

**ARKANSAS DEPARTMENT OF COMMERCE | ARKANSAS INSURANCE DEPARTMENT  
FUNERAL SERVICES DIVISION – PERPETUAL CARE CEMETERIES**



**PERPETUAL CARE CEMETERY – TRANSFER OF OWNERSHIP – DOCUMENTATION CHECKLIST**

**CEMETERY PROPERTY & CURRENT CONTACT INFORMATION**

\_\_\_\_\_  
CURRENT LEGAL ENTITY/PARENT COMPANY NAME

\_\_\_\_\_  
PERPETUAL CARE CEMETERY NAME

\_\_\_\_\_  
PCC PERMIT NO.

\_\_\_\_\_  
PHYSICAL ADDRESS OF CEMETERY (NUMBER & STREET, CITY, STATE, ZIP CODE)

\_\_\_\_\_  
MAILING ADDRESS OF CEMETERY (NUMBER & STREET, CITY, STATE, ZIP CODE) [IF DIFFERENT FROM PHYSICAL ADDRESS]

\_\_\_\_\_  
CONTACT NAME & TITLE

\_\_\_\_\_  
CONTACT PHONE NO.

\_\_\_\_\_  
CONTACT E-MAIL ADDRESS

**SELLER INFORMATION**

\_\_\_\_\_  
SELLER'S LEGAL ENTITY/PARENT COMPANY NAME

\_\_\_\_\_  
AR SoS BUS. LIC. NO.

\_\_\_\_\_  
BUSINESS TYPE (SOLE PROP., INC., LLC, PLLC, OTHER)

\_\_\_\_\_  
SELLER'S LEGAL COUNSEL/REPRESENTATION NAME [IF APPLICABLE]

\_\_\_\_\_  
LEGAL CONTACT PHONE NO.

\_\_\_\_\_  
LEGAL CONTACT E-MAIL ADDRESS

\_\_\_\_\_  
SELLER [1] NAME

\_\_\_\_\_  
SELLER [1] PHONE NO.

\_\_\_\_\_  
SELLER [1] CONTACT E-MAIL ADDRESS

\_\_\_\_\_  
SELLER [2] NAME [IF APPLICABLE]

\_\_\_\_\_  
SELLER [2] PHONE NO.

\_\_\_\_\_  
SELLER [2] CONTACT E-MAIL ADDRESS

\_\_\_\_\_  
SELLER [3] NAME [IF APPLICABLE]

\_\_\_\_\_  
SELLER [3] PHONE NO.

\_\_\_\_\_  
SELLER [3] CONTACT E-MAIL ADDRESS

**PURCHASER INFORMATION**

\_\_\_\_\_  
PURCHASER'S LEGAL ENTITY/PARENT COMPANY NAME

\_\_\_\_\_  
AR SoS BUS. LIC. NO.

\_\_\_\_\_  
BUSINESS TYPE (SOLE PROP., INC., LLC, PLLC, OTHER)

\_\_\_\_\_  
PURCHASER'S LEGAL COUNSEL/REPRESENTATION NAME [IF APPLICABLE]

\_\_\_\_\_  
LEGAL CONTACT PHONE NO.

\_\_\_\_\_  
LEGAL CONTACT E-MAIL ADDRESS

\_\_\_\_\_  
PURCHASER [1] NAME

\_\_\_\_\_  
PURCHASER [1] PHONE NO.

\_\_\_\_\_  
PURCHASER [1] CONTACT E-MAIL ADDRESS

\_\_\_\_\_  
PURCHASER [2] NAME [IF APPLICABLE]

\_\_\_\_\_  
PURCHASER [2] PHONE NO.

\_\_\_\_\_  
PURCHASER [2] CONTACT E-MAIL ADDRESS

\_\_\_\_\_  
PURCHASER [3] NAME [IF APPLICABLE]

\_\_\_\_\_  
PURCHASER [3] PHONE NO.

\_\_\_\_\_  
PURCHASER [3] CONTACT E-MAIL ADDRESS

**ADDITIONAL INFORMATION**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

## DESCRIPTION:

The “application” is a compilation of the required documentation/disclosures that must be received and reviewed by Board Staff [as required by [Ark. Code Ann. §20-17-1012. Transfer of Ownership](#) and [Rules 8.07\(a\)-\(10\) and 12.01-12.07](#)] prior to being referred to the AR State Board of Embalmers, Funeral Directors, Cemeteries, and Burial Services for consideration.

### **\*\*IMPORTANT\*\***

**Items 1 through 24, below, are REQUIRED. The “application” is NOT complete until ALL documentation is received by the Board. The “submission date” is the date on which all required documentation is received by the Board.**

[Ark. Code Ann. §20-17-1012. Transfer of Ownership, \(b\)\(2\)](#) requires submission of the following:

- 1. A fee of one-thousand-five-hundred-dollars (\$1,500.00). However, the fee is not required if the individual or entity acquiring the controlling interest (the Purchaser) is the heir to the estate of the individual who previously held the controlling interest in the permit. [[§ 20-17-1012 \(b\)\(2\)\(A\)\(i\) & \(ii\)](#)]
- 2. A statement of changes, if any, in the survey and map of the cemetery. [[§ 20-17-1012 \(b\)\(2\)\(B\)](#)]
- 3. A set of rules and regulations for the use, care, management, and protection of the cemetery. [[§ 20-17-1012 \(b\)\(2\)\(C\)](#)]
- 4. The proposed method of continuing the permanent maintenance fund for the cemetery. [[§ 20-17-1012 \(b\)\(2\)\(D\)](#)]
- 5. A statement of the proposed transfer. [[§ 20-17-1012 \(b\)\(2\)\(E\)](#)]
- 6. A copy of a current title opinion by an Arkansas-licensed attorney or title insurance policy that reflects that the current permit holder has good and merchantable title to the land covered by the permit. [[§ 20-17-1012 \(b\)\(2\)\(F\)](#)]
- 7. A notarized statement from the seller and purchaser disclosing any current or future lien or mortgage on the land covered by the permit. [[§ 20-17-1012 \(b\)\(2\)\(G\)](#)]
- 8. Notarized statement for each current or future lienholder or mortgage holder on the land covered by the permit that all-paid-in-full burial spaces will be released from lien or mortgage at least semiannually. [[§ 20-17-1012 \(b\)\(2\)\(H\)](#)]
- 9. A current detailed accounting of all paid-in-full merchandise contracts or accounts of the permit holder for which the merchandise has not been delivered to the purchaser or placed in inventory for the benefit of the purchaser. The accounting shall be on an individual contract or account basis and contain the name of the purchaser, the contract or account number, the date of the contract, the gross amount of the contract, a description of the merchandise purchased, the date the contract or account was paid in full, and the specific location where the merchandise is stored. [[§ 20-17-1012 \(b\)\(2\)\(I\)\(i\) & \(ii\)](#)]
- 10. A current notarized statement from the permit holder that the application contains a complete and accurate accounting of all of his or her outstanding accounts receivable, discounted notes, and paid-in-full merchandise accounts or contracts for which the merchandise has not been delivered to the purchaser or placed in inventory for the benefit of the purchaser. [[§20-17-1012 \(b\)\(2\)\(J\)](#)]
- 11. A current notarized statement from the purchaser or organization gaining a controlling interest that it will assume the responsibility and liability for the accounts, notes, and contracts of the permit holder contained in the accountings and schedules filed with the application. [[§20-17-1012 \(b\)\(2\)\(K\)](#)]
- 12. The financial statement of the purchaser required by rule of the board showing that the purchaser has a minimum net worth of twenty thousand dollars (\$20,000). [[§20-17-1012 \(b\)\(2\)\(L\)](#)]
- 13. A copy of the sales contract, transaction documents, or conveyance documents. [[§20-17-1012 \(b\)\(2\)\(M\)](#)]
- 14. Any additional information required by the board or the Insurance Commissioner. [[§20-17-1012 \(b\)\(2\)\(N\)](#)]  
([NOTE](#): Board Staff will tell you whether additional documentation/information is needed.)

[Board Rules pertaining to perpetual care cemeteries](#) require submission of the following:

- 15. The applicant’s form of business organization, e.g. corporation, partnership, sole proprietorship, limited liability company, etc. If the form of business is a corporation or limited liability company, the applicant must identify under which State law the entity is incorporated or organized. [[PCC Board Rule 8.07 \(a\)\(1\)](#)]

- 16. If the applicant is a foreign corporation or limited liability company, its resident agent for service of process, the address of its home office, and a statement that it has been registered with the Secretary of State as a foreign corporation or limited liability company, respectively, doing business in the State of Arkansas. [PCC Board Rule 8.07 (a)(2)]
- 17. The names and addresses of applicant’s managing officers and Board of Directors; or if a partnership, the names and addresses of all partners and their respective share of the business. [PCC Board Rule 8.07 (a)(3)]
- 18. The outstanding capital stock of the applicant and a list of the stockholders. The list of stockholders must indicate if a stockholder of record holds the stock as trustee or agent for someone other than himself. [PCC Board Rule 8.07 (a)(4)]
- 19. A copy of the Articles of Incorporation, Articles of Organization, Bylaws, or similar founding charter of the applicant duly authenticated and certified by the proper authority, or if a partnership, a partnership agreement. [PCC Board Rule 8.07 (a)(5)]
- 20. A statement that the corporation or limited liability company is or is not a subsidiary of another corporation or limited liability company, and if it is, the name of the parent organization, the percentage of voting securities owned by the parent, or any other basis of control by the parent. [PCC Board Rule 8.07 (a)(6)]
- 21. A description of all property held by the applicant. If any such property is not held in fee or is subject to any encumbrance, so state and briefly describe how held. [PCC Board Rule 8.07 (a)(7)]
- 22. A statement as to whether applicant is the owner or operator of any other cemetery in this or any other state and the name and address of said cemetery (cemeteries). [PCC Board Rule 8.07 (a)(8)]
- 23. A statement briefly describing the nature of legal proceedings against the applicant; any of its owners, officers, agents, or employees the partners of a partnership; or owner of a proprietorship within the last ten (10) years as well as any final judgments or orders against the same. [PCC Board Rule 8.07 (a)(9)]
- 24. A consolidated balance sheet and a profit and loss statement prepared by an independent certified public accountant showing the financial condition of the applicant as of thirty (30) calendar days before the filing of the application. [PCC Board Rule 8.07 (a)(10)]

Checklist Items #1 through #24 should be numbered accordingly and mailed to:

Arkansas Department of Commerce  
Arkansas Insurance Department  
1 Commerce Way, Suite 502  
Little Rock, AR 72202-2087  
ATTN: Funeral Services Division – Perpetual Care Cemeteries

If you have any questions regarding the perpetual care cemetery transfer of ownership process or the documentation requirements, please call the Department at (501) 371-2646 or e-mail us at [AID.PCC@arkansas.gov](mailto:AID.PCC@arkansas.gov) (Perpetual Care Cemeteries group e-mail address).

## THINGS TO CONSIDER: PERPETUAL CARE CEMETERY CHANGE OF OWNERSHIP

- The Seller (current PCC permit holder) is liable for all funds and/or transactions up to the date of sale/transfer.
- Before the sale or transfer, the permit holder shall notify the board of the proposed sale or transfer and shall submit to the board, under oath, any document or record the board may require in order to demonstrate that the permit holder is not indebted to the permanent maintenance fund. [[§20-17-1012 \(c\)\(1\)](#)]
- After the transfer of ownership or a controlling interest, the permit holder shall present to the board proof that payments into the permanent maintenance fund are current. [[§20-17-1012 \(c\)\(2\)](#)]
- The board may require proof of the status of the permanent maintenance fund by the purchaser for a reasonable period of time as necessary in the public interest. [[§20-17-1012 \(c\)\(3\)](#)]
- The board may recover from the permit holder or purchaser for the benefit of the permanent maintenance fund:
  - All sums that the permit holder or purchaser has not properly accounted for and paid into the trust fund.
  - Reasonable expenses incurred by the board if suit is filed or other collection action is taken.[[§20-17-1012 \(c\)\(4\)\(A\) & \(B\)](#)]
- A cemetery company that has been issued a permit to operate a cemetery under this subchapter remains liable for the care and maintenance of the cemetery and all amounts owed to the permanent maintenance fund until a new permit is issued to the purchaser. [[§20-17-1012 \(d\)](#)]
- A new permit shall not be issued to the purchaser of any cemetery until the purchaser complies with this subchapter and the board orders a new permit to be issued to the purchaser. [[§20-17-1012 \(e\)](#)]
- A permit holder or purchaser that violates this section is guilty of a violation and upon conviction shall be fined not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500) for the violation. [[§20-17-1012 \(f\)](#)]