# ARKANSAS STATE BOARD OF EMBALMERS, FUNERAL DIRECTORS, CEMETERIES, AND BURIAL SERVICES

LAWS, RULES AND REGULATIONS

Arkansas Insurance Department
Funeral Services Division – Perpetual Care Cemeteries
1 Commerce Way, Suite 502
Little Rock, AR 72202
(501) 371-2646
Aid.pcc@arkansas.gov

May 2026

**ARKANSAS INSURANCE DEPARTMENT**
**FUNERAL SERVICES DIVISION | PERPETUAL CARE CEMETERIES**
**#1 Commerce Way, Ste. 502, Little Rock, AR 72202-2087| (501) 371-2600**

# PCC LAWS, RULES, & REGULATIONS MANUAL

## PERPETUALLY MAINTAINED CEMETERIES

**ARKANSAS CODE ANNOTATED (A.C.A.) TITLE 20, SUBTITLE 2, CHAPTER 17, SUBCHAPTER 10**

**CURRENT THROUGH ALL LEGISLATION OF THE 2023 REGULAR SESSION, INCLUDING CORRECTIONS AND EDITS BY THE ARKANSAS CODE REVISION COMMISSION.**

### TABLE OF CONTENTS – PAGE 1


| DESCRIPTION | PAGE(S) |
|---|---|
| Title 20, Subtitle 2, Ch. 17. Death and Disposition of the Dead, Subchapter 10. Cemetery Act for Perpetually Maintained Cemeteries | 3 |
| § 20-17-1001. Title. | 3 |
| § 20-17-1002. Definitions. [Effective July 1, 2021] | 3-4 |
| § 20-17-1003. Application of subchapter – Exceptions. | 4 |
| § 20-17-1007. Examination of cemetery. [Effective July 1, 2018] | 4-5 |
| § 20-17-1008. Permit – Application. [Effective July 1, 2021] | 5-6 |
| § 20-17-1009. Permit – Investigation by Department of Health. [Effective July 1, 2018] | 6-7 |
| § 20-17-1010. Permit – Investigation and issuance by the State Board of Embalmers, Funeral Directors, Cemeteries, and Burial Services. [Effective July 1, 2018] | 7 |
| § 20-17-1011. Permit – Amendment. [Effective July 1, 2021] | 7-9 |
| § 20-17-1012. Permit – Transfer of ownership – Definition. [Effective July 1, 2021] | 9-11 |
| § 20-17-1013. Permanent maintenance fund generally. [Effective July 1, 2021] | 11-13 |
| § 20-17-1014. Permanent Maintenance Fund trustees. [Effective July 1, 2021] | 13-14 |
| § 20-17-1015. Permanent maintenance fund – Annual report. [Effective July 1, 2021] | 14-15 |
| § 20-17-1016. Permanent maintenance fund – Required deposits. [Effective July 1, 2018] | 15-16 |
| § 20-17-1017. Permanent maintenance fund – Voluntary contributions. Effective July 1, 2018] | 16 |
| § 20-17-1018. Violations, criminal penalties, and remedies. [Effective July 1, 2018] | 16-18 |
| § 20-17-1019. Conveyance of lots. [Effective July 1, 2018] | 18 |
| § 20-17-1020. Unlawful act. Effective July 1, 2021] | 19 |
| § 20-17-1021. Disposition of contributions and fees. [Effective July 1, 2018] | 19 |
| § 20-17-1022. Records required. [Effective July 1, 2018] | 19 |
| § 20-17-1023. Annual report of condition of cemetery company. [Effective July 1, 2018] | 19-21 |
| § 20-17-1025. Protection of cemeteries – Power to lend. [Effective July 1, 2021] | 21 |
| § 20-17-1026. Annual permit fee. [Effective July 1, 2021] | 21 |
| § 20-17-1028. Contracts with municipality or county where a cemetery is located. [Effective July 1, 2018] | 22 |
| § 20-17-1030. Infant interment gardens. [Effective July 1, 2018] | 23 |
| § 20-17-1031. Perpetual care cemetery – Duty to maintain. [Effective July 1, 2023] | 23 |
| Title 20, Subtitle 2, Ch. 17. Death and Disposition of the Dead, Subchapter 13. Insolvent Cemetery Grant Fund Act | 23 |
| § 20-17-1301. Title. | 23 |
| § 20-17-1302. Findings and purpose. | 23-24 |
| § 20-17-1303. Insolvent Cemetery Grant Fund. [Effective July 1, 2018] | 24 |
| § 20-17-1304. Powers and duties of State Board of Embalmers, Funeral Directors, Cemeteries, and Burial Services. [Effective July 1, 2018] | 24 |
| § 20-17-1305. Eligibility for grants – Definition. [Effective July 1, 2021] | 24-25 |
| § 20-17-1306. Application. [Effective July 1, 2018] | 25 |

## TABLE OF CONTENTS – PAGE 2


| DESCRIPTION | PAGE(S) |
|---|---|
| ▪ § 20-17-1307. Grant payments – Amount. [Effective July 1, 2018] | 25 |
| ▪ § 23-61-1101. Definitions. | 26-27 |
| ▪ § 23-61-1102. Creation of board – Members. | 27-29 |
| ▪ § 23-61-1103. Powers and duties of board. | 29-31 |
| ▪ § 23-61-1104. Executive Secretary of the State Board of Embalmers, Funeral Directors, Cemeteries, and Burial Services. | 31-32 |
| ▪ § 23-61-1109. Cemeteries and cemetery companies. | 32-33 |
| ▪ § 23-61-1111. Duties of State Insurance Department | 33-34 |
| Title 20. Public Health and Welfare<br>Chapter XXIII. State Board of Embalmers, Funeral Directors, Cemeteries, and Burial Services, State Insurance Department, Department of Commerce<br>Subchapter A. Generally<br>Part 830. Rule Pertaining to Perpetually Maintained Cemeteries | 34-49 |
| Title 20. Public Health and Welfare<br>Chapter XXIII. State Board of Embalmers, Funeral Directors, Cemeteries, and Burial Services, State Insurance Department, Department of Commerce<br>Subchapter A. Generally<br>Part 831. Withdrawal from Permanent Maintenance Fund | 49-51 |

ARKANSAS PERPETUALLY MAINTAINED CEMETERY LAW
ARKANSAS CODE ANNOTATED (A.C.A.) TITLE 20, SUBTITLE 2, CHAPTER 17, SUBCHAPTER 10
**CURRENT THROUGH ALL LEGISLATION OF THE 2023 REGULAR SESSION, INCLUDING CORRECTIONS AND EDITS BY THE ARKANSAS CODE REVISION COMMISSION.**

Arkansas Code Annotated ▶ Title 20. Public Health and Welfare ▶ Subtitle 2. Health and Safety ▶ Chapter 17. Death and Disposition of the Dead ▶ Subchapter 10. Cemetery Act for Perpetually Maintained Cemeteries

**§ 20-17-1001. Title**.

This subchapter may be cited as the "Cemetery Act for Perpetually Maintained Cemeteries".

---

Arkansas Code Annotated ▶ Title 20. Public Health and Welfare ▶ Subtitle 2. Health and Safety ▶ Chapter 17. Death and Disposition of the Dead ▶ Subchapter 10. Cemetery Act for Perpetually Maintained Cemeteries

**§ 20-17-1002. Definitions.**

As used in this subchapter:

**(1)** “Care and maintenance” means the continual maintenance of the cemetery grounds and graves in keeping with a properly maintained cemetery;

**(2)**
**(A)** “Cemetery” means any land or a structure in this state dedicated to and used or intended to be used for interment of human remains.

**(B)** “Cemetery” includes a burial park for earth interments, a mausoleum for vault or crypt interments, or a combination of one (1) or more burial parks or mausoleums;

**(3)** “Cemetery company” means an individual, partnership, corporation, limited liability company, or association, now or hereafter organized, owning or controlling cemetery lands or property and conducting the business of a cemetery or making an application with the State Board of Embalmers, Funeral Directors, Cemeteries, and Burial Services to own or control the lands or conduct the business;

**(4)** “Columbarium” means a structure or room or space in a building or structure used or intended to be used for the interment of cremated human remains;

**(5)** “Crypt” means a chamber of sufficient size to inter the remains of a deceased person;

**(6)** “Infant interment garden” means a designated area in a perpetual care cemetery for the interments of infants and children no more than twenty-four (24) months of age;

**(7)** “Interment” means the lawful disposition of the remains of a deceased person as provided by law;

**(8)** “Lawn crypt” means an interment space sometimes referred to as a “belowground crypt”, “westminister”, or “turf top crypt” in a preplaced chamber or burial vault either side-by-side or at multiple depths, covered by earth and sod;

**(9)** “Lot or grave space” means a space of ground in a cemetery used or intended to be used for interment therein;

**(10)** “Mausoleum” means a community-type structure or room or space in a building or structure used or intended to be used for the interment of human remains in crypts or niches;

**(11)** “Niche” means a space in a columbarium that is used or intended to be used for the interment of the cremated remains of one (1) or more deceased persons;

**(12)** “Permit holder” means a cemetery company that holds a permit issued by the board to own or operate a perpetual care cemetery;

**(13)** "Perpetual care cemetery" means a cemetery for the benefit of which a permanent maintenance fund has been established in accordance with this subchapter; and

**(14)** "Properly maintained" means, with regard to a perpetual care cemetery, provided care and maintenance services, including without limitation:

**(A)** Mowing the grass of the perpetual care cemetery;

**(B)** Weed trimming around lots or grave space and fences or property lines of the perpetual care cemetery;

**(C)** emptying trash receptacles located at the perpetual care cemetery; and

**(D)** Removing excess dirt, tree limbs, leaves, trash, and other debris from the grounds of the perpetual care cemetery.

---

Arkansas Code Annotated ▶ Title 20. Public Health and Welfare ▶ Subtitle 2. Health and Safety ▶ Chapter 17. Death and Disposition of the Dead ▶ Subchapter 10. Cemetery Act for Perpetually Maintained Cemeteries

**§ 20-17-1003. Application of subchapter – Exceptions.**

**(a)** This subchapter applies to all cemeteries and burial grounds located in the State of Arkansas unless the cemetery is owned and operated by:

**(1)** A church or similar religious organization;
**(2)** A municipality or county government;
**(3)** A family, exclusively for its own family use; or
**(4)** A community nonprofit association in which no person is entitled to receive pecuniary profit other than the bookkeeper and maintenance crew.

**(b)** Persons who do not and have never received more than two thousand dollars ($2,000) gross proceeds in any one (1) year from the sale of parcels of realty to be used as human burial sites are exempt from this subchapter.

**(c)** All cemeteries that advertise or operate all or a part thereof as perpetual care or permanent maintenance cemeteries shall be subject to this subchapter regardless of the organization of the person or group owning and operating the cemetery or burial grounds.

---

Arkansas Code Annotated ▶ Title 20. Public Health and Welfare ▶ Subtitle 2. Health and Safety ▶ Chapter 17. Death and Disposition of the Dead ▶ Subchapter 10. Cemetery Act for Perpetually Maintained Cemeteries

**§ 20-17-1007. Examination of cemetery.**

**(a)**
**(1)** An examined cemetery company shall pay the State Board of Embalmers, Funeral Directors, Cemeteries, and Burial Services for the examination:

**(A)** One hundred dollars ($100) per day for each examiner who conducts the examination; and

**(B)** The amount necessary to reimburse the travel, meal, and lodging expenses of each examiner.

**(2)** An examination shall be conducted by an employee of the State Insurance Department or board member.

**(b)** In lieu of any financial examination that the board shall be authorized to make, the board may accept the audit of an independent certified public accountant, provided that the Insurance Commissioner has notified the cemetery

company that the audit would be accepted and that the cemetery company has notified the commissioner in writing that an audit would be prepared.

---

Arkansas Code Annotated ▶ Title 20. Public Health and Welfare ▶ Subtitle 2. Health and Safety ▶ Chapter 17. Death and Disposition of the Dead ▶ Subchapter 10. Cemetery Act for Perpetually Maintained Cemeteries

**§ 20-17-1008. Permit – Application.**

**(a)**

**(1)** Before making application to the State Board of Embalmers, Funeral Directors, Cemeteries, and Burial Services for a permit to establish and operate a new cemetery or for the extension of the boundaries of an existing cemetery, the cemetery company proposing to make application shall publish weekly for three (3) weeks in a newspaper of general circulation in the county in which the proposed cemetery is located a notice that an application will be filed with the board to establish or extend the boundaries of a cemetery in the county.

**(2)** The publication described in subdivision (a)(1) of this section shall contain a legal description of the land to be used as a cemetery and a statement that any individual or group of individuals desiring to protest the establishment or extension of the cemetery may do so by filing a statement in writing with the board.

**(b)**

**(1)** Whenever it is proposed to locate a new cemetery or extend the boundaries of an existing cemetery under this subchapter, then the cemetery company so proposing shall file an application for the issuance of a permit with the board.

**(2)** The application shall describe accurately the location and boundaries of the proposed cemetery or extension.

**(3)** The application shall be accompanied by:

**(A)**

**(i)** The recommendation of the mayor or governing official of the municipality if the cemetery is located or is to be located within the corporate limits of a municipality or the recommendation of the county judge of the county within which the cemetery is to be located if outside the corporate limits of a municipality.

**(ii)** The recommendation described in subdivision (b)(3)(A)(i) of this section shall:

***(a)*** State the need and desirability of the proposed cemetery or extension; and

***(b)*** Be in lieu of the application and permit required in § 20-17-903;

**(B)** A fee of:

**(i)** One thousand five hundred dollars ($1,500) for filing an application for a new cemetery; or

**(ii)** Four hundred dollars ($400) for filing an application to extend the boundaries of an existing cemetery;

**(C)**

**(i)** Except as provided in subdivision (b)(3)(C)(ii), a survey and map of the cemetery or extension reflecting at least ten (10) acres of land.

**(ii)** An existing cemetery that consists of less than ten (10) acres of land on or before January 1, 2021, is not required to have ten (10) acres of land but shall submit a survey and map of the cemetery or extension of the existing cemetery;

**(D)** A set of rules and regulations for the use, care, management, and protection of the cemetery;

**(E)** The proposed method of establishing a permanent maintenance fund;

**(F)** Proof of publication as stated in subsection (a) of this section of the required notice of intention to apply with the board;

**(G)** A copy of a current title opinion by an Arkansas-licensed attorney or title insurance policy that reflects that the applicant has or will have good and merchantable title to the land covered by the permit or extension;

**(H)** A notarized statement disclosing any current or future lien or mortgage on the land covered by the permit;

**(I)** A notarized statement from any current or future lienholder or mortgage holder on the land covered by the permit or extension that all paid-in-full burial spaces will be released from the lien or mortgage at least semi-annually;

**(J)** A copy of the perpetual care trust agreement if the application is for a new cemetery permit; and

**(K)** A current balance sheet of the applicant prepared by an independent certified public accountant in accordance with generally accepted accounting principles that reflects that the applicant has a minimum of twenty thousand dollars ($20,000) net worth.

**(5)** Any other evidence that would tend to show a public need for the proposed cemetery or extension, such as a petition from landowners in the county who believe that a need exists for an additional cemetery or extension, may be included with the application.

**(6)** The burden of establishing public need shall be upon the applicant.

**(c)** An application shall be made under oath and filed with the board not less than twenty (20) days before the board meeting at which the application is to be considered.

**(d)**
**(1)** The cemetery company applying for a permit shall designate an individual who is responsible for the application.

**(2)** The individual designated under subdivision (d)(1) of this section shall undergo and pass a state criminal background check conducted by the Identification Bureau of the Division of Arkansas State Police.

**(3)** The board may charge and collect a processing fee in the amount necessary to recover the cost imposed by the Identification Bureau of the Division of Arkansas State Police for the state criminal background check.

**(e)** The board may require a cemetery company to submit additional information as the board may by rule or order prescribe.

**(f)** The board may for good cause waive all or part of an application requirement of this section if an applicant is a state, city, or municipal government, or a nonprofit organization as defined by the Internal Revenue Code, 26 U.S.C. § 501(c)(3).

---

Arkansas Code Annotated ▶ Title 20. Public Health and Welfare ▶ Subtitle 2. Health and Safety ▶ Chapter 17. Death and Disposition of the Dead ▶ Subchapter 10. Cemetery Act for Perpetually Maintained Cemeteries

**§ 20-17-1009. Permit – Investigation by Department of Health.**

(a) Upon submission of an application to the State Board of Embalmers, Funeral Directors, Cemeteries, and Burial Services for the issuance of a permit for a new cemetery or for an extension of the boundaries of an existing

cemetery, the applicant shall request that the Department of Health investigate the proposed cemetery location or extension to determine if the proposed new or expanded location will be sanitary.

(b) In making the investigation, the department shall take into consideration the proximity of the proposed cemetery or extension to human habitation, the nature of the soil, the drainage of the ground, the danger of pollution of springs or streams of water, and any other conditions concerning whether the proposed new or expanded location will be sanitary.

(c)

(1) After completing the investigation, the department shall promptly submit in writing its approval or disapproval of the proposed new or expanded location from a sanitary standpoint to the board.

(2) If the department disapproves the proposed cemetery location or extension, further action on the application shall be suspended until the applicant acquires a location which meets with the approval of the department or until other action, as necessary, is taken.

(d) The cemetery shall pay the department any fee required by law.

---

Arkansas Code Annotated ▶ Title 20. Public Health and Welfare ▶ Subtitle 2. Health and Safety ▶ Chapter 17. Death and Disposition of the Dead ▶ Subchapter 10. Cemetery Act for Perpetually Maintained Cemeteries

**§ 20-17-1010. Investigation and issuance by the State Board of Embalmers, Funeral Directors, Cemeteries, and Burial Services**.

(a) If the cemetery company has fully complied with this subchapter and if the Department of Health approves the location of the new cemetery or the extension of the boundaries of an existing cemetery, then the application shall be submitted to the State Board of Embalmers, Funeral Directors, Cemeteries, and Burial Services for investigation and for approval or disapproval.

(b) Immediately upon the submission of each application, the board shall investigate to determine the fitness of the cemetery company, the need for the cemetery, and all other questions bearing directly or indirectly upon the need or desirability from the public standpoint of the proposed cemetery or extension.

(c)

(1)

(A) If the application for a new cemetery is approved, the board shall issue a permit to the applicant only after the applicant has filed proof with the board that an initial principal deposit of at least five thousand dollars ($5,000) has been made to the permanent maintenance fund.

(B) The initial five thousand dollars ($5,000) under subdivision (c)(1)(A) of this section can be used to meet the liability due the permanent maintenance fund for the first paid-in-full burial space sales sold by the permit holder.

(2) The permit shall be filed in the court of the county in which the cemetery is located and with the department.

---

Arkansas Code Annotated ▶ Title 20. Public Health and Welfare ▶ Subtitle 2. Health and Safety ▶ Chapter 17. Death and Disposition of the Dead ▶ Subchapter 10. Cemetery Act for Perpetually Maintained Cemeteries

**§ 20-17-1011. Permit – Amendment.**

(a) Whenever it is proposed that a cemetery subject to this subchapter amend its present permit, whether for construction of a structure such as a mausoleum or columbarium, reduction of boundaries of twenty percent (20%) or more, reduction or increase in percentage of gross sales proceeds to be placed in the permanent maintenance fund, or other amendment, then the cemetery company shall file an application for amendment of the permit.

(b) The application shall be accompanied by:

(1) A fee of four hundred dollars ($400);

(2) A statement of each proposed amendment;

(3) Statements, documents, and other information necessary to provide justification for the amendment;

(4) If the amendment is for construction of a mausoleum, columbarium, or similar structure, the application shall include:

(A) Plans and specifications of the structure;

(B) A report of the inspection of the plans by the Department of Health;

(C) A copy of the sales contracts and conveyance documents proposed to be used;

(D) A proposed contribution to the permanent maintenance fund;

(E) A statement of whether the amount of the sales force will be utilized and of how preconstruction sales and interments will be handled;

(F) The location of the proposed structure;

(G) The estimated completion date;

(H) Either of the following, when sales proceeds may be received by the cemetery company before completion of construction and payment in full of the structure:

(i) An executed escrow agreement approved by the State Board of Embalmers, Funeral Directors, Cemeteries, and Burial Services with a federally insured financial institution or other financial institution approved by the board that provides among other things that one hundred percent (100%) of the sales proceeds collected before the completion of construction and payment in full of the structure will be placed into escrow; or

(ii)

*(a)* An executed copy of the construction agreement for the structure that states the total construction cost and the date the construction will be completed with either an executed irrevocable letter of credit from a federally insured financial institution or other financial institution approved by the board equal to one hundred twenty-five percent (125%) of the total cost of the structure, a cash bond posted with a federally insured financial institution or other financial institution approved by the board equal to one hundred thirty percent (130%) of the total cost of the structure, or a construction performance bond payable to the board in the amount equal to the total cost of the structure as stated in the construction agreement.

*(b)*

*(1)* All letters of credit and bonds, and their issuers, shall be approved by the board.

*(2)* A letter of credit under this subdivision (b)(4)(H)(ii)*(b)* shall state that the funds provided shall be paid to the board for the purpose of completing the construction of the structure or paying in full the completed structure if not done before the completion date stated in the construction agreement.

*(3)* A construction performance bond under this subdivision (b)(4)(H)(ii)*(b)* shall state that the insurer shall advance the funds necessary to complete the construction of the structure or pay for the completed structure, if not done before the date stated in the construction agreement.

*(4)* A cash bond under this subdivision (b)(4)(H)(ii)*(b)* shall provide that the financial institution shall pay the cash proceeds of the bond upon order of the board.

*(5)* Letters of credit or construction bonds shall state that if the structure is not completed and paid for in full within the maximum time provided for construction under this section, the letters of credit or construction bonds shall be used to complete and pay for the structure;

(I) Certification of an estimated start date for construction to take place no later than thirty-six (36) months after the date of the permit and further certifying completion within five (5) years after the date of the permit unless extended for good cause by the board; and

(J) Other information necessary to show that construction will be done in a good and workmanlike manner and be fireproof; and

(5) Other information as the board may by rule or order require.

(c) The application for the amendment of the permit shall be filed with the board at least twenty (20) calendar days before the meeting at which the board will consider the application.

---

Arkansas Code Annotated ▶ Title 20. Public Health and Welfare ▶ Subtitle 2. Health and Safety ▶ Chapter 17. Death and Disposition of the Dead ▶ Subchapter 10. Cemetery Act for Perpetually Maintained Cemeteries

**§ 20-17-1012. Permit – Transfer of ownership – Definition**.

(a) As used in this section, “controlling interest” means the direct or indirect power to direct the management and policies of a perpetual care cemetery or cemetery company by contract or otherwise, other than as an officer or employee of the perpetual care cemetery or cemetery company.

(b)

(1)

(A) If a change is proposed in the controlling interest of a perpetual care cemetery or a cemetery company or an organization that, directly or indirectly owns a controlling interest in the perpetual care cemetery or cemetery company, the cemetery company that holds the current permit and the individual or organization proposing to gain the controlling interest shall file an application for the issuance of a new permit with the State Board of Embalmers, Funeral Directors, Cemeteries, and Burial Services.

(B) A controlling interest is presumed to exist if an individual or entity directly or indirectly:

(i) Owns or controls fifty-one percent (51%) or more of the aggregate number of the issued or outstanding ownership interest of a perpetual care cemetery or cemetery company; or

(ii) Holds proxies with the power to vote or voting rights to proxies representing fifty-one percent (51%) or more of the aggregate number of the issued or outstanding ownership interest of a perpetual care cemetery or cemetery company.

(2) The application shall be accompanied by:

(A)
(i) A fee of one thousand five hundred dollars ($1,500).

(ii) However, the fee described in subdivision (b)(2)(A)(i) of this section shall not be required if the individual or entity described in subdivision (b)(1)(B)(i) or subdivision (b)(1)(B)(ii) of this section is the heir to the estate of the individual who previously held the controlling interest in the permit;

(B) A statement of changes, if any, in the survey and map of the cemetery;

(C) A set of rules and regulations for the use, care, management, and protection of the cemetery;

(D) The proposed method of continuing the permanent maintenance fund for the cemetery;

(E) A statement of the proposed transfer;

(F) 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;

(G) A notarized statement from the seller and purchaser disclosing any current or future lien or mortgage on the land covered by the permit;

(H) A notarized statement from 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 the lien or mortgage at least semiannually;

(I)
(i) 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.

(ii) 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;

(J) 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;

(K) 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;

(L) 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);

(M) A copy of the sales contract, transaction documents, or conveyance documents; and

(N) Any additional information required by the board or the Insurance Commissioner.

(3) The board may for good cause waive all or part of an application requirement if the purchaser of a perpetual care cemetery is a state, city, or municipal government or a nonprofit organization as defined by § 501(c)(3) of the Internal Revenue Code, 26 U.S.C. § 501(c)(3).

(4) Each permit holder of an interest in the cemetery company is liable for any funds and transactions up to the date of the sale or transfer.

(c)

(1) 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.

(2) 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.

(3) 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.

(4) The board may recover from the permit holder or purchaser for the benefit of the permanent maintenance fund:

(A) All sums that the permit holder or purchaser has not properly accounted for and paid into the trust fund; and

(B) Reasonable expenses incurred by the board if suit is filed or other collection action is taken.

(d) 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.

(e) 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.

(f) 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.

---

Arkansas Code Annotated ▶ Title 20. Public Health and Welfare ▶ Subtitle 2. Health and Safety ▶ Chapter 17. Death and Disposition of the Dead ▶ Subchapter 10. Cemetery Act for Perpetually Maintained Cemeteries

**§ 20-17-1013. Permanent maintenance fund generally**.

(a)
(1)
(A) The permanent maintenance fund is a trust fund for the purpose of administration, care, and maintenance of the cemetery, including lots, graves, spaces, crypts, niches, and burial rights.

(B) The principal of the permanent maintenance fund shall be preserved except for withdrawals allowed under § 20-17-1014(b)(1)(C)(ii)*(b)*

(2)
(A) The net income generated from the investment of the principal of the permanent maintenance fund shall be paid to and expended by the owners, managers, officers, or directors of the cemetery company exclusively for the care and maintenance of the cemetery, including the payment of taxes and administrative expenses of maintaining the fund.

(B) A cemetery company may add unused net income to the principal of the permanent maintenance fund.

(3) Except as provided in subdivision (a)(4) of this section, the principal of the permanent maintenance fund shall be invested and remain invested in securities and funds permitted by the laws of Arkansas for the investment of policy reserves of life insurance companies under the Arkansas Insurance Code, § 23-60-101 et seq., and in the common trust funds of state or national banks.

(4)
(A) A permanent maintenance fund having assets of more than two hundred fifty thousand dollars ($250,000) may invest not more than fifty percent (50%) of its assets in nonassessable common stocks listed on a national securities

exchange, preferred stocks meeting the requirements of § 23-63-815, and investment trust securities meeting the requirements of § 23-63-820.

(B) The diversification restrictions of § 23-63-805 do not apply to investments in investment trust securities.

(5) In investing these funds, the trustee shall exercise the judgment and care under the circumstances then prevailing which persons of prudence, discretion, and intelligence exercise in management of their own affairs, not in regard to speculation, but in regard to the permanent disposition of their funds, considering the probable income and capital appreciation as well as the probable safety of the capital.

(6)
(A) For purposes of this section, no more than fifty percent (50%) of annual realized net capital gains on investments bought or acquired after January 1, 2013, may be considered income and used according to subdivision (a)(2) of this section.

(B) All other net capital gains on investments shall be added to the principal.

(b) The permanent maintenance fund is authorized by this subchapter, and all sums paid into it or contributed to it shall be deemed to be for charitable and eleemosynary purposes.

(c) No rule against perpetuities shall be applicable to funds as mentioned in this section.

(d)
(1) The trust fund shall be established by executing a written trust agreement approved by the State Board of Embalmers, Funeral Directors, Cemeteries, and Burial Services.

(2)

(A) The agreement may provide that the cemetery company may change the trustee of its trust fund by amending the agreement if:

(i) The successor trustee meets the requirements of § 20-17-1014; and

(ii) The trustee and successor trustee are parties to the amendment of the agreement.

(B) The trustee and successor trustee shall send the board notification of a change in trustee under subdivision

(d)

(2)

(A) of this section within ten (10) calendar days after the change.

(e) At a minimum, the trustee shall maintain the following:

(1) A general ledger and general journal or comparable books of entry showing all receipts, disbursements, assets, liabilities, and income of the trust fund;

(2) Documents supporting and verifying each asset of the trust fund; and

(3) A trust agreement.

(f) In establishing a permanent maintenance fund, the cemetery company may from time to time adopt plans for the general care and maintenance of its cemetery.

(g)

(1) No more than one (1) time every ten (10) years, a cemetery company may make a withdrawal from the permanent maintenance fund for the purpose of making infrastructure repairs and capital improvements to the perpetual care cemetery.

(2) A withdrawal under subdivision (g)(1) of this section shall not be made without prior approval from the board.

---

Arkansas Code Annotated ▶ Title 20. Public Health and Welfare ▶ Subtitle 2. Health and Safety ▶ Chapter 17. Death and Disposition of the Dead ▶ Subchapter 10. Cemetery Act for Perpetually Maintained Cemeteries

**§ 20-17-1014. Permanent Maintenance Fund trustee.**

(a) The net income from the permanent maintenance fund shall only be used for general maintenance, administration, and preservation of the perpetual care cemetery.

(b)

(1) A cemetery company shall establish a permanent maintenance fund with or transfer the permanent maintenance fund to:

(A) A state or national bank or federal savings bank with trust powers;

(B)

(i) Three (3) trustees.

(ii) If the cemetery company has a permanent maintenance fund with three (3) trustees as described in subdivision (b)(1)(B)(i) of this section, the trustees shall:

*(a)* Designate one (1) of the three (3) trustees to make disbursements from the trust fund; and

*(b)* The disbursing trustee described in subdivision (b)(1)(B)(ii)*(a)* of this section shall deposit with the State Board of Embalmers, Funeral Directors, Cemeteries, and Burial Services a fidelity bond with corporate surety payable to the trust fund in a penal sum not less than eighty percent (80%) of the value of the trust fund principal at the beginning of each calendar year.

(iii) If a cemetery company has a permanent maintenance fund with three (3) trustees as described in subdivision (b)(1)(B)(i) of this section, no more than one (1) of the trustees may have a direct or indirect financial interest in the perpetual care cemetery; or

(C) An individual trustee:

(i) Shall deposit with the board a fidelity bond with corporate surety payable to the trust fund in a penal sum not less than eighty percent (80%) of the value of the trust fund principal at the beginning of each calendar year; and

(ii) On behalf of the cemetery company shall deposit all permanent maintenance funds directly into a savings account or certificate of deposit in a state or national bank or savings and loan association in this state not less than forty-five (45) days after collection if:

*(a)* The funds deposited are federally insured;

*(b)* The funds are restricted to prevent the principal amount of the funds from being withdrawn without the written approval of and on a form approved by the board; and

*(c)* Not less than one (1) time per year the net income from the funds may be withdrawn by the individual trustee on behalf of the cemetery company for purposes permitted by this subchapter.

(2) If a permanent maintenance fund of a cemetery contains less than ten thousand dollars ($10,000), a bond is not required when a cemetery has designated trustees under subdivision (b)(1)(B) or subdivision (b)(1)(C) of this section.

(c)

(1) The board may require a trustee who fails to protect the principal of the permanent maintenance fund under § 20-17-1013 to pay an additional contribution to the permanent maintenance fund of twenty-five dollars ($25.00) per day for each day that the principal is deficient.

(2) The additional contribution made under subdivision (c)(1) of this section shall not exceed a total of one thousand dollars ($1,000) for a continuous violation.

---

Arkansas Code Annotated ▶ Title 20. Public Health and Welfare ▶ Subtitle 2. Health and Safety ▶ Chapter 17. Death and Disposition of the Dead ▶ Subchapter 10. Cemetery Act for Perpetually Maintained Cemeteries

**§ 20-17-1015. Permanent maintenance fund – Annual report.**

(a)

(1) Within seventy-five (75) days after the end of each calendar year, the State Board of Embalmers, Funeral Directors, Cemeteries, and Burial Services shall require the trustee of the permanent maintenance fund to file under oath a detailed annual report of the condition of the fund.

(2) The annual report shall include:

(A) A description of the assets of the fund;

(B) A description of cemetery property encumbered by a lien and the amount of the lien;

(C) The cost of acquiring each asset;

(D) The market value of the asset at the time of its acquisition, its current market value, and the status of any default;

(E) A statement that:

(i) The fund is not encumbered by debt; and

(ii) None of the assets of the fund constitute loans to:

(a) The cemetery company for which the trust fund is established; or

(b) An officer or director of the cemetery company; and

(F) Any other information the trustee or the board deems pertinent.

(b) The report shall show the amounts of principal and undistributed income of the fund at the beginning of the period, the amounts deposited by the cemetery company into the fund during the period, the income earned and disbursements made during the period, the details of any investment or reinvestment during the period, and the balances of principal and income at the end of the period being reported on.

(c)

(1) If the trustee of the fund fails to meet the requirements of this section, then it shall be the duty of the board to apply to the Pulaski County Circuit Court for an order to require the trustee of the fund to file a proper report and to make any additional contributions due to the failure to timely file the annual report.

(2) If funds have been misappropriated by the trustee or are not being handled as required by law, then the board shall apply to the circuit court in the county in which the cemetery is located to have a receiver or conservator appointed by the court to take custody of the trust funds for the benefit of the cestui que trust. The receiver or conservator is vested with full power to file such suits against the defaulting trustee as may be necessary to require a full accounting and restoration of the trust funds and to turn the residue over to another trustee as the cemetery shall select, in conformity with this subchapter, as the new trustee of the permanent maintenance fund.

(3) If the trustee does not timely file the annual report required by subsection (a) of this section, the board may require the trustee to pay an additional contribution to the permanent maintenance fund of no more than fifty dollars ($50.00) per day until the report is filed with the board.

---

Arkansas Code Annotated ▶ Title 20. Public Health and Welfare ▶ Subtitle 2. Health and Safety ▶ Chapter 17. Death and Disposition of the Dead ▶ Subchapter 10. Cemetery Act for Perpetually Maintained Cemeteries

**§ 20-17-1016. Permanent maintenance fund – Required deposits.**

(a) Unless a greater amount is established by rule of the State Board of Embalmers, Funeral Directors, Cemeteries, and Burial Services, a cemetery company shall deposit into its permanent maintenance fund a sum not less than:

(1) Twenty percent (20%) of the gross proceeds from the sale of a lot or grave space in its cemetery; and

(2) Five percent (5%) of the gross proceeds from the sale of a mausoleum crypt, lawn crypt, niche, or other similar entombment in its cemetery.

(b)

(1) The deposit shall be made by the cemetery company not later than forty-five (45) days after the final payment has been made.

(2) However, any cemetery company making sales on installment sales contracts shall deposit the required percentage in accordance with the following:

(A) If the cemetery company receives installment payments directly and if adequate records are maintained as to the full amount of sale, the receipts received, and the balance due, then the cemetery company shall deposit the required percentage of gross proceeds of sale into the permanent maintenance fund not later than the forty-fifth day after the final payment is made, or the cemetery company may deposit the required percentage of each amount received not later than the forty-fifth day after each installment payment by the purchaser; and

(B)

(i) If the cemetery company elects to discount the installment sales contracts at a bank or other financial institution and receive a discounted value immediately in cash, the required percentage of the gross sales price shall be placed in a separate restricted escrow account at the time that the contract is discounted.

(ii) The amount so placed in escrow shall not be withdrawn until the lot purchaser defaults on or fully satisfies his or her contract obligations.

(iii) This restricted escrow account may be used by the bank or other financial institution as a part of its required reserve and may be used as recourse if the lot purchaser defaults on the contract.

(iv) Upon default, the required percentage of the gross sales price which was placed in this escrow account may be withdrawn and used by the cemetery company.

(v) Once final payment has been made, the required percentage of the gross sales price that was placed in an escrow account shall be withdrawn and placed into the permanent maintenance fund within five (5) business days.

(vi) If the cemetery corporation enters into an agreement with the bank or other financial institution, which in the Insurance Commissioner's determination adequately provides for the safeguards set forth in subdivision (b)(2)(A) of this section, then subdivision (b)(2)(A) of this section is not applicable to the cemetery corporation.

(3) If a cemetery company gives away a grave space or sells a grave space for a price less than the current market price, the gross sales proceeds received for a similar grave space in the immediately adjacent or similar location in the cemetery in a recent arms-length transaction shall be used as the basis to make the required permanent maintenance fund contribution for the gift or reduced price sale.

(c)

(1) If the cemetery company fails to make the required deposits in accordance with this section or if the moneys placed in escrow are not deposited as required by this subchapter, then the cemetery company shall be liable for and the board may collect as an additional contribution to the permanent maintenance fund ten dollars ($10.00) per day but in no instance in amounts to exceed five thousand dollars ($5,000) or the actual cost of the contract property or cemetery lots, whichever is greater, for the period of the failure.

(2) Upon the refusal of the cemetery company to pay the board the penalty, the board may institute suit to recover the contribution and costs and such other relief as the state in its judgment deems proper and necessary.

---

Arkansas Code Annotated ▶ Title 20. Public Health and Welfare ▶ Subtitle 2. Health and Safety ▶ Chapter 17. Death and Disposition of the Dead ▶ Subchapter 10. Cemetery Act for Perpetually Maintained Cemeteries

**§ 20-17-1017. Permanent maintenance fund – Voluntary contributions.**

The permanent maintenance fund may also receive, take, and hold therefor and as part thereof or as incident thereto any real, personal, or mixed property bequeathed, devised, granted, given, or otherwise contributed to it.

---

Arkansas Code Annotated ▶ Title 20. Public Health and Welfare ▶ Subtitle 2. Health and Safety ▶ Chapter 17. Death and Disposition of the Dead ▶ Subchapter 10. Cemetery Act for Perpetually Maintained Cemeteries

**§ 20-17-1018. Violations, criminal penalties, and remedies.**

(a) In addition to the civil provisions of this subchapter, it shall be unlawful for any person to:

(1) Advertise or operate all or part of a cemetery as a perpetual care cemetery or permanent maintenance cemetery without holding a valid permit issued by the State Board of Embalmers, Funeral Directors, Cemeteries, and Burial Services; or

(2) Fail to place the required contributions into the permanent maintenance fund or to remove any principal of the permanent maintenance fund from trust.

(b) Any person who knowingly violates subsection (a) of this section shall be guilty of a felony and upon pleading guilty or nolo contendere to or being found guilty of a violation of subsection (a) of this section shall be punished by a fine of not more than ten thousand dollars ($10,000) or by imprisonment in the state penitentiary for not more than six (6) years, or by both fine and imprisonment.

(c)

(1)

(A) If it appears to the board that a person has engaged in or is about to engage in a violation of subdivision

(a)(1) of this section, the board may summarily order the person to cease and desist from the act or practice.

(B) Upon the entry of the order under subdivision (c)(1)(A) of this section, the board shall promptly notify the person that the order has been entered and state the reasons for the order.

(2)

(A) The person ordered to cease and desist may contest the cease and desist order by delivering a written request for a hearing to the board within thirty (30) days from the date that notice of the order is sent by the board to the last known address of the person by first class mail, postage prepaid.

(B) The board shall schedule a hearing to be held within a reasonable amount of time after the Insurance Commissioner receives a timely written request for hearing.

(C) If no hearing is requested and none is ordered by the board, the order will remain in effect until it is modified or vacated by the board.

(D) After notice and an opportunity for a hearing, the board may:

(i) Affirm, modify, or vacate the cease and desist order under subdivision (c)(1)(A) of this section; and

(ii) For a violation of this subchapter, by order levy a fine not to exceed:

(a) Ten thousand dollars ($10,000) for each violation; or

(b) An amount equal to the total amount of money received in connection with each violation.

(3) The board may apply to the Pulaski County Circuit Court to temporarily or permanently enjoin an act or practice that violates subdivision (a)(1) of this section and to enforce compliance with this chapter:

(A) After an order is issued under subdivision (c)(1) or (c)(2) of this section; or

(B) Without issuing an order under subdivision (c)(1) or (c)(2) of this section.

(4) Upon a proper showing, a permanent or temporary injunction, restraining order, or writ of mandamus shall be granted.

(5) The board is not required to post a bond to obtain the relief provided by this section.

---

Arkansas Code Annotated ▶ Title 20. Public Health and Welfare ▶ Subtitle 2. Health and Safety ▶ Chapter 17. Death and Disposition of the Dead ▶ Subchapter 10. Cemetery Act for Perpetually Maintained Cemeteries

**§ 20-17-1019. Conveyance of lots.**

(a)
(1) An instrument conveying all or part of a burial lot or burial plot shall be issued to the purchaser upon full payment of the purchase price of the burial lot or burial plot.

(2) The cemetery company shall not use an instrument to convey a burial lot or burial plot unless the form of the instrument has been provided to the State Board of Embalmers, Funeral Directors, Cemeteries, and Burial Services.

(b) Only the cemetery company or its agents may sell or convey all or part of lots, grave spaces, crypts, or niches except that:

(1) The owner of all or part of a lot, grave space, niche, or crypt may sell his or her interest in a lot, grave space, crypt, or niche if:

(A) The lot, grave space, crypt, or niche is first offered in writing to the cemetery company at the purchase price then being charged by the cemetery company for similar lots; and

(B) The cemetery company refuses the offer within thirty (30) days after the offer is made; and

(2) An owner may convey or devise to the cemetery company his or her interest in a lot, grave space, niche, or crypt.

(c) The secretary or other responsible officer of the cemetery company shall file and record in its books all instruments of transfer.

(d) The instrument of conveyance shall be signed by the persons having proper authority.

(e) A mortgage or lien on cemetery land granted by a permit holder shall not encumber any burial space that has been sold before granting the mortgage or lien.

(f)
(1) To ensure that all burial spaces remain unencumbered, the permit holder shall file with the board before executing a mortgage or creating a lien a notarized statement reflecting the specific description of the land to be affected by the mortgage or lien and a waiver or release by the proposed mortgagee or lienholder of any claim or right to any burial space for which an instrument of conveyance or deed has been or may be executed.

(2) The failure of a permit holder to comply with the requirements of this subsection is grounds for the board to require an additional contribution to the permanent maintenance fund of the cemetery in an amount not exceeding one thousand dollars ($1,000) for each burial space encumbered.

---

Arkansas Code Annotated ▶ Title 20. Public Health and Welfare ▶ Subtitle 2. Health and Safety ▶ Chapter 17. Death and Disposition of the Dead ▶ Subchapter 10. Cemetery Act for Perpetually Maintained Cemeteries

**§ 20-17-1020. Unlawful Act.**

It is unlawful for a cemetery company to bury or inter a body in any driveway, roadway, path, alley, or walk.

---

Arkansas Code Annotated ▶ Title 20. Public Health and Welfare ▶ Subtitle 2. Health and Safety ▶ Chapter 17. Death and Disposition of the Dead ▶ Subchapter 10. Cemetery Act for Perpetually Maintained Cemeteries

**§ 20-17-1021. Disposition of contributions and fees.**

(a) All contributions imposed under this subchapter shall be:

(1) Deposited into the respective permanent maintenance fund of the cemetery company upon which the contribution is imposed; and

(2) Paid within forty-five (45) days of imposition.

(b) All fees imposed under this subchapter shall be paid to the State Board of Embalmers, Funeral Directors, Cemeteries, and Burial Services.

---

Arkansas Code Annotated ▶ Title 20. Public Health and Welfare ▶ Subtitle 2. Health and Safety ▶ Chapter 17. Death and Disposition of the Dead ▶ Subchapter 10. Cemetery Act for Perpetually Maintained Cemeteries

**§ 20-17-1022. Records required.**

(a) All cemetery companies shall make and keep accounts and records which shall indicate that they have made the required contributions to the permanent maintenance fund. The burden is upon the cemetery company to maintain the accounts and records.

(b) Unless otherwise approved by the Arkansas Cemetery Board, all sales contracts and deeds issued by the cemetery company shall be numbered prior to when they are executed by the cemetery company and shall contain those items that the board by rule or order prescribes.

(c) A cemetery company shall maintain records of its interments that shall include without limitation:

(1) The name of the interred or entombed;

(2) The date of interment or entombment; and

(3) The location of interment or entombment.

Arkansas Code Annotated ▶ Title 20. Public Health and Welfare ▶ Subtitle 2. Health and Safety ▶ Chapter 17. Death and Disposition of the Dead ▶ Subchapter 10. Cemetery Act for Perpetually Maintained Cemeteries

---

**§ 20-17-1023. Annual report of condition of cemetery company.**

(a)

(1) Within seventy-five (75) days after the end of the calendar year, a cemetery company shall file with the State Board of Embalmers, Funeral Directors, Cemeteries, and Burial Services a report under oath of its condition.

(2) The report shall include without limitation:

(A) The name and contact information of:

(i) The cemetery company;

(ii) The person in charge of the records of the cemetery company; and

(iii) Each person with authority to sign conveyance documents;

B) The amount of sales and date of final payment of cemetery lots, graves, spaces, mausoleums, columbaria, crypts, lawn crypts, or niches for which payment has been made in full and instruments of conveyance have been issued during the preceding calendar year;

(C) The amounts paid into the permanent maintenance fund;

(D) The income received from the fund during the preceding calendar year;

(E) The total amount owed to the fund;

(F) The amounts owed to the fund at the date of the report;

(G) The amount expended for care and maintenance of the cemetery;

(H) The names and addresses of the owners of the cemetery company or the officers and directors of the company and stating any change of control that has occurred during the past calendar year, the date of incorporation, and the resident agent and resident agent's office if the cemetery company is a corporation; and

(I) Any other information the board requires.

(b) The report shall be accompanied by:

(1) A filing fee of three hundred twenty-five dollars ($325); and

(2)

(A) A fee of seven dollars ($7.00) for each burial sale contract entered into during the preceding calendar year by the cemetery company regardless of the number of spaces sold under the contract regarding lots, grave spaces, mausoleums, columbaria, crypts, lawn crypts, and niches.

(B) The burial sale contract fee under subdivision (b)(2)(A) of this section is not required for a burial sale contract of an interment in an infant interment garden that complies with § 20-17-1030.

(c)

(1) If the cemetery company does not timely file its annual report, the board may require the cemetery company to pay an additional contribution to the permanent maintenance fund of no more than fifty dollars ($50.00) per day until the report is filed with the board.

(2) If the cemetery company refuses to pay the contribution or fees, the board shall institute suit to recover the penalty and fee and costs and such other relief as the state in its judgment deems proper.

(3) If the cemetery company shall fail to meet the requirements of this section, then the board shall apply to the Pulaski County Circuit Court for the proper order to require a report.

(d) The beginning and ending dates of the report shall coincide with the dates of the report of the trustee required in § 20-17-1015.

(e) Upon receipt of a properly completed annual report from the trustee and the cemetery company, the board shall issue to the cemetery company an annual operating permit which shall be prominently displayed at the main entrance to the cemetery.

---

Arkansas Code Annotated ▶ Title 20. Public Health and Welfare ▶ Subtitle 2. Health and Safety ▶ Chapter 17. Death and Disposition of the Dead ▶ Subchapter 10. Cemetery Act for Perpetually Maintained Cemeteries

**§ 20-17-1025. Protection of cemeteries – Power to lend.**

(a) The State Board of Embalmers, Funeral Directors, Cemeteries, and Burial Services shall maintain a segregated fund within its general operating fund to be known as the Insolvent Cemetery Loan Fund, which shall be administered by the Insurance Commissioner and only used to lend a court-appointed receiver or conservator the funds necessary to assure that a cemetery will be properly maintained and will continue to be a going concern, including the funds necessary to pay a reasonable surety bond premium that is required to be posted by the court.

(b) The board may take any legal action necessary against a cemetery company, receiver, or conservator to recover funds loaned by the board to or for the benefit of the cemetery, cemetery company, receiver, or conservator for the payment of maintenance expenses or unpaid loans.

(c) Disbursement from the Insolvent Cemetery Loan Fund for loans to a receiver or conservator shall be made on a "first in, first out" basis as determined by the commissioner.

(d) The commissioner may accept donations to the board from any cemetery company, organization, or individual to fund loans under this section.

(e) The board may waive payment or extend the payment period for a loan made to a receiver or conservator if the board determines that it is unlikely that the receiver or conservator has or will receive sufficient funds to repay the loan and that the funds were or are needed to maintain and operate the cemetery for the benefit of the lot owners and the general public.

(f) Any funds that accumulate in the Insolvent Cemetery Loan Fund in excess of one hundred eighty thousand dollars ($180,000) may at the request of the board be transferred to the Insolvent Cemetery Grant Fund under the Insolvent Cemetery Grant Fund Act, § 20-17-1301 et seq.

---

Arkansas Code Annotated ▶ Title 20. Public Health and Welfare ▶ Subtitle 2. Health and Safety ▶ Chapter 17. Death and Disposition of the Dead ▶ Subchapter 10. Cemetery Act for Perpetually Maintained Cemeteries

**§ 20-17-1026. Annual Permit fee.**

(a) Within seventy-five (75) days after the end of the calendar year, each permit holder shall pay to the State Board of Embalmers, Funeral Directors, Cemeteries, and Burial Services a permit renewal fee in the amount of one hundred dollars ($100).

(b) All annual permit fees shall be classified as general funds of the board and shall be used to make loans to receivers and conservators as provided in § 20-17-1025.

Arkansas Code Annotated ▶ Title 20. Public Health and Welfare ▶ Subtitle 2. Health and Safety ▶ Chapter 17. Death and Disposition of the Dead ▶ Subchapter 10. Cemetery Act for Perpetually Maintained Cemeteries

**§ 20-17-1028. Contracts with municipality or county where a cemetery is located.**

(a)
(1) The State Board of Embalmers, Funeral Directors, Cemeteries, and Burial Services may contract with the municipality or county where a cemetery is located for the care and maintenance and the operation of the cemetery.

(2) Services relating to the care and maintenance and the operation of the cemetery include without limitation:

(A) The sale and conveyance of lots;

(B) The opening and closing of graves;

(C) The preparation of financial reports and legal documents;

(D) The maintenance of driveways;

(E) The removal of trash and debris;

(F) The cutting of grass;

(G) The planting and care of trees, shrubs, and flowers; and

(H) The necessary improvements to streets, avenues, walks, or other public grounds of the cemetery.

(3) The municipal or county government may subcontract with qualified persons to provide services under this section.

(b)
(1) If the board contracts with a municipality or county under this section, the municipality or county, in addition to complying with any applicable statute, shall file with the board in March of each year a financial report showing all moneys received and expended during the preceding year, including without limitation:

(A) The date of receipt of all moneys;

(B) The source from which the moneys were received;

(C) All moneys paid out;

(D) The date the moneys were paid out;

(E) The person to whom the moneys were paid out; and

(F) The purpose of the payment.

(2) At the end of each calendar year, the municipality or county shall review the fiscal position of the cemetery and direct any excess moneys to the permanent maintenance fund.

(c) For the purposes of this section, a municipality or county may accept funds from public and private entities and direct the funds to:

(1) General maintenance and improvement; or

(2) The permanent maintenance fund.

(d) The state, a city, or a county shall be immune from liability in contract or in tort for actions taken to implement this section.

Arkansas Code Annotated ▶ Title 20. Public Health and Welfare ▶ Subtitle 2. Health and Safety ▶ Chapter 17. Death and Disposition of the Dead ▶ Subchapter 10. Cemetery Act for Perpetually Maintained Cemeteries

**§ 20-17-1030. Infant interment gardens.**

(a) A cemetery company may maintain an infant interment garden if:

(1) The cemetery company provides the State Board of Embalmers, Funeral Directors, Cemeteries, and Burial Services a letter of intent to establish an infant interment garden and a map of the location for the infant interment garden;

(2) The infant interment garden is made available to the public and to existing families and property owners of the permitted cemetery on a non-discriminatory basis;

(3) No charge is made to the family, next of kin, or any agency for the space, interment, and opening and closing services;

(4) The infant interment garden complies with the rules and regulations of the cemetery on file with the board; and

(5) The conveyance and recordkeeping requirements of § 20-17-1019 and § 20-17-1022 are satisfied for each interment in the infant interment garden.

(b) An infant interment garden that complies with this section is not subject to the deposit requirements of § 20-17-1016.

Arkansas Code Annotated ▶ Title 20. Public Health and Welfare ▶ Subtitle 2. Health and Safety ▶ Chapter 17. Death and Disposition of the Dead ▶ Subchapter 10. Cemetery Act for Perpetually Maintained Cemeteries

**§ 20-17-1031. Perpetual care cemetery – Duty to maintain.**

**(a)** A cemetery company that holds a permit to own and operate a perpetual care cemetery under § 23-61-1101 et seq. shall properly care for, maintain, and preserve the perpetual care cemetery.

**(b)** A cemetery owner is not responsible for faulty monument installation and upkeep by a monument company or other third party.

Arkansas Code Annotated ▶ Title 20. Public Health and Welfare ▶ Subtitle 2. Health and Safety ▶ Chapter 17. Death and Disposition of the Dead ▶ Subchapter 13. Insolvent Grant Fund Cemetery Act

**§ 20-17-1301. Title.**

This subchapter shall be known and may be cited as the "Insolvent Cemetery Grant Fund Act."

Arkansas Code Annotated ▶ Title 20. Public Health and Welfare ▶ Subtitle 2. Health and Safety ▶ Chapter 17. Death and Disposition of the Dead ▶ Subchapter 13. Insolvent Grant Fund Cemetery Act

**§ 20-17-1302. Findings and purpose.**

The General Assembly finds that:

(1) Perpetual care cemeteries provide historical and cultural benefits to the citizens of the State of Arkansas; and

(2) A grant program should be established to assist a perpetual care cemetery that is insolvent or in financial distress for its care and improvement.

---

Arkansas Code Annotated ▶ Title 20. Public Health and Welfare ▶ Subtitle 2. Health and Safety ▶ Chapter 17. Death and Disposition of the Dead ▶ Subchapter 13. Insolvent Grant Fund Cemetery Act

**§ 20-17-1303. Insolvent Cemetery Grant Fund.**

An Insolvent Cemetery Grant Fund is established within the general operating fund of the State Board of Embalmers, Funeral Directors, Cemeteries, and Burial Services for the care and improvement of a perpetual care cemetery that is insolvent or in financial distress as determined by the board.

---

Arkansas Code Annotated ▶ Title 20. Public Health and Welfare ▶ Subtitle 2. Health and Safety ▶ Chapter 17. Death and Disposition of the Dead ▶ Subchapter 13. Insolvent Grant Fund Cemetery Act

**§ 20-17-1304. Powers and duties of State Board of Embalmers, Funeral Directors, Cemeteries, and Burial Services.**

The State Board of Embalmers, Funeral Directors, Cemeteries, and Burial Services shall:

(1) Review and grant or deny all or part of a grant application submitted under this subchapter; and

(2) Establish by rule:

(A) Criteria for grant applications and awards;

(B) Oversight of all grant expenditures;

(C) Criteria for reporting and maintaining all grant moneys and expenditures; and

(D) Criteria for the review of grant awards and expenditures to prevent misuse or abuse of grant money.

---

Arkansas Code Annotated ▶ Title 20. Public Health and Welfare ▶ Subtitle 2. Health and Safety ▶ Chapter 17. Death and Disposition of the Dead ▶ Subchapter 13. Insolvent Grant Fund Cemetery Act

**§ 20-17-1305. Eligibility for grants – Definition.**

(a)

(1) As used in this section, “eligible organization” means an organization that agrees to provide for the care and improvement of a perpetual care cemetery that is insolvent or in financial distress as determined by the State Board of Embalmers, Funeral Directors, Cemeteries, and Burial Services.

(2) "Eligible organization" includes a nonprofit organization which is exempt from taxation under § 501(c)(3) of the Internal Revenue Code.

(b) An eligible organization is eligible to receive a grant under this subchapter for the care and improvement of a perpetual care cemetery if the perpetual care cemetery:

(1) Has historical significance to the local community or the State of Arkansas; or

(2) Is insolvent or in financial distress.

---

Arkansas Code Annotated ▶ Title 20. Public Health and Welfare ▶ Subtitle 2. Health and Safety ▶ Chapter 17. Death and Disposition of the Dead ▶ Subchapter 13. Insolvent Grant Fund Cemetery Act

**§ 20-17-1306. Application.**

An eligible organization shall apply for grant payments under this subchapter according to the rules established by the State Board of Embalmers, Funeral Directors, Cemeteries, and Burial Services.

---

Arkansas Code Annotated ▶ Title 20. Public Health and Welfare ▶ Subtitle 2. Health and Safety ▶ Chapter 17. Death and Disposition of the Dead ▶ Subchapter 13. Insolvent Grant Fund Cemetery Act

**§ 20-17-1307. Grant payments – Amount.**

(a) The Insurance Commissioner shall make grant payments under this subchapter from:

(1) Funds appropriated by the General Assembly for that purpose; or

(2) Excess funds transferred under § 20-17-1025 to the Insolvent Cemetery Grant Fund from the Insolvent Cemetery Loan Fund.

(b) The State Board of Embalmers, Funeral Directors, Cemeteries, and Burial Services shall not grant more than thirty-five thousand dollars ($35,000) in a fiscal year to an eligible organization for the care and improvement of a perpetual care cemetery that is insolvent or in financial distress under this subchapter.

---

Arkansas Code Annotated ▶ Title 20. Public Health and Welfare ▶ Subtitle 2. Health and Safety ▶ Chapter 17. Death and Disposition of the Dead ▶ Subchapter 13. Insolvent Grant Fund Cemetery Act

**§ 20-17-1308. Use of grant awards.**

A grant award under this subchapter shall be used by an eligible organization exclusively for the care and improvement of the driveways, buildings, and grounds of a perpetual care cemetery that is insolvent or in financial distress.

---

Arkansas Code Annotated ▶ Title 23. Public Utilities and Regulated Industries ▶ Subtitle 3. Insurance ▶ Chapter 61. State Insurance Department ▶ Subchapter 11. State Board of Embalmers, Funeral Directors, Cemeteries, and Burial Services

**§ 23-61-1101. Definitions.**

As used in this subchapter:

(1) “Burial association” means:

(A) A person, firm, association, copartnership, corporation, company, or other organization that, from and after February 18, 1953:

(i) Undertakes for consideration paid by or on behalf of its members to defray all or a part of the funeral expenses of the members;

(ii) Furnishes or undertakes to furnish merchandise, supplies, and services or any other character of burial benefits to the members; or

(iii) Issues a certificate that provides for the payment of funeral benefits to the members in services, merchandise, or supplies, including the services of funeral directors and embalmers; and

(B) Every person, firm, association, copartnership, corporation, or company that, before February 18, 1953, has:

(i) Undertaken for a consideration to pay money to its contributors for the purpose of defraying all or part of the funeral expenses of a deceased person;

(ii) Furnished or has undertaken to furnish supplies and services or any other character of burial benefits to the contributing person or to his or her beneficiaries or members of his or her family; or

(iii) Issued any form of contract or certificate that, under its terms, provides for the payment of funeral benefits in money, services, or supplies, including the services of undertakers or embalmers;

(2) “Care and maintenance” means the continual maintenance of the cemetery grounds and graves in keeping with a properly maintained cemetery;

(3)

(A) “Cemetery” means any land or structure in this state dedicated to and used or intended to be used for interment of human remains.

(B) “Cemetery” includes a:

(i) Burial park for earth interments;

(ii) Mausoleum for vault or crypt interments; or

(iii) Combination of one (1) or more burial parks for earth internments and mausoleums for vault or crypt interments;

(4) “Cemetery company” means an individual, partnership, corporation, limited liability company, or association owning or controlling cemetery lands or property and conducting the business of a cemetery or making an application with the State Board of Embalmers, Funeral Directors, Cemeteries, and Burial Services to own or control the lands or conduct the business;

(5) “Permit holder” means a cemetery company that holds a permit issued by the board to own or operate a perpetual care cemetery; and

(6) “Perpetual care cemetery” means a cemetery for the benefit of which a permanent maintenance fund has been established in accordance with this subchapter.

---

Arkansas Code Annotated ▶ Title 23. Public Utilities and Regulated Industries ▶ Subtitle 3. Insurance ▶ Chapter 61. State Insurance Department ▶ Subchapter 11. State Board of Embalmers, Funeral Directors, Cemeteries, and Burial Services

**§ 23-61-1102. Creation of board – Members.**

**(a)** There is created within the State Insurance Department the State Board of Embalmers, Funeral Directors, Cemeteries, and Burial Services.

**(b)** The members of the board shall be:

**(1)** Residents of this state;

**(2)** At least twenty-one (21) years of age; and

**(3)** Of good moral character.

**(c)** The board shall be composed of nine (9) members as follows:

**(1)**

**(A)** The Insurance Commissioner or his or her designated deputy.

**(B)** The commissioner or his or her designated deputy shall be a voting member of the board; and

**(2)**

**(A)** Eight (8) members appointed by the Governor and subject to confirmation by the Senate who shall serve terms of five (5) years.

**(B)** Six (6) of the board members under subdivision (c)(2)(A) of this section shall include:

**(i)**

***(a)*** Two (2) licensed embalmers or funeral directors, each of whom has had at least five (5) consecutive years of experience as an embalmer or funeral director in this state immediately preceding his or her appointment to the board.

***(b)*** The Governor shall consult licensed embalmers and funeral directors before making an appointment under subdivision (c)(2)(B)(i)*(a)* of this section.

***(c)*** The Arkansas Funeral Directors Association, Incorporated, or its successor shall submit to the Governor a list containing the names of at least four (4) professionals under subdivision (c)(2)(B)(i)*(a)* of this section;

**(ii)** Two (2) owners or operators of a licensed perpetual care cemetery in this state; and

**(iii)** Two (2) professionals engaged in the operation of a burial association for at least five (5) consecutive years preceding his or her appointment to the board.

**(C)**

**(i)** The remaining two (2) members of the board shall be:

***(a)*** One (1) person from this state, appointed at large, to represent the consumer community; and

***(b)*** One (1) person from this state who is at least sixty (60) years of age, appointed at large, to represent the elderly community.

**(ii)** The members of the board under subdivision (c)(2)(C)(i) of this section shall not be actively engaged in or retired from the profession of embalming or funeral directing, the business of operating a burial association, or any other profession or occupation that is regulated by the board.

**(iii)** The members of the board under subdivision (c)(2)(C)(i) of this section shall be full voting members of the board.

**(d)** The members of the board shall hold the first meeting within five (5) days after membership appointment and select one (1) member under subdivision (c)(2)(B) of this section as Chair of the State Board of Embalmers, Funeral Directors, Cemeteries, and Burial Services who shall serve a one-year term or until his or her successor is selected and qualified.

**(e)** Each congressional district shall be represented by membership on the board.

**(f)**

**(1)** The length of the term for an initial member of the board under this section shall be staggered and set by the Governor.

**(2)** After the completion of the terms of the initial members of the board under subdivision (f)(1) of this section, a member of the board shall serve for a term of five (5) years, and shall serve on the board until a successor is appointed and qualified.

**(3)** A member of the board shall not be appointed to more than two (2) consecutive full terms.

**(g)** A vacancy on the board due to the death, resignation, or other cause of an appointed member of the board shall be filled by appointment by the Governor for the unexpired portion of the term in the same manner as required for an initial appointment.

**(h)** The presence of five (5) or more members of the board shall constitute a quorum.

**(i)** A member of the board who has a financial interest in a matter before the board shall be disqualified from:

**(1)** Participating in discussion pertaining to the matter; and

**(2)** Voting on the matter.

**(j)** A board member is eligible to receive expense reimbursement and stipends under § 25-16-901.

**(k)** The Governor may remove any member of the board for incompetence, improper conduct, gross neglect, or malfeasance.

**(l)**

**(1)** Before entering upon duties of the board, members of the board shall take and subscribe to the oath prescribed by the Arkansas Constitution for state officers and shall file the subscribed oath in the office of the Secretary of State.

**(2)** The Secretary of State shall issue a certificate of appointment for the new member of the board.

**(m)** The board may make reimbursement of the necessary and reasonable travel, board, and lodging expenses of the board's employees, Executive Secretary of the State Board of Embalmers, Funeral Directors, Cemeteries, and Burial Services, and auditors incurred in the performance of their official duties.

---

Arkansas Code Annotated ▶ Title 23. Public Utilities and Regulated Industries ▶ Subtitle 3. Insurance ▶ Chapter 61. State Insurance Department ▶ Subchapter 11. State Board of Embalmers, Funeral Directors, Cemeteries, and Burial Services

**§ 23-61-1103. Powers and duties of board.**

**(a)** The State Board of Embalmers, Funeral Directors, Cemeteries, and Burial Services may:

**(1)**

**(A)** Hold a meeting no less than one (1) time each calendar quarter.

**(B)** The meeting shall be held at a time and place as the board or Insurance Commissioner may determine, after notice of such meeting has been given to the general public at least thirty (30) days before the meeting.

**(C)** The board shall meet upon written demand of any two (2) members of the board or upon the call of the commissioner;

**(2)** Make examinations required by § 17-29-301 et seq. available to applicants at least two (2) times annually at suitable locations during normal business hours;

**(3)** Promulgate appropriate rules:

**(A)** For the transaction of business of the board;

**(B)** For the betterment and promotion of the standards of service and practice;

**(C)** To establish the standards of practice and a code of ethics for persons licensed or authorized under this subchapter; § 17-29-301 et seq.; the Cemetery Act for Perpetually Maintained Cemeteries, § 20-17-1001 et seq.; or § 23-78-101 et seq.; and

**(D)** To establish qualifications necessary to:

**(i)** Practice the science of embalming;

**(ii)** Engage in the business of funeral directing;

**(iii)** Practice cremation;

**(iv)** Transport human remains; and

**(v)** Operate a funeral establishment, mortuary service, crematorium, retort, or transport service firm to transport human remains;

**(4)**

**(A)** Develop, establish by rule, and administer a mandatory or voluntary continuing education program and its requirements for persons licensed or authorized by the board.

**(B)** The board may excuse licensees, as a group or as individuals, from a continuing education program, if any unusual circumstances, emergency, or hardship prevents participation in the program;

**(5)** Promulgate rules and publish forms to enforce and administer laws governing:

**(A)** Embalmers, funeral directors, and funeral establishments, under § 17-29-301 et seq.; § 17-29-401 et seq.; and § 17-29-501 et seq.;

**(B)** Burial associations under § 23-78-101 et seq.; and

**(C)** Cemetery companies under the Cemetery Act for Perpetually Maintained Cemeteries, § 20-17-1001 et seq.; and the Insolvent Cemetery Grant Fund Act, § 20-17-1301 et seq.;

**(6)** Suspend or revoke permits or licenses or impose a civil penalty not to exceed five hundred dollars ($500) per violation when a licensee fails to comply with any of the laws governing the licensee or when a licensee fails to comply with a rule or order of the board;

**(7)** Upon application, grant permits, licenses, or certificates of authority to applicants and licensees;

**(8)** When appropriate, amend permits, licenses, or certificates of authority;

**(9)**

**(A)** Apply to Pulaski County Circuit Court to enjoin any act or practice and to enforce compliance with relevant laws and the rules and orders of the board when it appears that any person has engaged in or will engage in an act or practice that constitutes a violation of any provision of this subchapter or rule or order of the board.

**(B)** The court shall not require the board or commissioner to post a bond;

**(10)** Apply to Pulaski County Circuit Court or the circuit court in the county in which the licensee is located for the appointment of a receiver or conservator of the cemetery corporation or its permanent maintenance fund when it appears to the board or commissioner that a cemetery corporation is insolvent or that the cemetery corporation, its officers, directors, agents, or the trustees of its permanent maintenance fund, have violated this subchapter, relevant laws, or the rules or orders of the board;

**(11)**

**(A)** Conduct hearings and subpoena witnesses, books, and records in connection with alleged violations of this subchapter, relevant laws, and the rules or orders of the board.

**(B)**

**(i)** In case of contumacy or refusal to obey a subpoena issued to a person, the Pulaski County Circuit Court, upon application by the board, may issue to the person an order requiring him or her to appear before the board or the person designated by the board.

**(ii)** Failure to obey the order of the court may be punished by the court as a contempt of court.

**(C)** An order by the board under this subchapter shall be subject to review by the Pulaski County Circuit Court or by the circuit court of the county in which any part of the cemetery lies if an application for review of an order by the board is made within thirty (30) days of the date of the order; and

**(12)** Establish and collect reasonable fees.

**(b)** The board shall adopt bylaws and rules in connection with the care and disposition of human remains in this state.

**(c)**

**(1)** The commissioner, in consultation with the Secretary of the Department of Commerce, may appoint assistants and deputies and examiners, inspectors, attorneys, clerks, stenographers, and other personnel as may be necessary to assist him or her in the discharge of the duties imposed upon him or her in overseeing the board.

**(2)** Personnel under subdivision (c)(1) of this section shall devote their entire business time to carrying out official duties concerning the board, or if appropriate, the State Insurance Department.

**(d)** The powers and authority under subsection (a) of this section shall not be in dimunition or limitation of the powers and authority vested in the board by the various sections of this subchapter, but the board shall possess all powers and authority, whether set forth in this section or not, to enable it to carry out the intent and purpose of this subchapter.

**(e)**

**(1)** The board, when it shall deem necessary, shall be represented by the State Insurance Department.

**(2)**

**(A)** If deemed necessary by the board, the board may employ special counsel whose services shall be paid for from funds of the board.

**(B)** Special counsel shall be retained only with the prior approval of the commissioner.

---

Arkansas Code Annotated ▶ Title 23. Public Utilities and Regulated Industries ▶ Subtitle 3. Insurance ▶ Chapter 61. State Insurance Department ▶ Subchapter 11. State Board of Embalmers, Funeral Directors, Cemeteries, and Burial Services

**§ 23-61-1104. Executive Secretary of the State Board of Embalmers, Funeral Directors, Cemeteries, and Burial Services.**

**(a)**

**(1)** The Insurance Commissioner, in consultation with the Secretary of the Department of Commerce, may appoint and employ a person as the Executive Secretary of the State Board of Embalmers, Funeral Directors, Cemeteries, and Burial Services who shall serve at the pleasure of the commissioner.

**(2)** The executive secretary shall devote the necessary time to the performance of his or her duties under this section.

**(3)** The duties of the executive secretary shall include:

**(A)** Collection of fees and charges under this subchapter; § 17-29-301 et seq.; the Cemetery Act for Perpetually Maintained Cemeteries, § 20-17-1001 et seq.; the Insolvent Cemetery Grant Fund Act, § 20-17-1301 et seq.; and § 23-78-101 et seq.;

**(B)** Keeping record of the proceedings of the State Board of Embalmers, Funeral Directors, Cemeteries, and Burial Services;

**(C)** Keeping an accurate account of all moneys received and disbursed by the commissioner; and

**(D)** Any other duties defined and designated by the board.

**(b)** The board shall maintain its main office location in Little Rock and transact the business of the board at the main office.

---

Arkansas Code Annotated ▶ Title 23. Public Utilities and Regulated Industries ▶ Subtitle 3. Insurance ▶ Chapter 61. State Insurance Department ▶ Subchapter 11. State Board of Embalmers, Funeral Directors, Cemeteries, and Burial Services

**§ 23-61-1109. Cemeteries and cemetery companies.**

**(a)** The State Board of Embalmers, Funeral Directors, Cemeteries, and Burial Services may:

**(1)**

**(A)** Conduct periodic, special, or other examinations of a cemetery or cemetery company, including without limitation an examination of the physical condition or appearance of the cemetery, the financial condition of the cemetery company and any trust funds maintained by the cemetery company, and other examinations that the board or Insurance Commissioner deems necessary or appropriate in the public interest.

**(B)** An examination under subdivision (a)(1)(A) of this section shall be carried out by:

**(i)** A member or representative of the board;

**(ii)** A certified public accountant or registered public accountant as authorized under § 20-17-1007; or

**(iii)** The State Insurance Department;

**(2)** Issue or amend permits to operate a cemetery under this subchapter;

**(3)** Suspend or revoke permits to operate a cemetery when a cemetery fails to comply with this subchapter, rules promulgated under this subchapter, or any order of the board;

**(4)** Make rules and forms to enforce this subchapter;

**(5)** Require cemetery companies to observe minimum accounting principles and practices and make and keep the books and records for a period of time as the board may prescribe by rule;

**(6)** Require a cemetery company to properly care for, maintain, and preserve a cemetery;

**(7)** Require additional contributions to the permanent maintenance fund of the cemetery under this subchapter, including without limitation contributions not to exceed three thousand dollars ($3,000) whenever a cemetery company fails to properly care for and maintain or preserve the cemetery;

**(8)** Apply to Pulaski County Circuit Court or the circuit court of the county in which the cemetery is located for appointment of a receiver or conservator of the cemetery company or its permanent maintenance fund when it appears to the board that a cemetery company is insolvent or that the cemetery company, its officers, directors, agents, or the trustees of its permanent maintenance fund, have violated this subchapter and the rules promulgated under this subchapter or have failed to comply with any board order;

**(9)** Increase by rule the amount of a deposit required under § 20-17-1016 if the board determines that a greater sum is necessary to assure that the permanent maintenance fund will earn sufficient income to provide for the care and maintenance of the cemetery; and

**(10)**

**(A)** Purchase insolvent, licensed perpetual care cemeteries that have been in court-ordered receivership or conservatorship for at least five (5) years.

**(B)** If the taking of legal possession of the cemetery under subdivision (a)(10)(A) of this section requires the payment of consideration, any payment made by the board shall not exceed one thousand dollars ($1,000).

**(b)** A violation of this section is a Class A misdemeanor.

---

Arkansas Code Annotated ▶ Title 23. Public Utilities and Regulated Industries ▶ Subtitle 3. Insurance ▶ Chapter 61. State Insurance Department ▶ Subchapter 11. State Board of Embalmers, Funeral Directors, Cemeteries, and Burial Services

**§ 23-61-1111. Duties of the State Insurance Department.**

**(a)** The State Insurance Department shall assist the State Board of Embalmers, Funeral Directors, Cemeteries, and Burial Services in the performance of the duties of the board.

**(b)** Assistance under subsection (a) of this section shall include without limitation:

**(1)** Receiving and disseminating filings, questions, and requests on behalf of the board to the members of the board in advance of each meeting;

**(2)** Reviewing all filings, questions, and requests on behalf of the board and offering the department's opinion on the resolution of the matter;

**(3)** Issuing written responses regarding complaints received by the board;

**(4)** Scheduling all meetings in conjunction with the Chair of the State Board of Embalmers, Funeral Directors, Cemeteries, and Burial Services;

**(5)** Providing appropriate legal notices for all scheduled meetings;

**(6)** Establishing a site where meetings of the board may be held;

**(7)** When necessary, scheduling the services of a court reporter for all meetings of the board;

**(8)** Providing legal representation and assistance through the legal staff of the department to the board in matters pertaining to this subchapter;

**(9)** Acting as a liaison between the board and any court involved in the administration of any perpetual care cemetery placed in receivership;

**(10)** Performing inspections at burial associations, cemeteries, funeral homes, funeral establishments and crematoriums for which complaints have been received by the board;

**(11)** Performing special audits and examinations as necessary;

**(12)** Scheduling, performing, and assisting in performing regular audits and examinations of cemeteries, funeral homes, funeral establishments, and crematoriums;

**(13)** Administering or assisting in administering the annual reporting for all perpetual care cemeteries; and

**(14)** Assisting in the formulation of legislation on behalf of the board.

---

## Title 20. Public Health and Welfare
## Chapter XXIII. State Board of Embalmers, Funeral Directors, Cemeteries, and Burial Services, State Insurance Department, Department of Commerce
## Subchapter A. Generally
## Part 830. Rule Pertaining to Perpetually Maintained Cemeteries

**Codification Notes:**
This part as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"Authority

This rule is promulgated pursuant to Ark. Code Ann. §§ 23-61-1103(a)(5)(C), 23-61-1109(a)(4), and 20-17-1304(2)."

"Effective Date
This rule is effective after review and approval by the Arkansas Legislative Council, ten (10) days after filing of the approved Rule with the Arkansas Secretary of State."

### Subpart 1. Generally

---

**20 CAR § 830-101. Purpose.**

The purpose of this part is to provide requirements that are applicable to perpetual care cemeteries and the cemetery companies who own and operate perpetual care cemeteries.

---

**20 CAR § 830-102. Definitions.**

As used in this part:

(1) "Board" means the State Board of Embalmers, Funeral Directors, Cemeteries, and Burial Services;

(2) "Care and maintenance" means the continual maintenance of the cemetery grounds and graves in keeping with a properly maintained cemetery;

(3)(A) "Cemetery" means any land or structure in this state dedicated to, and used or intended to be used for, interment of human remains.

(B) It may be either a:

(i) Burial park for earth interments;

(ii) Mausoleum for vault or crypt interments; or

(iii) Combination of one (1) or more burial parks for earth interments and mausoleums for vault or crypt interments;

(4) "Cemetery company" means an individual, partnership, corporation, limited liability company, or association, now or hereafter organized, owning or controlling cemetery lands or property, and conducting the business of a cemetery or making an application to the State Board of Embalmers, Funeral Directors, Cemeteries, and Burial Services to own or control the lands, or conduct the business;

(5)(A) "Cemetery deed" or "instrument of conveyance" means a deed or certificate that conveys the right of interment or entombment in the lot or grave space.

(B) The right of interment or entombment is subject to the rules of the perpetual care cemetery;

(6) "Columbarium" means a structure or room or space in a building or structure used or intended to be used for the interment of cremated human remains;

(7) "Crypt" means a chamber in a wall that is built of sufficient size to inter casketed human remains;

(8) "Infant interment garden" means a designated area in a perpetual care cemetery for the interments of infants and children no more than twenty-four (24) months of age;

(9) "Interment" means the lawful disposition of the remains of a deceased person as provided by law;

(10) "Lawn crypt" means an interment space sometimes referred to as a "belowground crypt", "Westminster", or "turf top crypt" in a preplaced chamber or burial vault either side-by-side or at multiple depths, covered by earth and sod;

(11) "Lot" or "grave space" means a space of ground in a cemetery used or intended to be used for interment therein;

(12) "Mausoleum" means a community-type structure or room or space in a building or structure used or intended to be used for the interment of human remains in crypts or niches;

(13) "Niche" means a space in a columbarium that is used or intended to be used for the interment of the cremated remains of one (1) or more deceased persons;

(14) "Permit holder" means a cemetery company that holds a permit issued by the State Board of Embalmers, Funeral Directors, Cemeteries, and Burial Services to own or operate a perpetual care cemetery;

(15) "Perpetual care cemetery" means a cemetery for the benefit of which a permanent maintenance fund has been established; and

(16) "Properly maintained" means that care and maintenance services are provided, including without limitation:

(A) Mowing the grass;

(B) Weed trimming around lots or grave spaces and fences or property lines of the cemetery;

(C) Emptying trash receptacles; and

(D) Removing excess dirt, tree limbs, leaves, trash, and other debris from the grounds.

---

**20 CAR § 830-103. Fee for examination of cemetery.**

The fee for every examination conducted by the State Board of Embalmers, Funeral Directors, Cemeteries, and Burial Services or its representative shall be one hundred dollars ($100) per day for each examiner who conducts the examination.

---

**20 CAR § 830-104. Permit — Application.**

(a) **Proof of publication.** Before making application to the State Board of Embalmers, Funeral Directors, Cemeteries, and Burial Services for a permit to establish and operate a new cemetery or for the extension of the boundaries of an existing cemetery, the person or cemetery company proposing to make application shall publish weekly for three (3) weeks in a newspaper of general circulation in the county in which the proposed cemetery is located, a notice that an application will be filed with the board to establish or extend the boundaries of a cemetery in the county.

(b) **Form of application.**

(1) The application for a permit to establish and operate a cemetery is not required to be in any specific form, but it must be in writing and signed in the presence of a notary.

(2) The application shall include the following components:

(A) **Date of filing.** One (1) original signed copy, under oath, and one (1) copy of the application must be filed with the board not less than twenty (20) calendar days prior to the board meeting at which the application is to be considered;

(B) **Fee.**

(i) If the application is for a permit to establish a cemetery, then a fee of fifteen hundred dollars ($1,500.00) shall accompany the application.

(ii) If the application is to extend the boundaries of an existing cemetery, then a fee of four hundred dollars ($400) shall accompany the application; and

(C) **Survey and map.**

(i) The applicant shall file a survey and map with the board.

(ii) If the survey and map are filed with the Department of Health, as part of the investigation undertaken by the department, then the applicant may submit proof of the filing with the department.

(c) **Protest to application for permit.**

(1) Whenever any person desires to protest the issuance of a permit, the protestant shall file with the board a written protest setting forth any objections.

(2) Any such protest must be filed at least seven (7) calendar days before the board meeting at which the application is to be heard.

(3) The protestant shall send a copy of the protest to the cemetery company making application, and the protestant shall also submit to the board, proof that he or she sent a copy of the protest to the cemetery company.

(d) **Additional information required.** In addition to the required information provided in Arkansas Code § 20-17-1008, any application to establish a new cemetery shall contain the following information:

(1)(A) The applicant's form of business organization, e.g. corporation, partnership, sole proprietorship, limited liability company, etc.

(B) 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;

(2) If the applicant is a foreign corporation or limited liability company, the following information must be submitted:

(A) The applicant's resident agent for service of process;

(B) The address of the applicant's home office; and

(C) A statement that the applicant has been registered with the Secretary of State as a foreign corporation or a limited liability company, doing business in the State of Arkansas;

(3) 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;

(4)(A) The amount of outstanding capital stock of the applicant and a list of the stockholders of record who hold, own, or control at least twenty percent (20%) or more of the voting or capital of the applicant.

(B) The list of stockholders must indicate if a stockholder of record holds the stock as trustee or agent for someone other than himself or herself;

(5)(A) A copy of the articles of incorporation, articles of organization, bylaws, or similar founding charter of the applicant.

(B) The copy must be duly authenticated and certified by the proper authority.

(C) If the applicant is a partnership, then it must submit a copy of the partnership agreement;

(6)(A) A statement as to whether the corporation or limited liability company is a subsidiary of another corporation or limited liability company.

(B) If the applicant is a subsidiary, then it shall submit:

(i) The name of the parent organization;

(ii) The percentage of voting securities owned by the parent organization; or

(iii) Any other basis of control by the parent organization;

(7)(A) A description of all property held by the applicant.

(B) If any such property is not held in fee or is subject to any encumbrance, then the applicant must so state and briefly describe how held;

(8) A statement as to whether the applicant is the owner or operator of any other cemetery in this or any other state and the name and address of the cemetery (or cemeteries), and the contact information of the cemetery or cemeteries;

(9)(A) A statement briefly describing the nature of any legal proceedings against the applicant, any of its owners, officers, agents, or employees, or the partners of a partnership, or the owner of a proprietorship, which have occurred within the last ten (10) years.

(B) The person responsible for the application shall also submit a statement about any final judgments or orders against an applicant, an owner, an officer, an agent, an employee, or a partner, or an owner of a proprietorship, and the person may submit copies of the final judgments or orders;

(10) 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;

(11)(A) A statement showing an estimate of the volume of sales expected to be produced in the first five (5) years of operation.

(B) The estimate should be based upon criteria such as:

(i) Projected population growth in the area;

(ii) The number of cemeteries in the area;

(iii) The condition of these cemeteries; and

(iv) Any other relevant facts; and

(12) Any other evidence which would show a public need for the cemetery.

(e) If any of the information required by subsection (d) of this section is already on file with the board, the applicant may incorporate the previous filing or filings by reference in the application.

(f)(1) The applicant shall designate an individual to be responsible for the application.

(2) The individual shall undergo and pass a state criminal background check, the cost of which shall be borne by the applicant.

(g) The board may require an applicant to submit such other information it deems necessary.

---

**20 CAR § 830-105. Permit — Investigation by the Department of Health.**

Upon submission of an application to the State Board of Embalmers, Funeral Directors, Cemeteries, and Burial Services for the issuance of a permit to establish a new cemetery or to extend the boundaries of an existing cemetery, the applicant shall request that the Department of Health investigate the proposed cemetery location or extension to determine if the proposed new location or the proposed extension of boundaries will be sanitary.

---

**20 CAR § 830-106. Permit — Approval by board and issuance of permit.**

(a) If the application for a new perpetual care cemetery or extension of boundaries of an existing perpetual care cemetery is approved, the State Board of Embalmers, Funeral Directors, Cemeteries, and Burial Services shall issue a permit to the cemetery company setting forth the legal description of the property to be used as a cemetery.

(b) The cemetery company shall file a copy of each newly issued permit with the county clerk of the county in which the cemetery is located, and shall send a copy of each newly issued permit to the Department of Health.

**20 CAR § 830-107. Permit — Amendment.**

(a)(1) An application to modify an existing permit shall be filed and shall include the information required in Arkansas Code § 20-17-1011.

(2) A specific form is not required, but the application must be in writing and signed in the presence of a notary.

(b) An application must be filed with the State Board of Embalmers, Funeral Directors, Cemeteries, and Burial Services at least twenty (20) calendar days before the meeting at which the board will consider the application.

(c) A fee of four hundred dollars ($400) shall accompany the application for amendment of the permit.

(d) If the proposed rules and regulations for the use, care, and management of the cemetery or the proposed method of establishing a permanent maintenance fund are already on file with the board, the applicant may incorporate such information by reference in lieu of submitting a copy of the rules and regulations of the cemetery.

(e)(1) The board may determine that an amendment to a permit may be necessary.

(2) If so, the cemetery company presently holding the permit shall be notified of the board's decision to review the existing permit, and it shall be given an opportunity at the meeting to participate in the discussion.

(f) Any application to amend a permit shall be discussed at a regular or a special meeting of the board.

(g)(1) If the board determines that an existing permit should be amended, the board shall issue a new permit.

(2) The new permit shall supersede the previous permit.

(3) The new amended permit shall be filed by the cemetery company with the county clerk in the county in which the cemetery is located and a copy sent to the Department of Health.

**20 CAR § 830-108. Permit —Transfer of ownership.**

(a)(1) A specific form is not required.

(2) However, one (1) original copy signed in the presence of a notary, and one (1) copy of the application to transfer ownership of a cemetery shall be filed with the State Board of Embalmers, Funeral Directors, Cemeteries, and Burial Services.

(3) The application shall include the information required in Arkansas Code § 20-17-1012.

(b) An application to transfer ownership must be filed with the board at least twenty (20) calendar days prior to the board meeting at which it is to be considered.

(c)(1) The application to transfer ownership shall be accompanied by a fee of fifteen hundred dollars ($1,500).

(2) However, the fee is not required if the person or entity who is to gain the controlling interest of the cemetery is an heir to the estate of the individual who previously held the controlling interest in the permit.

(d) The following provisions apply to all applications to transfer ownership of a cemetery:

(1) The cemetery company proposing to acquire the ownership or a controlling interest in a cemetery company currently holding a permit shall file the information set forth in 20 CAR § 830-105(d)(1) – (10), unless upon proper showing the board waives one (1) or more of the requirements;

(2) If any of the information required by 20 CAR § 830-105(d)(1) – (10) or Arkansas Code § 20-17-1012 is already on file with the board, then the applicant may incorporate the previous filings by reference; and

(3) The board may require the cemetery company proposing to acquire or the cemetery company proposing to dispose of the ownership of a cemetery to submit such other information as it deems necessary.

(e) Any application to transfer ownership of a permit shall be discussed at a regular or a special meeting of the board.

(f)(1) Prior to the sale or transfer of ownership, the seller or transferor shall notify the board of the proposed sale or transfer.

(2) Such notification need not be in any specific form but it must be in writing and signed in the presence of a notary.

(g) The seller shall submit the following information:

(1) A report disclosing:

(A) The balances as reported on last previous annual report;

(B) The amounts of sales for which payment has been made in full since the annual report;

(C) The corresponding deed or instrument numbers which have been issued;

(D) The amounts and dates of each deposit made to the permanent maintenance fund; and

(E) Such other information necessary to show that all amounts due to be paid into the permanent maintenance fund have been satisfied.

(2) Listings which detail each account receivable and each discounted note showing the:

(A) Name of the lot purchaser;

(B) Gross amount of the lot sale price; and

(C) Outstanding balance;

(3) Report of the trustee disclosing the date and amount of all deposits to the trust fund since the annual report, the dates and amounts of income earned and disbursed since the annual report, and a listing of all assets of the permanent maintenance fund delineating between principal assets and income assets; and

(4)(A) All reports and listings required by subsection (g) of this section shall be as of the same date, which date shall not be more than forty-five (45) calendar days prior to the date of the board meeting at which the application shall be heard.

(B) The reports and listings shall be filed at least seven (7) calendar days prior to such meeting date.

(h) If such application for transfer of ownership is approved by the board, the seller or transferor shall, within seven (7) calendar days after the sale or transfer date, submit a statement, under oath, of the assets of the permanent maintenance fund as of the sale or transfer date.

(i)(1) If the board finds that the seller or transferor and the purchaser or transferee have submitted all required information, the board shall order the issuance of a new permit to the purchaser or transferee.

(2) The new permit shall supersede the previous permit.

(3) The date of the new permit shall coincide with the date of sale or transfer.

(4) The permit holder shall file a copy of the newly issued permit with the county clerk of the county in which the cemetery is located and shall send a copy of the new permit to the Department of Health.

---

**20 CAR § 830-109. Permanent maintenance fund generally.**

(a)(1) Each permanent maintenance fund shall have a written trust agreement governing the operation of the fund.

(2) A copy of the trust agreement shall be filed with the State Board of Embalmers, Funeral Directors, Cemeteries, and Burial Services.

(b) The board shall be notified prior to any change in the trustee arrangement or in the trustee or trustees by either the cemetery company or the trustee or trustees.

(c) If the board finds that a cemetery company must pay a penalty for failure to make required deposits to the trust fund, the cemetery company must submit proof to the board from the trustee or trustees that the penalty has been deposited into the cemetery company's permanent maintenance fund.

(d)(1) A cemetery company that elects to establish a permanent maintenance fund overseen by an individual trustee shall have each bank or financial institution that will receive deposits for the permanent maintenance fund, furnish the board with a letter setting forth that:

(A) All funds deposited shall be federally insured;

(B) All funds except the interest earned thereon, will be restricted so that it may not be pledged, withdrawn, or otherwise encumbered without written authorization of the board; and

(C) The name of the trustee who may withdraw the interest.

(2) Permanent maintenance funds deposited in any one (1) bank or other financial institution in excess of the maximum Federal Deposit Insurance Corporation insurance shall be deemed to be federally insured if the bank or other financial institution pledges specific security which are direct obligations of the United States government, or agencies whose securities are guaranteed by the United States government, as collateral for the funds in excess of the Federal Deposit Insurance Corporation insurance coverage.

---

**20 CAR § 830-110. Permanent maintenance fund — Trustees.**

(a)(1) If a permanent maintenance fund is overseen by three (3) trustees, then the minutes of the trustee meetings must be maintained by the cemetery company.

(2) The minutes must be signed by all three (3) trustees, reflect the authorization of all purchases and sales of investments, and reflect the authorization of all disbursements of income.

(3) If the trust agreement provides that only one (1) trustee shall have sole disbursement authority, then minutes must be prepared by that one (1) trustee and submitted to the remaining trustees for ratification at least twice a year.

(b)(1) A fidelity bond is required of any trustee who makes disbursements from the trust fund.

(2) The bond shall be deposited with the State Board of Embalmers, Funeral Directors, Cemeteries, and Burial Services and shall indemnify the permanent maintenance fund against loss of money or property, which the fund shall sustain through fraudulent or dishonest acts committed by trustees having disbursement authority.

(3) The fidelity bond shall remain in full force and effect from the effective date of the bond, until it is terminated or modified by the corporate surety thereon, and such fidelity bond shall provide that thirty (30) calendar days' notice must be given to the board by the corporate surety prior to the effective date of termination.

(4) Any modification to the fidelity bond must likewise be filed with the board.

(c) If a fidelity bond includes a deductible, an appropriate deposit of cash or securities, in a form approved by the board, shall be accepted to meet the deductible.

---

**20 CAR § 830-111. Permanent maintenance fund — Required deposits**.

(a)(1) A cemetery company may elect to discount installment sales contracts at a bank or other financial institution and receive a discounted value immediately in cash.

(2) When this election is made, the required percentage of the gross sales price shall be placed in a separate restricted escrow account at the time that the contract is discounted.

(3) The escrow agreement shall be filed with the State Board of Embalmers, Funeral Directors, Cemeteries, and Burial Services.

(4) The agreement shall include the terms under which the escrow account is restricted.

(5) Further:

(A) The amount placed in escrow shall not be withdrawn until the lot purchaser defaults on or fully satisfies his or her contract obligations;

(B) The escrow account may be used by the bank or other financial institution as part of its required reserve and may be used as recourse if the lot purchaser defaults on the contract;

(C) Upon default, the required percentage of the gross sales price which was placed in the escrow account may be withdrawn and used by the cemetery company; and

(D) Once final payment has been made, the required percentage of the gross sales price which was placed in the escrow account shall be withdrawn and placed into the permanent maintenance fund within five (5) business days.

(b)(1) A cemetery company may also elect to receive installment payments directly.

(2) When this election is made, the company shall maintain records as to the full:

(A) Amount of the sale;

(B) Receipts received; and

(C) Balance due.

(3) The company shall deposit the required percentage of gross proceeds of sale into the permanent maintenance fund no later than the forty-fifth day after the final payment is made, or the company may deposit the required percentage of each amount received not later than the forty-fifth day after each installment payment by the purchaser.

---

**20 CAR § 830-112. Conveyance of lots.**

(a) Deeds or other instruments of conveyance shall be issued only by the cemetery company that holds the perpetual care cemetery permit.

(b) Requirements:

(1) The original deed or other instrument of conveyance, and one (1) copy of the deed or other instrument of conveyance issued to the purchaser, shall be maintained by the cemetery company; and

(2) If a transfer instrument of conveyance is issued, the following records shall be maintained by the cemetery company:

(A) The original transfer deed or other instrument of conveyance and one (1) copy;

(B) The date and amount previously paid to the trust;

(C) The name of the previous owner or owners;

(D) A copy of the quitclaim deed or sufficient documentation showing the grantor's request for termination of ownership; and

(E) Documentation, to include a dated signature, of the new owner or owners whereby the new owner or owners acknowledges receipt of a copy of the cemetery's rules.

(c)(1) A replacement deed or other instrument of conveyance should be accompanied by transfer documentation issued by the cemetery pursuant to its rules.

(2) A copy of all transfer documentation and the replacement deed or instrument of conveyance shall be kept by the cemetery.

---

**20 CAR § 830-113. Records required.**

(a)(1) All cemetery companies must keep a book, journal, or comparable record of cash receipts and disbursements showing the date, amount, person from who received or to whom disbursed, and the purpose of each receipt or disbursement.

(2) This record shall reflect amounts disbursed and deposited to the permanent maintenance fund and any other disbursement of funds by the cemetery company.

(3) Records should be kept in compliance with general accounting practices.

(b) All sales contracts must be numbered consecutively after a sales contract is executed by the cemetery company, and must contain at least the following:

(1) Date of contract;

(2) Total purchase price;

(3) Terms of sale;

(4) Description of plot or plots purchased;

(5) Signature of buyer or buyers;

(6) Address of buyer or buyers;

(7) Date when paid in full;

(8) Deed number or certificate (of interment rights) number (the deed or certificate or other instrument of conveyance shall be issued within sixty (60) days of payment in full); and

(9) Acknowledgment that the purchaser or purchasers has or have received a copy of the rules of the cemetery.

(c)(1) The cemetery company must maintain a copy of each contract in a numerical file or must maintain a numerical listing of each contract with sufficient details, referenced in subsection (b) of this section.

(2) All voided or cancelled contracts must be so marked and retained in the files indefinitely.

(d) Each original signed contract must be retained by the cemetery company.

(e)(1) Cemetery companies that enter into sales contracts in which one (1) basic contract is drawn for the sale of cemetery lots and other items, such as memorial and burial vaults, must specifically set out in such contract the purchase price of each item being purchased and the total sales contract price.

(2) If such contract is paid for with an installment plan, the payments must be prorated among the respective items so that full payment of any or all items can be readily identified.

(3) Only the portion of the sales contract which is for the purchase of the cemetery lot shall be subject to the trust fund deposit requirements.

(f) Sales contracts which include a calendar or fiscal year and are numbered consecutively within said prefix, shall be considered to be numbered consecutively.

(g) Requirements for installment sales:

(1)(A) The cemetery company must retain accounts receivable records on all contracts not yet paid in full.

(B) The records must be maintained on contracts where the cemetery company receives installment directly as discounted contracts.

(C) All accounts must be posted currently (at least once a month), either by the cemetery company or the bank, financial institution, or other person discounting the note.

(2)(A) Prior to discounting sales contracts with a bank or other financial institution, a cemetery company must verify that the institution will provide the cemetery company with monthly statements showing the status of each discounted note.

(B) Such monthly status reports must be maintained in the cemetery file.

(3) If the sales contracts provide for installment payments which include interest, credit life insurance, or similar items, the cemetery must comply with all applicable federal and state rules and regulations.

(h) **Instruments of conveyance required.**

(1) Each cemetery company shall issue deeds, certificates, or some other instrument of conveyance, and maintain a record, such as a deed book, of all instruments issued.

(2) All instruments of conveyance must be prenumbered and either the stubs of the instruments or a record book shall be kept which reflects:

(A) A corresponding contract number;

(B) The name of the purchaser;

(C) The date and amount of deposit to the trust fund; and

(D) That the deed or other instrument of conveyance was executed and made available to the owner within forty-five (45) days after final payment is received, or payment is made in full.

(i) The cemetery company must continuously maintain a cemetery map, plot plan, or comparable record, either in paper or electronic format, reflecting all:

(1) Interments;

(2) Lots paid-in-full; and

(3) Lots under contract but not yet fully paid.

(j) The cemetery company must have its current rules providing for the general care and maintenance of the cemetery on file at the cemetery for the use of the public.

(k)(1) Each cemetery company shall file with the State Board of Embalmers, Funeral Directors, Cemeteries, and Burial Services a copy of the rules, and any changes thereto, providing the general care and maintenance of the cemetery.

(2) The rules shall be filed within forty-five (45) calendar days after adoption by the cemetery company.

(l)(1) Records required for deeds or other instruments of conveyance, contracts, and plot maps must be kept indefinitely.

(2) All other books and records must be kept for at least five (5) years.

---

**20 CAR § 830-114. Annual report of cemetery company — Fees.**

(a) The fee for filing an annual report is three hundred twenty-five dollars ($325).

(b) The burial sale contract fee is seven dollars ($7.00) for each burial sale contract entered into.

---

**20 CAR § 830-115. Insolvent cemetery grant funds.**

(a) An organization is eligible to receive insolvent cemetery grant funds if the organization operates a perpetual care cemetery that is insolvent or is in financial distress as determined by the State Board of Embalmers, Funeral Directors, Cemeteries, and Burial Services.

(b) An eligible organization includes a nonprofit organization which is exempt from taxation under section 501(c)(3) of the Internal Revenue Code.

(c) **Application for grant funds.**

(1)(A) An application for insolvent cemetery grant funds, or an application to make a change in an approved grant application, need not be in any specific form, but must be made in writing and signed in the presence of a notary.

(B) The original application shall be accompanied by one (1) copy.

(2) The application shall contain the following information:

(A) Name of applicant;

(B) Documentation demonstrating that the applicant meets the eligibility requirements;

(C) Documentation demonstrating that the applicant is in good standing with all applicable federal, state, and local agencies that govern the applicant;

(D)(i) The name of the individual or individuals principally responsible for the care, maintenance, and operation of the insolvent cemetery.

(ii) The individual or individuals must be primarily responsible for the company that controls the cemetery, and has the authority to bind the company.

(iii) The individual or individuals will be held responsible to complete the required reports to the board, if the grant application is approved;

(E) Amount requested by applicant;

(F) A project synopsis for the use of the grant fund monies, which shall include:

(i) The specific use of the funds;

(ii) An itemized list of specific needs to be addressed;

(iii) Projected costs for each item; and

(iv) A detailed plan for implementing and completing the project;

(G) The goals and objectives of the project;

(H) The duration of the project;

(I) Implementation timeline for use of the funds;

(J) A budget summary containing a detailed summary of the proposed budget and information of other financial resources utilized; and

(K) The policy and procedures of the applicant detailing the administration and oversight of the funds.

(3) The board may request additional information as needed for evaluation of the request for funds.

(4) Applications must be filed with the board at least twenty (20) calendar days prior to the meeting at which the grant application is to be considered.

(d) **Criteria for grant applications and awards.**

(1) The applicant must demonstrate to the board that it has the resources available to ensure that the funds are used as proposed.

(2) The board may determine funding priorities and amounts based on the overall needs of an insolvent cemetery.

(e) **Oversight for all grant expenditures.**

(1) The applicant shall appoint an institutional custodian of the grant fund monies.

(2) The applicant shall provide documentation that it has obtained all applicable federal, state, and local permits required to disburse any granted funds.

(3) A copy of the original application, and all project expenditures with invoices attached shall remain on file at the cemetery.

(f) **Reporting and recordkeeping requirements.**

(1) Recipients shall submit timely quarterly reports of the progress of the project, end of the year financial reports, and a final report when the project is completed.

(2) The grant fund recipient shall submit in writing, any request for changes of the approved project.

(3) The books and records shall comply with generally accepted accounting principles.

(g) **Board monitoring of use of grant funds and records.**

(1) The board will monitor projects through site visits, review of project reports, and review of the company's financial records related to the project or projects.

(2) The board shall annually examine the books and records of the grant fund recipient to determine compliance.

(3) The examination shall include, but not be limited to:

(A) Review of the books and records of the grant fund money;

(B) Review of the expense reports, invoices, receipts, and bank statements; and

(C) Review of the projects detailed in the application to ensure compliance with the project summary as described in the application.

(4) A report of the examination shall be submitted to the board.

(h)(1) Grant fund recipients shall submit quarterly reports.

(2) The reports are due forty-five (45) calendar days from the end of each calendar quarter.

(i) The reports shall include:

(1) Financial statements in accordance with generally accepted accounting principles;

(2) Expense reports; and

(3) Project status reports.

(j) Failure to submit timely quarterly or end of year reports shall provide grounds for the board to withhold disbursement of grant funds for subsequent grant requests.

(k) **End of the year reports.**

(1) The reports shall be due forty-five (45) calendar days from the end of the calendar year.

(2) The report shall contain:

(A) Financial statements;

(B) Project summary statements; and

(C) Proof of expenditures from the grant award, including but not limited to:

(i) Expense itemization for each grant;

(ii) Date of purchase of items or services;

(iii) Items or services purchased;

(iv) Vendor;

(v) Purchase price;

(vi) Invoice or purchase order number; and

(vii) Estimated completion dates of the on-going project or projects.

(l) **Final report.**

(1) Upon completion of a project the recipient shall file a final report with the board.

(2) The final report shall contain:

(A) Financial statements;

(B) Expense reports; and

(C) Proof of completion of the project.

(m) Grant fund recipients shall provide the board with copy of the recipient's federal and state tax returns within thirty (30) calendar days after submission of the federal and state tax returns.

(n) Funds are to be used to make infrastructure repairs and capital improvements as defined in Withdrawal from Permanent Maintenance Fund, 20 CAR pt. 831.

## Part 831. Withdrawal from Permanent Maintenance Fund

**Codification Notes:**
This part as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"Section 1. Authority
This Rule is promulgated pursuant to Section One (1) of Act 343 of 2021 of the Arkansas General Assembly, codified at Ark. Code Ann. § 20-17-1013(g); authority is also found in Ark. Code Ann. § 23-61-1103(a)(5), Ark. Code Ann. § 25-15-204, and other applicable laws or rules."

"Section 5. Effective Date
This Rule shall apply to cemetery companies who hold a perpetual care cemetery permit. This Rule is effective after review and approval by the Arkansas Legislative Council, ten (10) days after filing of the approved Rule with the Arkansas Secretary of State."

### Subpart 1. Generally

**20 CAR § 831-101. Purpose.**

(a) The purpose of this part is to establish the process by which a cemetery company may make withdrawals from the principal balance of the cemetery's permanent maintenance fund.

(b) The withdrawals shall be used only for funding infrastructure repairs and for making capital improvements.

**20 CAR § 831-102. Definitions.**

As used in this part:

(1)(A) "Capital improvement" includes, but is not limited to, the construction or preservation of any:

(i) Permanent building;

(ii) Structure;

(iii) Fence;

(iv) Wall;

(v) Road;
(vi) Pathway; or
(vii) Utility such as an irrigation system.

(B) A "capital improvement" means an improvement that may enhance the cemetery's overall value or prolong its useful life; and

(2) "Infrastructure repair" means the repair, construction, or preservation of infrastructure items, including but not limited to:

(A) Roads;
(B) Pathways;
(C) Structures;
(D) Fencing;
(E) Walls;
(F) Landscaping; and
(G) Utilities such as irrigation systems.

---

**20 CAR § 381-103. Requirements.**

(a) The cemetery company shall submit its request in writing, on a form or forms created and approved by the State Board of Embalmers, Funeral Directors, Cemeteries, and Burial Services or in such form as the board may require, at least twenty (20) business days prior to the board meeting in which the request is to be considered by the board.

(b)(1) The cemetery company shall include, as part of its written request, a detailed description of the infrastructure repair or repairs and/or capital improvement or improvements that are needed to the cemetery property.

(2) If the work is to be done by a third party vendor or vendors, then at least three (3) written bids/estimates must also be included.

(c)(1) Board staff will conduct an on-site inspection of the cemetery property to confirm that the request for withdrawal to repair, replace, or improve items or conditions is appropriate.

(2) The on-site inspection shall be reported back to the board for consideration.

(d)(1) Board staff will obtain an updated statement of account from the permanent maintenance fund trustee or trustees and/or the bank or other financial institution in which the trusted funds are deposited.

(2) The updated statement of account must be based upon the most recent month end period preceding the submission of the written request to the board, so that the principal balance on-deposit in the permanent maintenance fund can be verified.

(3) The funds to be used for the infrastructure repair or repairs and/or capital improvement or improvements will be based as a percentage of the principal amount, with no more than twenty percent (20%) of the principal balance being authorized for disbursement by the board.

(e)(1) Upon reported completion of the work by either a third-party vendor or vendors or the cemetery company employees, board staff will conduct an on-site reinsepction of the cemetery property to verify that the infrastructure repair or repairs and/or capital improvement or improvements have been satisfactorily completed as originally submitted to the board.

(2) The on-site reinspection shall be reported back to the board.

(f)(1)(A) If a third-party vendor performed the work and was not paid in advance by the cemetery company, then the board shall submit to the permanent maintenance fund trustee or trustees and/or bank or financial institution in which the trusted funds are deposited, a written authorization for payment to be made from the principal balance of the permanent maintenance fund directly to the vendor who completed the work.

(B) The disbursement amount shall not exceed the percentage of principal approved by the board for the project.

(2)(A) If a third-party vendor performed the work and was paid in advance by the cemetery company, either in whole or in part, then the board shall submit to the permanent maintenance fund trustee or trustees and/or bank or financial institution in which the trusted funds are deposited, a written authorization for payment to be made from the principal balance of the permanent maintenance fund, to the cemetery company.

(B) The disbursement amount shall not exceed the percentage of principal approved by the board for the project.

(C) If the final amount due for the project is greater than the amount approved for disbursement by the board, then it shall be the cemetery company's responsibility to pay the third-party vendor any remaining amount still due, over and above the amount approved by the board.

(D) The board is not a direct party to the agreement between the cemetery company and the third-party vendor, and will not be held liable for a breach of contract, failure to pay, or any other cause of action that may arise out of the agreement between the cemetery company and the third-party vendor.

(3)(A) If a cemetery company employee or employees performed the work rather than a third-party vendor, then the cemetery company must present to the board, written documentation of all expenses (materials, supplies, equipment rental expenses, etc.) that were incurred to complete the infrastructure repair or repairs and/or capital improvement or improvements.

(B) The board shall review the actual expenses incurred by the cemetery company, and board staff shall submit to the permanent maintenance fund trustee or trustees and/or bank or financial institution in which the trusted funds are deposited, a written authorization for payment to be made to the cemetery company from the principal balance of the permanent maintenance fund.

(C) The amount for disbursement shall be limited to actual expenses incurred, and shall not exceed the percentage of principal approved by the board for the project.

(4) Upon disbursement of the funds from the principal, the cemetery company shall not make another request for additional withdrawals from the principal for at least ten (10) years from the date of the disbursement.