

RÉSUMÉ DIGEST

ACT 222 (HB 592)

2015 Regular Session

Ritchie

Existing law requires cemetery authorities to submit to the La. Cemetery Board (board) an initial application for a certificate of authority. Further requires initial applications to be made in writing on a form prescribed by the board. Prior law required the application to be accompanied by an application fee of \$500. New law changes the application fee from \$500 to one set by the board not to exceed \$1,000.

Prior law required 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. New law changes the annual regulatory minimum to be paid by cemeteries from \$25 to \$50.

Prior law authorized 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. New law changes the maximum regulatory charge per interment, entombment, or inurnment from \$11 to \$20.

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

Existing law exempts certain cemetery authorities from the requirements of existing law. New law specifies certain provisions for which exemptions no longer apply, and further requires cemetery authorities or persons seeking exemption 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.

New 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.

New 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.

New 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.

New law provides that if at any time the board determines that the holder of an exempt certificate of authority no longer qualifies to maintain the 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.

Existing 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. New law exempts family burial grounds from incorporation requirements.

Prior law required an application and initial filing fee of \$50 for each person licensed to operate a cemetery sales organization or cemetery management organization. New law changes the initial filing fee from \$50 to \$250.

Existing law requires a cemetery authority trustee to provide an annual report to the board that sets forth all of 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.

New 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 the following additional information: (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. Further requires the annual report to be verified by the president or vice president and one other officer of the cemetery authority.

Existing law requires the board to examine endowment care funds of cemetery authorities at certain times. Prior law required an examination expense assessed to cemetery authorities not to exceed \$50 per day for each examiner. New law changes the maximum \$50 per day examination fee to a maximum of \$250 per day.

Prior law required the board to refuse a certificate of authority and revoke any existing certificate of authority, if a cemetery authority refuses to pay examination expenses. New law provides for the board's discretion to refuse or revoke any existing certificate of authority, if a cemetery authority pay examination expenses.

Prior law required 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.

New law deletes the annual report inclusions of prior law and requires the following inclusions in the annual report: (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.

Existing 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.

New 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.

Existing 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 existing law. Prior law required an examination expense assessed to cemetery authorities not to exceed \$50 per day for each examiner. New law changes the maximum \$50 per day examination fee to a maximum of \$250 per day.

Existing 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. New law provides for the information required in existing 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.

New law requires cemetery authorities to submit the following information 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. Further requires information 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.

Effective on August 1, 2015, except the provisions of R.S. 8:78(E) as enacted become effective on January 1, 2016.

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