ENROLLED HOUSE
BILL NO. 2303 BY: WEAVER of the HOUSE

and

BROWN of the SENATE

AN ACT RELATING TO CEMETERIES; AMENDING 8 O.S. 1991, SECTIONS 202, 204, 205, 209, 214, 216 AND 217, WHICH RELATE TO THE BURIAL ASSOCIATION ACT; MODIFYING DEFINITIONS; ABOLISHING THE STATE BURIAL BOARD; TRANSFERRING DUTIES AND AUTHORITY TO THE OKLAHOMA STATE BOARD OF EMBALMERS AND FUNERAL DIRECTORS; ABOLISHING CERTAIN REVOLVING FUND AND PROVIDING FOR TRANSFER OF FUNDS; PROVIDING PROCEDURES FOR DISSOLUTION OF CERTAIN BURIAL ASSOCIATIONS; AMENDING 62 O.S. 1991, SECTION 155 AND 74 O.S. 1991, SECTION 3906, WHICH RELATE TO STATE BOARDS; MODIFYING LANGUAGE; REPEALING 8 O.S. 1991, SECTION 203, WHICH RELATES TO THE STATE BURIAL BOARD; PROVIDING FOR CODIFICATION; PROVIDING AN EFFECTIVE DATE; AND DECLARING AN EMERGENCY.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 8 O.S. 1991, Section 202, is amended to read as follows:

Section 202. The following terms as used in this act are defined as follows:

~~(a)~~ 1. "Burial association" or "association" when used without limitation or qualification, shall mean an association, whether incorporated or nonincorporated, licensed pursuant to this act or which is otherwise subject to the provisions of this act~~.~~; and

~~(b)~~ 2. "Board" shall mean the ~~State Burial Board as created by this act~~ Oklahoma State Board of Embalmers and Funeral Directors.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 203.1 of Title 8, unless there is created a duplication in numbering, reads as follows:

A. The State Burial Board is hereby abolished. All powers, duties, responsibilities, property, personnel, assets, liabilities, fund balances, encumbrances and obligations of the State Burial Board are hereby transferred to the State Board of Embalmers and Funeral Directors. All references made in the Oklahoma Statutes to the State Burial Board shall mean the State Board of Embalmers and Funeral Directors.

B. The Oklahoma State Board of Embalmers and Funeral Directors is hereby vested with the duty and authority of enforcing and administering the provisions of Section 201 et seq. of this title.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 230.1 of Title 8, unless there is created a duplication in numbering, reads as follows:

A. At a meeting of the burial association held in accordance with the bylaws of such association, the burial association may vote to dissolve the association.

B. Upon the affirmative order of the burial association, the burial association shall be deemed dissolved. The board of directors of the burial association shall file notice of such dissolution with the Secretary of State.

C. All debts, liabilities and obligations of the association shall be paid and discharged upon the dissolution of the burial association. The association shall issue a certificate of guarantee for the full amount of the policy to each beneficiary. The certificate of guarantee may be redeemed for goods and services only at the time the death of the beneficiary occurs and shall not be redeemed for cash.

D. Upon filing with the Secretary of State of notice of dissolution, the association shall cease to carry on its business except insofar as may be necessary for the winding up thereof.

E. Each member of the burial association shall be notified of the dissolution of the association.

F. The Oklahoma State Board of Embalmers and Funeral Directors shall be provided notice within ten (10) days of the dissolution of any association. A list of all members who have been provided certificates of guarantee shall be provided to the Oklahoma State Board of Embalmers and Funeral Directors and will be maintained in the records of the Oklahoma State Board of Embalmers and Funeral Directors.

G. Upon request of notice of dissolution and compliance with the provisions of this section, the Secretary of State shall issue a certificate of dissolution for the association.

SECTION 4. AMENDATORY 8 O.S. 1991, Section 204, is amended to read as follows:

Section 204. A. There is hereby created a fund to be known as the "State Burial Board Administration and Enforcement Fund," and all fees received by the Board under the provisions of this act shall be paid to the Board and shall by it be deposited to the credit of such Fund. The Board shall have the authority to employ and fix the compensation of personnel necessary for the administration of this Act, and to incur and pay such expenses as are deemed necessary by the Board for such purpose. Such compensation and expenses shall be disbursed from the State Burial Board Administration and Enforcement Fund upon vouchers drawn and approved by the Board.

B. The State Burial Board Administration and Enforcement Fund, created pursuant to subsection A of this section, is hereby abolished. On July 1, 1992, any unencumbered funds remaining in the State Burial Board Administration and Enforcement Fund shall be transferred to the credit of the Fund of the State Board of Funeral Directors and Embalmers, created pursuant to Section 396.14 of Title 59 of the Oklahoma Statutes. Any unexpended funds remaining in the State Burial Board Administration and Enforcement Fund after November 15, 1992, shall be transferred to the credit of the Fund of the State Board of Funeral Directors and Embalmers.

SECTION 5. AMENDATORY 8 O.S. 1991, Section 205, is amended to read as follows:

Section 205. That all burial associations now operating or that may be hereafter organized, as incorporated or nonincorporated associations, which are nonprofit sharing in their operations and pay no fees or salaries to any of their officers and have no capital stock and which comply with the provisions of this act shall be exempt from the operations and the effect of the insurance laws of the State of Oklahoma; and shall not be required to comply with the insurance laws of the said state; provided, that all monies collected by said associations shall be accounted for; provided

further that not more than twenty-five percent (25%) of said funds are to be used for operating expenses, and not less than seventy-five percent (75%) of the funds so collected is to be held as a trust fund for the benefit of the members.

Associations licensed under this act shall be mutual associations and every person who applies for and holds a burial agreement shall be a member of the association, in accordance with the bylaws of the association and shall be entitled to one vote, and such members may vote in person or by proxy. Burial associations are hereby declared to be charitable and benevolent associations.

The following shall be the Uniform Article of Agreement between burial associations and their members.

ARTICLES OF AGREEMENT

Article 1. In consideration of One Dollar ($1.00) Membership fee and assessments of fifty cents ($0.50) per month, or Five Dollars ($5.00) for twelve (12) assessments if paid in advance, we agree to furnish the following protection for an entire family who live at home, and are solely dependent upon the head of the house. This protection also covers school students. All applicants must be in good health at the time of application for membership. Upon marriage of any of the children, they are automatically dropped from this certificate.

Article 2. All assessments are due on the first day of each month and carry fifteen (15) days grace, becoming delinquent on midnight of the fifteenth. Any certificate which has lapsed on account of failure to pay an assessment, may be reinstated by paying a fifty-cent assessment, provided that if any member of the family is sick at the time of such reinstatement benefits will not be reinstated on such sick person until his recovery.

Article 3. All persons between the ages of seven (7) and seventy (70) at the time of application for membership are entitled to One Hundred Dollars ($100.00) burial benefits; all children under the age of seven (7) are entitled to Fifty Dollars ($50.00) burial benefits; upon reaching the age of seven (7), children are automatically entitled to One Hundred Dollars ($100.00) burial benefits; applicants who join after they have reached the age of seventy (70) are entitled to Fifty Dollars ($50.00) burial benefits. Stillborn babies are entitled to Twenty-five Dollars ($25.00) burial benefits. In the event a baby is born into the family, the name may be placed on the certificate at no additional charge.

Article 4. All benefits are for service and merchandise only and must be furnished by the association. Said association will not be responsible for any debts incurred by the death of any member of this association.

Article 5. In the event death occurs beyond the distance of fifty (50) miles, the burial association being duly notified, may, in lieu of the above complete service, deliver to the express office for shipment, merchandise in the value as specified in this certificate, or mail Sixty Dollars ($60.00) to the policy holder. All express charges shall be paid by the certificate holder.

Provided further that the ~~said State Burial Board~~ Oklahoma State Board of Embalmers and Funeral Directors shall draft a uniform application for membership which shall be used by all burial associations operating in the State of Oklahoma, or which may be hereafter organized, said application for membership shall have printed across the face in red ink the following language: "This is not an application for life insurance." Said Board shall also provide for uniform membership fees, dues and/or assessments; the membership fee of One Dollar ($1.00) shall be the assessment for the first month in which the agreement is issued, provided the remaining

dues or assessments to be not less than fifty cents ($0.50) on a monthly basis, provided, however, that twelve (12) assessments may be paid in advance for Five Dollars ($5.00) and, provided further that if the funds on hand in the trust fund are equal to fifty cents ($0.50) for each certificate in force a monthly assessment may be passed until such time as the funds in the trust are less than fifty cents ($0.50) for each certificate in force. Provided that any association now in existence charging a less sum may continue to service all certificates now in effect at existing rates specified in the certificates; and certificates which lapse, and all new certificates must be written at the uniform rate set up by this act. No burial association licensed pursuant to the provisions of this act shall have the authority to levy any assessment on its members other than the assessment expressly provided for in the Uniform Article of Agreement. All certificates of membership issued by said associations shall have printed across the face of said certificate the following language: "This is not a certificate of life insurance."

SECTION 6. AMENDATORY 8 O.S. 1991, Section 209, is amended to read as follows:

Section 209. The treasurer of every burial association, who shall be the custodian of the funds of the association, shall file with the ~~State Burial Board~~ Oklahoma State Board of Embalmers and Funeral Directors a bond, in the form prescribed by the Board, running in the favor of the State of Oklahoma, executed by an insurance company authorized to do business in this state, and to be conditioned that the trust fund of the association will be held and administered in accordance with the provisions of this act, which bond shall at all times be equal to, or in excess of, the trust fund but which in no event shall be in an amount less than One Thousand Dollars ($1,000.00).

SECTION 7. AMENDATORY 8 O.S. 1991, Section 214, is amended to read as follows:

Section 214. Every burial association doing business in the State of Oklahoma under the provisions of Sections 201 et seq. of this title shall, annually, on or before the last day of June, report under oath of the president and secretary of said association to the ~~State Burial Board~~ Oklahoma State Board of Embalmers and Funeral Directors, the total income, less refunds, received by the association from its member during the preceding calendar year and shall at the same time pay to the Board an annual license fee equal to one percent (1%) of the said total income, less refunds, as a condition precedent to the issuance of the annual license, or the renewal of said license, to the association. The Board may, if it deems that the ~~State Burial Board~~ Oklahoma State Board of Embalmers and Funeral Directors Administration and Enforcement Fund is or will be insufficient to meet the expenses of the new license year, increase the annual license fee to an amount not exceeding four percent (4%) of said total income. Any burial association failing to make such returns and payments promptly and correctly shall forfeit and pay to the Board in addition to said fees, the sum of Two Hundred Fifty Dollars ($250.00). In the event any such burial association so fails or neglects to make returns or payments within sixty (60) days, the Board shall notify the burial association and its agents that they have no authority to do business in the state and the Board shall request the Attorney General to proceed to collect said fees and penalties and interest thereon, by an action at law.

SECTION 8. AMENDATORY 8 O.S. 1991, Section 216, is amended to read as follows:

Section 216. No person or party other than the ~~State Burial Board~~ Oklahoma State Board of Embalmers and Funeral Directors may appear in the courts of this state requesting the appointment of a receiver of a burial association.

SECTION 9. AMENDATORY 8 O.S. 1991, Section 217, is amended to read as follows:

Section 217. (a) No burial association shall merge, consolidate, or reinsure all of its business with another burial association, except with the approval of the ~~State Burial Board~~ Oklahoma State Board of Embalmers and Funeral Directors.

(b) A copy of the agreement or document effecting such merger, consolidation, or reinsurance shall be filed with the ~~State Burial Board~~ Oklahoma State Board of Embalmers and Funeral Directors.

SECTION 10. AMENDATORY 62 O.S. 1991, Section 155, is amended to read as follows:

Section 155. A. There is hereby created in the State Treasury a revolving fund for each of the following state boards, commissions and departments:

1. The Board of Governors of the Licensed Architects of Oklahoma;
2. The State Board of Barber Examiners;
3. The State Board of Examiners in the Basic Sciences;
4. ~~State Burial Board~~ Oklahoma State Board of Embalmers and Funeral Directors;
5. Oklahoma State Board of ~~Chiropody~~ Podiatry;
6. Board of Chiropractic Examiners;
7. State Board of Electrology;
8. State Board of Registration for Foresters;
9. State Board of Medical Licensure and Supervision;
10. Oklahoma Board of Nurse Registration and Nursing Education;
11. State Board of Osteopathy;
12. Oklahoma State Board of Pharmacy;
13. Board of Registration for Social Workers;
14. Department of Registration for Professional Sanitarians;
15. Oklahoma Motor Vehicle Commission;
16. Oklahoma Peanut Commission;
17. Pork Utilization, Research and Market Development Commission;
18. Oklahoma Real Estate Commission;
19. Santa Claus Commission;
20. Wheat Utilization, Research and Market Development Commission.

B. Each revolving fund shall consist of all monies received by the boards, commissions and departments, pursuant to statutory authority, but not including appropriated funds. These revolving funds shall be continuing funds, not subject to fiscal year limitations and shall be under the control and management of the administrative authorities of the respective boards, commissions or departments.

C. Expenditures from said revolving funds shall be made pursuant to the laws of the state and the statutes relating to said boards, commissions and departments, and without legislative appropriation. Warrants for expenditures from said revolving funds shall be drawn by the State Treasurer, based on claims signed by an authorized employee or employees of the respective boards, commissions or departments and approved for payment by the Director of State Finance.

SECTION 11. AMENDATORY 74 O.S. 1991, Section 3906, is amended to read as follows:

Section 3906. The following statutory entities and their successors shall be terminated on July 1, 1993, and all powers, duties and functions shall be abolished one (1) year thereafter:

1. State Board of Registration for Foresters as created by Section 1203 of Title 59 of the Oklahoma Statutes;

2. Polygraph Examiners Board as created by Section 1455 of Title 59 of the Oklahoma Statutes;

3. Solid Waste Management Advisory Committee as created by Section 2254 of Title 63 of the Oklahoma Statutes;

4. ~~State Burial Board as created by Section 203 of Title 8 of the Oklahoma Statutes;~~

~~5.~~ State Board of Medical Licensure and Supervision as created by Section 481 of Title 59 of the Oklahoma Statutes;

~~6.~~ 5. Board of Osteopathy as created by Section 624 of Title 59 of the Oklahoma Statutes;

~~7.~~ 6. Board of Chiropractic Examiners as created by Section 161 of Title 59 of the Oklahoma Statutes; and

~~8.~~ 7. Oklahoma State Board of Podiatry as created by Section 137 of Title 59 of the Oklahoma Statutes.

SECTION 12. REPEALER 8 O.S. 1991, Section 203, is hereby repealed.

SECTION 13. This act shall become effective July 1, 1992.

SECTION 14. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the House of Representatives the 23rd day of April, 1992.

Speaker of the House of Representatives

Passed the Senate the 9th day of April, 1992.

President of the Senate