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AMERICAN RETIREMENT CORP
Form S-8
March 01, 2006

As filed with the Securities and Exchange Commission on March 1, 2006.

Registration No. 333-_____

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

FORM S-8

REGISTRATION STATEMENT UNDER THE SECURITIES ACT OF 1933

AMERICAN RETIREMENT CORPORATION
(Exact Name of Registrant as Specified in Its Charter)

Tennessee
(State or Other Jurisdiction of
Incorporation or Organization)

62-1674303
(I.R.S. Employer
Identification No.)

111 Westwood Place, Suite 200
Brentwood, Tennessee
(Address of Principal Executive Offices)

37027
(Zip Code)

AMERICAN RETIREMENT CORPORATION
1997 STOCK INCENTIVE PLAN, AS AMENDED
(Full Title of the Plan)

W. E. Sheriff
111 Westwood Place, Suite 200
Brentwood, Tennessee 37027
(Name and Address of Agent For Service)

(615) 221-2250
(Telephone Number, Including Area Code, of Agent For Service)

CALCULATION OF REGISTRATION FEE

| Title of Securities To Be Registered | Amount To be Registered | Offering Price Per Share* | Proposed Maximum Aggregate Offering Price* | Proposed Maximum Amount of Registration Fee |
|---|-------------------------|---------------------------|--|---|
| Common Stock, par value \$.01 per share | 2,354,975 shares | \$26.84 | \$63,207,529 | \$6,764 |

* The offering price is estimated solely for the purpose of determining the amount of the registration fee. Such estimate has been calculated in accordance with Rule 457(c) and Rule 457(h) and is based upon the average of the high and low prices per share of the Registrant's Common Stock as

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reported on the New York Stock Exchange Composite Transactions tape for February 24, 2006.

This Registration Statement is filed pursuant to General Instruction E of Form S-8 for the purpose of registering additional shares of common stock, par value \$.01 per share (the "Common Stock"), of American Retirement Corporation, a Tennessee corporation (the "Registrant"), issuable pursuant to the American Retirement Corporation 1997 Stock Incentive Plan, as amended (the "Plan"). The Registrant's previously filed Registration Statements on Form S-8 (Nos. 333-28657, 333-66821 and 333-94747), as filed with the Securities and Exchange Commission (the "Commission") on June 6, 1997, November 5, 1998 and January 14, 2000 respectively, are hereby incorporated herein by reference.

PART II

INFORMATION REQUIRED IN THE REGISTRATION STATEMENT

Item 3. Incorporation of Documents by Reference.

The following documents previously filed by the Registrant with the Commission pursuant to the Securities Exchange Act of 1934, as amended (the "Exchange Act"), are hereby incorporated herein by reference:

- (a) The Registrant's Annual Report on Form 10-K for the fiscal year ended December 31, 2005;
- (b) The Registrant's Current Reports on Form 8-K filed on January 13, 2006, January 20, 2006, February 7, 2006 and February 24, 2006;
- (c) The description of the Registrant's Common Stock contained in the Registrant's Registration Statement on Form 8-A filed on May 22, 1997, including all amendments and reports filed for the purpose of updating such description prior to the termination of the offering of the Common Stock offered hereby; and
- (d) The description of the Registrant's Common Stock purchase rights contained in the Registration Statement on Form 8-A filed on November 25, 1998, including all amendments and reports filed for the purpose of updating such description prior to the termination of the offering of the Common Stock offered hereby.

Information furnished under Items 2.02 and 7.01 of the Registrant's Current Reports on Form 8-K, including the related exhibits, is not incorporated by reference in this Registration Statement.

All reports and other documents filed by the Registrant pursuant to Sections 13(a), 13(c), 14, and 15(d) of the Exchange Act after the date hereof and prior to the filing of a post-effective amendment to this Registration Statement that indicates that all securities offered hereby have been sold or that deregisters all securities then remaining unsold, shall be deemed to be incorporated by reference herein and to be a part hereof from the date of filing of such documents. Any statements contained in a document incorporated or deemed to be incorporated by reference herein shall be deemed to be modified or superseded for purposes hereof to the extent that a statement contained herein, or in any other subsequently filed document that also is incorporated or is deemed to be incorporated by reference herein, modifies or supersedes such statement. Any statement so modified or superseded shall not be deemed to constitute a part hereof except as so modified or superseded.

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Item 8. Exhibits.

- 5 Opinion of Bass, Berry & Sims PLC.
- 10 1997 Stock Incentive Plan, as amended (incorporated by reference to the Registrant's Quarterly Report on Form 10-Q for the quarter ended September 30, 2001).
- 23.1 Consent of Bass, Berry & Sims PLC (included in Exhibit 5).
- 23.2 Consent of KPMG LLP.
- 24 Powers of Attorney (included at pages II-3 and II-4).

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SIGNATURES

Pursuant to the requirements of the Securities Act of 1933, as amended, the Registrant certifies that it has reasonable grounds to believe that it meets all of the requirements for filing on Form S-8, and has duly caused this Registration Statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Brentwood, State of Tennessee, on this 1st day of March, 2006.

AMERICAN RETIREMENT CORPORATION

By: /s/ W.E. Sheriff

Name: W.E. Sheriff
Title: Chairman, Chief Executive Officer and
President

POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS, each person whose signature appears below hereby constitutes and appoints W. E. Sheriff and Bryan D. Richardson, or either of them, his or her true and lawful attorney-in-fact and agent, with full power of substitution and resubstitution, for him or her and in his or her name, place, and stead, in any and all capacities, to sign any and all amendments (including without limitation, post-effective amendments) to this Registration Statement, and to file the same, with all exhibits thereto, and other documents in connection therewith, with the Securities and Exchange Commission, granting unto said attorney-in-fact and agent full power and authority to do and perform each and every act and thing requisite and necessary to be done in and about the premises, as fully to all intents and purposes as he or she might or could do in

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person, hereby ratifying and confirming all that said attorneys-in-fact and agents or any of them, or their substitute or substitutes, may lawfully do or cause to be done by virtue hereof.

Pursuant to the requirements of the Securities Act of 1933, as amended, this Registration Statement has been signed by the following persons in the capacities and on the dates indicated.

| Signature ----- | Capacity ----- | Date ---- |
|---|--|---------------|
| /s/ W. E. Sheriff ----- W. E. Sheriff | Chairman, Chief Executive Officer, President and Director (Principal Executive Officer) | March 1, 2006 |
| /s/ Bryan D. Richardson ----- Bryan D. Richardson | Executive Vice President - Finance and Chief Financial Officer (Principal Financial and Accounting Officer) | March 1, 2006 |
| /s/ Frank M. Bumstead ----- Frank M. Bumstead | Director | March 1, 2006 |
| /s/ Donald D. Davis ----- Donald D. Davis | Director | March 1, 2006 |
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| /s/ John C. McCauley ----- John C. McCauley | Director | March 1, 2006 |
| /s/ John A. Morris, Jr., M.D. ----- John A. Morris, Jr., M.D. | Director | March 1, 2006 |
| /s/ Daniel K. O'Connell ----- Daniel K. O'Connell | Director | March 1, 2006 |
| /s/ J. Edward Pearson ----- J. Edward Pearson | Director | March 1, 2006 |
| /s/ James R. Seward ----- James R. Seward | Director | March 1, 2006 |

