

lin County, expenditures not to exceed receipts from the Federal Government	\$75,000.00
---	-------------

FROM THE GENERAL FUND.

FOR THE RELIEF OF J. R. ABBOTT ON account of care for welfare re- cipient	\$240.00	Relief of J. R. Abbott.
---	----------	----------------------------

SEC. 3. This act is necessary for the immediate Emergency.
preservation of public peace, health and safety, for
the support of the state government and its existing
public institutions, and shall take effect immediately.

Passed the House March 12, 1953.

Passed the Senate March 12, 1953.

Approved by the Governor March 23, 1953, with
the exception of certain items, which are vetoed.

CHAPTER 290.

[H. B. 85.]

CEMETERIES.

AN ACT relating to the regulation of cemeteries; adding a new
chapter to title 68, RCW, creating a cemetery board and
defining its powers and duties; adding a new section to
chapter 68.40, RCW; and amending sections 68.36.060,
68.36.070, 68.36.090; and amending sections 68.40.010, 68-
.40.020, 68.40.030, 68.40.040, 68.40.060, 68.40.070, 68.40.080;
and amending sections 68.44.010, 68.44.020, 68.44.030, 68.44-
.050, 68.44.070, 68.44.080, 68.44.090, 68.44.100, 68.44.110, 68-
.44.120, 68.44.160, 68.44.170, RCW, providing penalties, and
repealing section 68.44.040, RCW.

*Be it enacted by the Legislature of the State of
Washington:*

SECTION 1. Section 68.36.060, RCW, as derived Amendment.
from section 83, chapter 247, Laws of 1943, is
amended to read as follows:

If at any time before the adjudication of abandon- Contract for
care before
adjudication.
ment the owner of an unoccupied space contracts
with the owner or manager of the cemetery for the

Action dismissed.

endowment care of the space, the court shall dismiss the proceedings as to such unoccupied space.

Amendment.

SEC. 2. Section 68.36.070, RCW, as derived from section 84, chapter 247, Laws of 1943, is amended to read as follows:

Contract for care within one year after adjudication.

If at any time within one year after the adjudication of abandonment, the former owner of the unoccupied space shall contract for its endowment care, and reimburse the owner or manager of the cemetery for the expense of the proceedings, including attorney's fees, the space shall not be sold and the order adjudging it to have been abandoned shall be vacated upon petition of the former owner.

Amendment.

SEC. 3. Section 68.36.090, RCW, as derived from section 86, chapter 247, Laws of 1943, is amended to read as follows:

Disposition of proceeds.

Not more than twenty per cent of the funds realized from the sale of abandoned space shall be used to defray the expenses of the proceedings to abandon, and the improving of it in such manner as to place it in condition for care, and the balance shall be placed immediately in a trust fund or shall be immediately transferred to a non-profit organization to be used exclusively for the endowment care and maintenance of the cemetery.

Amendment.

SEC. 4. Section 68.40.010, RCW, as derived from section 118, chapter 247, Laws of 1943, is amended to read as follows:

Endowment care cemetery defined.

An endowment care cemetery is one which deposits in its endowment care fund not less than the following amounts for plots sold: Ten per cent of the gross sales price, with a minimum of ten dollars for each adult grave; five dollars for each niche; and thirty dollars for each crypt.

Deposits.

The deposits shall be made not later than the twentieth day of the month following the final payment on the sale price.

Any endowment care cemetery hereafter established shall also have deposited in its endowment care fund the additional sum of twenty-five thousand dollars before disposing of any plot or making any sale thereof.

SEC. 5. Section 68.40.020, RCW, as derived from section 120, chapter 247, Laws of 1943, is amended to read as follows: Amendment.

An endowment care cemetery may contain a small section which may be sold without endowment care, if the section is separately set off from the remainder of the cemetery and if signs are kept prominently placed around the section designating it as a "nonendowment care section," in lettering equivalent to a minimum of forty-eight point black type. There shall be printed or stamped at the head of all contracts and certificates of ownership or deed[s] referring to plots in the section, the phrase "nonendowment care" in lettering equivalent to a minimum of ten point number two black type. Nonendowment care section.

SEC. 6. Section 68.40.030, RCW, as derived from section 121, chapter 247, Laws of 1943, is amended to read as follows: Amendment.

An endowment care cemetery shall post in a conspicuous place in the office or offices where sales are conducted and in a conspicuous place at or near the entrance of the cemetery or its administration building, and readily accessible to the public, a legible sign with the following phrase: "This is an endowment care property." Identifying sign.

SEC. 7. Section 68.40.040, RCW, as derived from section 122, chapter 247, Laws of 1943, is amended to read as follows: Amendment.

An endowment care cemetery shall file in its principal office a written report which shall be available to any plot owner, and which shall state the amount of the principal of the endowment care Endowment care fiscal report.

fund and the total amount invested in lawful investments, and the amount of cash on hand, which shall show the true financial condition of the trust.

Amendment. SEC. 8. Section 68.40.060, RCW, as derived from section 129, chapter 247, Laws of 1943, is amended to read as follows:

May accept property in trust; application of proceeds.

The cemetery authority of an endowment care cemetery may accept any property bequeathed, granted, or given to it in trust and may apply the principal, or proceeds, or income to any or all of the following purposes:

(1) Improvement or embellishment of all or any part of the cemetery or any lot in it;

(2) Erection, renewal, repair, or preservation of any monument, fence, building, or other structure in the cemetery;

(3) Planting or cultivation of trees, shrubs, or plants in or around any part of the cemetery;

(4) Special care or ornamenting of any part of any plot, section, or building in the cemetery; and

(5) Any purpose or use consistent with the purpose for which the cemetery was established or is maintained.

Amendment. SEC. 9. Section 68.40.070, RCW, as derived from section 119, chapter 247, Laws of 1943, is amended to read as follows:

Nonendowment care cemetery defined.

A nonendowment care cemetery is one that does not deposit in an endowment care fund the minimum required of an endowment care cemetery.

Amendment. SEC. 10. Section 68.40.080, RCW, as derived from section 123, chapter 247, Laws of 1943, is amended to read as follows:

Identifying sign.

A nonendowment care cemetery shall post in a conspicuous place in the office or offices where sales are conducted and in a conspicuous place at or near the entrance of the cemetery or its administration building and readily accessible to the public, a legible

sign with the following phrase: "This is not an endowment care property." This phrase likewise shall be printed or stamped at the head of all contracts, certificates of ownership, or deeds.

SEC. 11. Section 68.44.010, RCW, as derived from section 105, chapter 247, Laws of 1943, is amended to read as follows: Amendment.

Any cemetery authority may place its cemetery under endowment care, and establish, maintain, and operate an irreducible endowment care fund. Endowment care and special care funds may be commingled for investment and the income therefrom shall be divided between the funds in the proportion that each contributed to the sum invested. The funds may be held in the name of the cemetery authority or its directors or in the name of the trustees appointed by the cemetery authority. Irreducible endowment care fund.
Investments.

SEC. 12. Section 68.44.020, RCW, as derived from sections 106 and 126, chapter 247, Laws of 1943, is amended to read as follows: Amendment.

Endowment care funds shall not be used for any purpose other than to provide, through income only, for the endowment care stipulated in the instrument by which the fund was established, and shall be kept separate and distinct from all other funds. The principal shall forever remain irreducible and inviolable. Use and care of funds.

SEC. 13. Section 68.44.030, RCW, as derived from section 127, chapter 247, Laws of 1943, is amended to read as follows: Amendment.

Endowment care funds shall be kept invested in accordance with the provisions of section 30.24.020, RCW. Authorized investments.

SEC. 14. Section 68.44.040, RCW, as derived from section 128, chapter 247, Laws of 1943, is hereby repealed. Repealing clause.

Amendment.

SEC. 15. Section 68.44.050, RCW, as derived from section 131, chapter 247, Laws of 1943, is amended to read as follows:

Loan to
officers
prohibited.

No director or officer of the cemetery authority or trustee of the endowment care or special care funds shall borrow any of such funds for himself, directly or indirectly.

Amendment.

SEC. 16. Section 68.44.070, RCW, as derived from sections 130 and 117, chapter 247, Laws of 1943, is amended to read as follows:

Purpose of
endowment
care.

The endowment care and special care funds and all payments or contributions thereto are hereby expressly permitted for charitable and eleemosynary purposes. Endowment care and such contributions are provisions for the discharge of a duty from the persons contributing to the persons interred and to be interred in the cemetery and provisions for the benefit and protection of the public by preserving and keeping cemeteries from becoming unkempt and places of reproach and desolation in the communities in which they are situated. No payment, or contribution for general endowment care, is invalid by reason of any indefiniteness or uncertainty of the persons designated as beneficiaries in the instruments creating the trust, nor is the fund or any contribution to it invalid as violating any law against perpetuities, or the suspension of the power of alienation of title to property.

Validity.

Amendment.

SEC. 17. Section 68.44.080, RCW, as derived from section 108, chapter 247, Laws of 1943, is amended to read as follows:

Plans for
care; source
of funds.

The cemetery authority may from time to time adopt plans for the general care, maintenance, and embellishment of its cemetery, and charge and collect from all purchasers of plots such reasonable sum as it deems will aggregate a fund, the reasonable income from which will provide care, maintenance, and embellishment on an endowment basis.

SEC. 18. Section 68.44.090, RCW, as derived from section 109, chapter 247, Laws of 1943, is amended to read as follows: Amendment.

Upon payment of the purchase price and the amount fixed as a proportionate contribution for endowment care, there may be included in the deed of conveyance or by separate instrument, an agreement to care, in accordance with the plan adopted, for the cemetery and its appurtenances on an endowment basis to the proportionate extent the income received by the cemetery authority from the contribution will permit. Covenant to care for cemetery.

SEC. 19. Section 68.44.100, RCW, as derived from section 110, chapter 247, Laws of 1943, is amended to read as follows: Amendment.

Upon the application of an owner of a plot, and upon the payment by him of the amount fixed as a reasonable and proportionate contribution for endowment care, a cemetery authority may enter into an agreement with him for the care of his plot and its appurtenances. Agreement by owner to care for plot.

SEC. 20. Section 68.44.110, RCW, as derived from section 111, chapter 247, Laws of 1943, is amended to read as follows: Amendment.

The cemetery authority may appoint a board of not less than three members as trustees for its endowment care fund, who shall hold office subject to the direction of the cemetery authority. Trustees of fund.

SEC. 21. Section 68.44.120, RCW, as derived from section 112, chapter 247, Laws of 1943, is amended to read as follows: Amendment.

The directors of a cemetery authority may be the trustees of its endowment care fund. When the fund is in the care of the directors as a board of trustees the secretary of the cemetery authority shall act as its secretary and keep a true record of all of its proceedings. The investments of the endowment care Directors as trustees.
Secretary.

fund may be held in the name of the cemetery authority.

Amendment. SEC. 22. Section 68.44.160, RCW, as derived from section 116, chapter 247, Laws of 1943, is amended to read as follows:

Contributions. A cemetery authority which has established an endowment care fund may take and hold, as a part of or incident to the fund, any property, real, personal, or mixed, bequeathed, devised, granted, given, or otherwise contributed to it for its endowment care fund.

Amendment. SEC. 23. Section 68.44.170, RCW, as derived from section 107, chapter 247, Laws of 1943, is amended to read as follows:

Use of income from fund. The income from the endowment care fund shall be used solely for the general care, maintenance, and embellishment of the cemetery, and shall be applied in such manner as the cemetery authority may from time to time determine to be for the best interest of the cemetery.

New section. SEC. 24. Chapter 68.40, RCW, is amended by adding thereto a new section to read as follows:

Penalty. It is a misdemeanor for any cemetery authority, its officers, employees, or agents, or a cemetery broker or salesman to represent that an endowment care fund, or any other fund set up for maintaining care, is perpetual.

New chapter. SEC. 25. Sections 26 through 55 of this act shall constitute a new chapter under title 68, RCW.

Definitions of Ch. 68.04, RCW, applicable. SEC. 26. The definitions in chapter 68.04, RCW, are applicable to this chapter and govern the meaning of terms used herein, except as otherwise provided expressly or by necessary implication.

"Board" defined. SEC. 27. The term "board" used in this chapter means the cemetery board.

SEC. 28. The terms "endowment care" or "endowed care" used in this chapter shall include both general and special care funds. Endowment or endowed care.

SEC. 29. There shall be, in the office of the state treasurer, a fund to be known and designated as the "cemetery fund." All regulatory fees or other monies to be paid under this act, unless provision be made otherwise, shall be paid at least once a month to the state treasurer to be credited to the cemetery fund. All monies credited to the cemetery fund shall be used, when appropriated by the legislature, by the cemetery board to carry out the provisions of this act. "Cemetery fund."

SEC. 30. The provisions of this chapter do not apply to any of the following: Any religious corporation, church, coroner, religious society or denomination, a corporation sole administering temporalities of any church or religious society or denomination, or any cemetery organized, controlled, and operated by any of them, any county, town, or city cemetery, or any burial park having an area not exceeding ten acres. Exceptions from chapter.

SEC. 31. A cemetery board is created to consist of five members to be appointed by the governor within thirty days after the effective date of this act. The terms of the members first appointed shall expire: One, January 15, 1954; one, January 15, 1955; one, January 15, 1956; and two, January 15, 1957. Thereafter appointments shall be for a four year term. Cemetery board created.

SEC. 32. Members of the board shall be appointed only from persons who have had, immediately preceding their appointment, a minimum of five consecutive years experience in this state in the active administrative management of a cemetery corporation or as a member of the board of directors thereof for this period and shall at the time of their appointment, have the actual and full authority of a presi- Members of board.

dent, general manager, or executive vice president, but they shall hold office only so long as they continue in such active, actual, and authoritative capacity. The five year consecutive period shall be exclusive of time spent in the armed services.

Compensation of members.

SEC. 33. Each member of the board shall receive no compensation for his services, but shall receive his necessary travelling and other expenses.

Board officers.

SEC. 34. The board shall elect annually a chairman and vice chairman and such other officers as it shall determine from among its members. Subject to the provisions of law the board may employ, fix the salaries of and prescribe the duties of, one administrative assistant and such clerical, technical and other employees as are necessary in the carrying out of its duties.

Employees.

Meetings.

SEC. 35. The board shall meet at least twice a year in order to conduct its business and may meet at such other times as it may designate. The board may meet at any place within this state.

Rules and regulations.

SEC. 36. The board may establish necessary rules and regulations for the administration and enforcement of this title and the laws subject to its jurisdiction and prescribe the form of statements and reports provided for in this title: *Provided, however,* The board shall have no jurisdiction with regard to the provisions of chapter 68.48, RCW.

Oaths.

SEC. 37. The board may administer oaths, and examine under oath, any person relative to the administration and enforcement of this title.

Actions to enforce by attorney general.

SEC. 38. The board is authorized to bring actions to enforce the provisions of the law subject to its jurisdiction, in which actions it shall be represented by the attorney general.

Administration.

SEC. 39. The board shall enforce and administer the provisions of chapter 68.04 to 68.44, RCW, inclusive, subject to provisions of section 30 of this act.

SEC. 40. Each cemetery authority in charge of cemetery endowment care funds shall file with the board annually, on or before the thirtieth day of June, a written report in form prescribed by the board setting forth:

Cemetery
authority
annual
reports.

(1) The number of square feet of grave space and the number of crypts and niches sold or disposed of under endowment care:

(a) From June 12, 1943, to the first day of January of the year preceding the filing of this report.

(b) From the first day of January through the thirty-first day of December of the preceding year.

(2) The amount collected and deposited in both the general and special endowment care funds:

(a) Prior to June 12, 1943.

(b) From June 12, 1943, to the first day of January preceding the filing of this report.

(c) From the first day of January through the thirty-first day of December of the preceding year segregated as to the amounts deposited for crypts, niches, and grave space.

(3) A statement showing the total amount of the general and special endowment care funds invested in each of the investments authorized by law and the amount of cash on hand not invested, which statement shall show the actual financial condition of the funds.

The report shall be verified by the president or vice president and one other officer of the cemetery authority and shall be certified by the accountant or auditor preparing the same.

Verification
and
certification.

SEC. 41. The board shall examine the reports filed with it as to their compliance with the requirements of the law.

Examination
of reports.

SEC. 42. The board shall examine the endowment care funds of a cemetery authority:

Examination
of endow-
ment care
funds.
Date.

(1) Within one year after the effective date of this act and whenever it deems necessary, but at least

once every three years after the original examination;

Failure to file report.

(2) Whenever the cemetery authority in charge of endowment care funds fails to file the report required by this chapter; or

Upon request.

(3) Whenever it is requested by verified petition signed by twenty-five lot owners alleging that the endowment care funds are not in compliance with this title, in which case the examination shall be at the expense of the petitioners.

Expense of examination.

(4) The expense of the examination as provided in sub-sections (1) and (2), not to exceed fifty dollars per day for each examiner engaged in the examination whenever the examination requires more than two days, shall be paid by the cemetery authority. Such examination shall be privately conducted in the principal office of the cemetery authority.

Refusal to pay examination expense.

SEC. 43. If any cemetery authority refuses to pay examination expenses in advance, the board shall refuse it a certificate of authority and shall revoke any existing certificate of authority. All examination expense moneys collected by the board shall be paid into the state treasury to the credit of the cemetery fund.

Examination powers of the board.

SEC. 44. In making such examination the board:

(1) Shall have free access to the books and records relating to the endowment care funds, their collection and investment, and the number of graves, crypts and niches under endowment care.

(2) Shall inspect and examine the endowment care funds to determine their condition and the existence of the investments.

(3) Shall ascertain if the cemetery authority has complied with all the laws applicable to endowment care funds.

SEC. 45. If any examination made by the board, or any report filed with it, shows that there has not been collected and deposited in the endowment care funds the minimum amounts required by this title, the board shall require such cemetery authority to comply with chapter 68.40, RCW.

Failure to deposit in endowment care fund minimum amounts required.

SEC. 46. Whenever the board finds, after notice and hearing, that any endowment care funds have been invested in violation of this title, it shall by written order mailed to the person or body in charge of the fund require the reinvestment of the funds in conformity with this title within the period specified by it which shall be not less than two years where the investment was made prior to the effective date of this act and not less than six months when made after such effective date. Such period may be extended by the board in its discretion.

Violation of investment provisions.

SEC. 47. Applications in writing for a certificate of authority shall be made by a cemetery authority to the board accompanied by the regulatory charge provided for in this title. Such application must show that the cemetery authority owns or is actively operating a cemetery which is subject to the provisions of this title.

Applications for certificate of authority.

SEC. 48. The board may require such proof as it deems advisable concerning the compliance by such applicant to all the laws, rules, regulations, ordinances and orders applicable to it.

Proof of compliance.

SEC. 49. Upon violation of any of the provisions of this title, the board may revoke or suspend the certificate of authority of any cemetery authority.

Revocation or suspension of certificate of authority.

SEC. 50. The regulatory charges for cemetery certificates at all periods of the fiscal year are the same as provided in this chapter. All regulatory charges are payable at the time of the filing of the application and in advance of the issuance of the certificates. All certificates shall be issued for the

Regulatory charges; when payable.

Issuance of
certificates.

fiscal year and shall expire at midnight, the thirtieth day of January of each fiscal year. Failure to pay the regulatory charge fixed by the board prior to January 1, 1954, and prior to the first day of February for any succeeding year automatically shall suspend the certificate of authority. Such certificate may be restored upon payment to the board of the prescribed charges.

Annual
regulatory
charges;
amounts.

SEC. 51. Every cemetery authority shall pay for each cemetery operated by it, an annual regulatory charge, not to exceed twenty-five dollars, to be fixed by the board, plus an additional charge of not more than fifteen cents per interment made during the preceding full calendar year, which charges shall be deposited in the cemetery fund. Upon payment of said charges, the board will issue a certificate of authority.

Penalty.

SEC. 52. It shall be a misdemeanor for any cemetery authority to make any interment without a valid, subsisting, and unsuspended certificate of authority. Each interment shall be a separate violation.

SEC. 53. It shall be unlawful for any cemetery under this act to refuse burial to any person because such person may not be of the Caucasian race.

Vetoed

SEC. 54. No license of any kind or character shall be required of any person, firm or corporation on account of or to authorize the sale of lots, graves or interment spaces in any dedicated cemetery.

Short title.

SEC. 55. This act shall be known as "The Cemetery Act."

Passed the House February 13, 1953.

Passed the Senate February 20, 1953.

Approved by the Governor March 3, 1953, with the exception of Section 54, which is vetoed.