
DIGEST

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HB 592 Engrossed

2015 Regular Session

Ritchie

Abstract: Makes various changes to regulatory rates, application requirements, and fees applicable to cemetery authorities.

Present law requires cemetery authorities to submit to the La. Cemetery Board, hereinafter the "board", an initial application for a certificate of authority. Further requires initial applications to be made in writing on a form prescribed by board, accompanied by an application fee of \$500. Proposed law changes the \$500 fee of present law to one set by the board not to exceed \$1,000.

Present law requires cemetery authorities to pay to the board an annual regulatory charge of not more than \$5 for each interment, entombment, and inurnment for each cemetery operated by the cemetery authority, but not less than \$25 annually for each cemetery. Proposed law changes the \$25 annual minimum for each cemetery to \$50.

Present law authorizes the board to increase the \$5 annual regulatory charge for each interment, entombment, and inurnment to not more than \$11 to cover no more than the board's reasonable and ordinary expenses, including the cost of litigation. Proposed law changes the \$11 maximum regulatory charge per interment, entombment, or inurnment to \$20.

Present law authorizes the board to impose a fine upon the holder of a certificate of authority for both willful and non-willful violations of present law. Further authorizes the board to impose a fine in lieu of suspension or revocation of the certificate of authority. Proposed law retains present law and authorizes the board to impose a fine in addition to suspension or revocation of a certificate of authority for such violations.

Present law exempts certain cemetery authorities from the requirements of present law. Proposed law retains present law and specifies certain provisions for which exemptions from present law no longer apply.

Proposed law requires cemetery authorities or persons seeking exemption pursuant to present law and proposed law to provide the board with the following: (1) Proof as the board deems necessary to determine whether the cemetery authority or person meets the qualifications for exemption, (2) an application for an exempt certificate of authority on a form prescribed by the board, and (3) a \$250 application fee.

Proposed law requires the renewal of exempt certificates of authority in 2016. Further requires the holder of an exempt certificate of authority to apply for renewal of the certificate by submitting to

the board, by April 1, 2016, and in 3-year intervals thereafter, the following: (1) Information as the board deems necessary to determine if the holder of an exempt certificate of authority continues to meet exemption qualifications, and (2) a \$50 renewal fee to maintain the exemption previously granted.

Proposed law provides for the board's suspension of an exempt certificate of authority, if the holder does not timely submit the required information or \$50 renewal fee to the board. Further provides for a \$25 late charge for the untimely submission of information and \$50 renewal fee.

Proposed law authorizes the board to reinstate a suspended exempt certificate of authority, if the holder submits to the board the required information, payment of the \$50 renewal fee, and \$25 late charge.

Proposed law provides that if at any time the board determines that the holder of an exempt certificate of authority no longer qualifies to maintain such certificate, the holder is required to apply for a nonexempt certificate of authority within 30 days of receipt of written notice of the board's determination of nonexemption.

Present law requires a corporation, partnership, firm, trust, association, or individual engaging in or transacting cemetery business within the state of La. to be a corporation authorized to operate a cemetery. Further requires such corporation to have a certificate of authority from the board. Proposed law retains present law and exempts family burial grounds from the incorporation requirement of present law.

Present law requires an application and initial filing fee of \$50 for each person licensed to operate a cemetery sales organization or cemetery management organization. Proposed law retains present law and changes the initial filing fee from \$50 to \$250.

Present law requires a cemetery authority trustee to provide an annual report to the board that sets forth the following: (1) All receipts and disbursements of cash, (2) all receipts and deliveries of other trust property during the regular business year, and (3) a detailed list of all items of trust property in the trust at the end of each year. Proposed law retains present law.

Proposed law requires the annual report of a cemetery authority trustee to be submitted on a form prescribed by the board and requires the report to set forth all of the following: (1) A statement showing the total amount of the endowment and perpetual care trust funds invested in each of the investments authorized by law, and (2) the amount of cash on hand not invested. Proposed law further requires the annual report to be verified by the president or vice president and one other officer of the cemetery authority.

Present law requires the board to examine endowment care funds of cemetery authorities at certain times provided in present law. Further requires an examination expense assessed to cemetery authorities not to exceed \$50 per day for each examiner. Proposed law retains present law and changes the maximum \$50 per day examination fee to a maximum of \$250 per day.

Present law requires the board to refuse a certificate of authority and revoke any existing certificate of authority, if a cemetery authority refuses to pay examination expenses. Proposed law changes present law to provide the board's discretion to refuse or revoke any existing certificate of authority, if a cemetery authority refuses to pay such examination expenses.

Present law requires cemetery authorities selling interment space, subject to endowment or perpetual care, to provide an annual report to the board setting forth the following contents: (1) The amount collected for and deposited in the endowment or perpetual care fund from the inception of the board to the 31st day of December of the preceding year, and (2) a statement showing the total amount of endowment or perpetual care funds invested. Proposed law deletes the annual report content requirements of present law.

Proposed law requires such cemetery authorities selling interment space, subject to endowment or perpetual care, to provide an annual report to the board setting forth all of the following: (1) The number of contracts written in the reporting period for the sale of interment spaces or interment rights, (2) the amount of gross sales or receipts from contracts of sales of all interment spaces or interment rights and the amount of any discounts, (3) the gross sales or receipts from perpetual care contracts, if any, sold separately from interment spaces or interment rights, (4) the fair market value of interment spaces or interment rights provided without charge, and (5) the amount of deposits due the endowment or perpetual care trust fund for the reporting period and the dates the funds were deposited with the trustee.

Present law requires annual reports of cemetery authorities selling interment space, subject to endowment or perpetual care, to be verified by the president or vice president and one other officer of the cemetery authority and certification by the preparing accountant or auditor. Proposed law retains present law.

Proposed law further requires the cemetery authority selling interment space, subject to endowment or perpetual care, to pay a report filing fee of not more than \$5 for each contract entered into to cover the board's reasonable and ordinary expenses. Report filing fees are due and payable when filing the report. Further provides that failure to pay report filing fees within 6 months after the close of the business year results in a \$100 late charge assessed by the board to the cemetery authority.

Present law authorizes the board to examine the business of any cemetery authority or entity engaged in making contracts for the sale of personal property or contemplated services at certain times provided in present law. Further requires an examination expense assessed to cemetery authorities not to exceed \$50 per day for each examiner. Proposed law retains present law and changes the maximum \$50 per day examination fee to a maximum of \$250 per day.

Present law requires cemetery authorities to submit certain information to the board prior to the first sale of a cemetery space or right of use or interment in a structure not yet constructed. Proposed law retains present law and provides for the information required in present law to be submitted on an application form prescribed by the board along with a \$250 application fee to cover the board's reasonable and ordinary expenses.

Proposed law requires cemetery authorities to submit the following to the board prior to the first sale of a cemetery space or right of use or interment in any cemetery space in a garden not yet developed: (1) A copy of the preliminary plans, (2) a map or plat delineating the sections, blocks, plots, or other subdivisions with descriptive names or numbers, (3) a copy of all sales promotion material, and (4) a copy of the pre-construction sales contract.

Proposed law further requires information submitted on an application form prescribed by the board along with a \$250 application fee to cover the board's reasonable and ordinary expenses.

Proposed law provides for effective dates.

(Amends R.S. 8:70, 73, 75(A) and (B), 78, 201, 403, 456(A), 461(A)(introductory paragraph) and (2) and (B), 462, 466, 506(B), and 606(A); Adds R.S. 8:705.1)