

1 HB72
2 204071-2
3 By Representative Brown (K)
4 RFD: Boards, Agencies and Commissions
5 First Read: 04-FEB-20
6 PFD: 02/03/2020

1 ENGROSSED

2
3
4 A BILL
5 TO BE ENTITLED
6 AN ACT
7

8 To amend Sections 34-13-23 and 34-13-27, Code of
9 Alabama 1975, relating to the Alabama Board of Funeral
10 Service; to provide flexibility regarding receipts and
11 expenses of the board; to authorize the board to acquire,
12 hold, and convey real property in its own name; and to provide
13 for the creation, funding, and purpose of the Funeral Board
14 Property Acquisition Fund.

15 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

16 Section 1. Sections 34-13-23 and 34-13-27 of the
17 Code of Alabama 1975, are amended to read as follows:

18 "§34-13-23.

19 "(a) (1) The board appointed under this chapter and
20 each successor thereto is authorized to select from its own
21 membership a chair and to adopt ~~and promulgate such rules and~~
22 ~~regulations~~ for the transaction of its business and for the
23 betterment and promotion of the standards of service and
24 practice to be followed in the funeral service profession in
25 the State of Alabama as the board may deem expedient and
26 consistent with the laws of this state and for the public
27 good.

1 "(2) The chair shall preside at all meetings of the
2 board unless otherwise ordered, and he or she shall exercise
3 and perform all duties and functions incident to the office of
4 chair.

5 "(3) The board may select ~~also~~ from its own
6 membership a vice chair, a secretary, and a treasurer. No two
7 offices shall be held by the same person.

8 "(b) The treasurer shall give bond to the State of
9 Alabama in the sum of ten thousand dollars (\$10,000), and any
10 premium payable for the bond shall be paid from the funds of
11 the board. The bond shall be deposited with the Treasurer of
12 the State of Alabama.

13 "(c) Board members shall be reimbursed for their
14 necessary ~~traveling~~ travel expenses and the necessary expenses
15 incident to their attendance upon the business of the board,
16 and, in addition thereto, they shall receive the sum of fifty
17 dollars (\$50) per diem for every day not to exceed 20 days per
18 year actually spent by the member upon the business of the
19 board. The board may employ an executive director and
20 associate executive director who shall each receive and be
21 paid an annual salary to be fixed by the board, but not to
22 exceed the salary level established and paid to cabinet
23 officers in the state government. The salary shall be paid on
24 a semimonthly basis. In addition, the executive director and
25 associate executive director shall receive his or her
26 necessary ~~traveling~~ travel and other incidental expenses as
27 are incurred in the performance of duties, and all expenses,

1 per diem, and compensation shall be paid out of the receipts
2 of the board. At no time shall the operation of the board be
3 an expense to the state, ~~and at no time shall expenses of the~~
4 ~~board exceed the receipts of the board.~~

5 "(d) The executive director of the board shall have
6 complete supervision and be held responsible for the direction
7 of the office of the board, shall have supervision over field
8 inspection and enforcement of this chapter, and shall be
9 responsible and answerable to the board. The associate
10 executive director shall assist the executive director and
11 perform such other duties as may be assigned to him or her by
12 the board.

13 "(e) The executive director shall keep a record in
14 which shall be registered the name and business address of
15 every person to whom licenses have been granted in accordance
16 with this chapter, the number and date of the license, and the
17 date of each renewal. Upon request to do so, the executive
18 director shall supply each person licensed for the practice of
19 embalming and funeral directing with a list of all persons and
20 establishments holding a license under this chapter, then in
21 force, giving the names of the persons, their business
22 addresses, and the numbers of their licenses.

23 "(f) It shall be the duty of the executive director
24 to prepare under the direction of the board and cause to be
25 printed all forms required by this chapter to be prescribed by
26 the board. All notices required to be mailed by this chapter

1 shall be directed to the last known post office address of the
2 party to whom the notice is sent.

3 "(g) The executive director shall serve at the
4 pleasure of the board and shall perform duties as may be
5 necessary for the proper functioning of the board as the board
6 may determine or as may be prescribed in this chapter. During
7 the employment of the executive director, he or she may not be
8 employed by any funeral establishment.

9 "(h) All fees and fines received under this chapter
10 shall be paid into a special fund in the State Treasury to be
11 known as the Alabama State Funeral Directors and Embalmers
12 Fund, which is hereby created, for the necessary and proper
13 expenses of the board, and for a reasonable reserve for future
14 use by the board. All moneys in the fund are hereby
15 appropriated, as a continuing appropriation, to the board to
16 be used for carrying out this chapter.

17 "(i) Each member of the board, the executive
18 director, the associate executive director, designated
19 employees, and independent contractors of the board
20 appropriately identified are authorized at any given time, on
21 complaint or for inspection purposes, to enter the office,
22 premises, establishment, or place of business of any funeral
23 service licensee in the State of Alabama or any office,
24 premises, establishment, or place where the practice of
25 funeral service is carried on, or where the practice is
26 advertised as being carried on, for the purpose of inspecting
27 the office, premises, records, or establishment and for the

1 purpose of inspecting the license and registration of any
2 funeral service licensee ~~and~~ or apprentice trainee operating
3 therein.

4 "(j) All members of the board or designated
5 employees of the board may serve and execute any process
6 issued by any court under this chapter and ~~to~~ serve and
7 execute any papers or process issued by the board or any
8 officer or member ~~thereof~~ of the board under this chapter.

9 "(k) The board may employ clerical assistants and
10 employees ~~or other help~~ as necessary to carry out this
11 chapter, and the terms and conditions of employment shall be
12 determined by the board. The board may establish and equip an
13 office from which this chapter may be carried out.

14 "§34-13-27.

15 "(a) The board shall adopt a common seal, which may
16 be altered as often as the board may desire, and may adopt and
17 enforce, for the protection of the public health, safety, and
18 welfare, reasonable rules ~~and regulations~~ relating to all of
19 the following:

20 "(1) The practice of the profession of embalming,
21 including, but not limited to, solicitation of business~~7~~.

22 "(2) The practice of the profession of funeral
23 directing, including, but not limited to, solicitation of
24 business~~7~~.

25 "(3) The sanitary condition and physical facilities
26 of funeral homes, mortuaries, and funeral establishments where
27 the profession of embalming and funeral directing is carried

1 on, with particular regard to plumbing, sewage, disinfecting,
2 ventilation, and equipment~~7~~.

3 "(4) Carrying out generally the various provisions
4 of this chapter for the protection of the peace, health,
5 safety, and welfare of the public~~7~~ and.

6 "(5) Carrying out a program for training of
7 apprentice embalmers and apprentice funeral directors.

8 "(b) (1) The board may acquire and hold, in its own
9 name, real property by purchase, gift, lease, lease with the
10 option to purchase, or other lawful means, except eminent
11 domain, which real property may be used by the board to carry
12 out its responsibilities. The board may also transfer, sell,
13 convey, or cause to be conveyed real property and any
14 improvements thereon, subject to the requirements of this
15 section. In purchasing any real property, maintaining real
16 property, or making improvements thereto, the board may expend
17 any funds contained in the Funeral Board Property Acquisition
18 Fund established by subdivision (2), and any obligations
19 created in connection with the purchase or improvement of the
20 real property shall not create debts, obligations, or
21 liabilities of the state. As used in this subsection, real
22 property shall include land, lots, and all things and
23 interests, including leasehold interests, pertaining thereto,
24 and all other things annexed or attached to the land which
25 would pass to a vendee by conveyance of the land or lot,
26 including mineral, gas, and oil interests. All sales or leases
27 made by the board of any real property owned or held by the

1 board shall be subject to the requirements of Article 3,
2 commencing with Section 9-15-70, Chapter 15, Title 9.
3 Notwithstanding the foregoing, the proceeds from the sale of
4 real property owned by the board which are distributed
5 pursuant to Section 9-15-83, shall be paid to the board and
6 deposited into the property acquisition fund.

7 "(2) The board shall establish the Funeral Board
8 Property Acquisition Fund within the State Treasury. Any funds
9 received by the board pursuant to this section shall be
10 deposited into the property acquisition fund and shall be held
11 by the board in trust for carrying out the purposes of the
12 property acquisition fund. Not later than October 1, 2020, the
13 executive director shall transfer from the Alabama State
14 Funeral Directors and Embalmers Fund to the property
15 acquisition fund an amount determined by vote of the board for
16 the purchase of real property. Thereafter, the board shall
17 annually, during the month of October, transfer an amount
18 between three percent and seven percent of the ~~boards receipts~~
19 receipts of the board from the previous fiscal year to the
20 property acquisition fund.

21 "(3) At the end of each fiscal year, any
22 unencumbered and unexpended balance in the property
23 acquisition fund shall not revert to the State General Fund,
24 but shall carry over to the next fiscal year."

25 Section 2. This act shall become effective August 1,
26 2020, following its passage and approval by the Governor, or
27 its otherwise becoming law.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18

House of Representatives

Read for the first time and re-
ferred to the House of Representa-
tives committee on Boards, Agencies
and Commissions..... 04-FEB-20

Read for the second time and placed
on the calendar 1 amendment 13-FEB-20

Read for the third time and passed
as amended..... 20-FEB-20

Yeas 100, Nays 0, Abstains 0

Jeff Woodard
Clerk