees for the reissuance or reinstatement of a license suspended
342 for that purpose, shall be governed by Section 93-11-157 or
343 93-11-163, as the case may be. Actions taken by the board in
344 suspending a license when required by Section 93-11-157 or
345 93-11-163 are not actions from which an appeal may be taken under
346 this section. Any appeal of a license suspension that is required
347 by Section 93-11-157 or 93-11-163 shall be taken in accordance
348 with the appeal procedure specified in Section 93-11-157 or
349 93-11-163, as the case may be, rather than the procedure specified
350 in this section. If there is any conflict between any provision
351 of Section 93-11-157 or 93-11-163 and any provision of this
352 chapter, the provisions of Section 93-11-157 or 93-11-163, as the
353 case may be, shall control.

354 **SECTION 3.** This act shall take effect and be in force from
355 and after July 1, 2024.

