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CHAPTER 68
[House Bill No. 821]
CEMETERIES--PREARRANGEMENT
CONTRACTS

AN ACT Relating to cemeteries, prearrangement contracts for burial services or merchandise; and the powers of the Washington state cemetery board; amending section 42, chapter 290, Laws of 1953 and RCW 68.05.130; amending section 43, chapter 290, Laws of 1953 and RCW 68.05.140; amending section 44, chapter 290, Laws of 1953 and RCW 68.05.150; amending section 45, chapter 290, Laws of 1953 and RCW 68.05.160; amending section 40, chapter 290, Laws of 1953 and RCW 68.05.180; amending section 5, chapter 99, Laws of 1969 ex. sess. and RCW 68.05.255; and adding a new chapter to Title 68 RCW.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

NEW SECTION. Section 1. Unless the context clearly indicates otherwise, the words used in this chapter have the meaning given in this section:

"Prearrangement contract" means a contract for purchase of cemetery merchandise or services, to be furnished at a future date for a specific consideration which is paid in advance by one or more payments in one sum or by installment payments.

"Cemetery merchandise or services" shall mean and include monuments, markers, memorials, nameplates, liners, vaults, boxes, urns, vases, interment services, or any one or more of them.

"Prearrangement trust fund" means all funds required to be maintained in one or more funds for the benefit of beneficiaries by either this chapter or by the terms of a prearrangement contract, as herein defined.

"Depository" means a qualified public depository as defined by RCW 39.58.050, a credit union as governed by chapter 31.12 RCW, a mutual savings bank as governed by Title 32 RCW, and a savings and loan association as governed by Title 33 RCW, in which prearrangement funds are deposited by any cemetery authority.

NEW SECTION. Sec. 2. Any cemetery authority selling by prearrangement contracts any merchandise or services shall establish

and maintain one or more prearrangement funds for the benefit of beneficiaries of prearrangement contracts.

NEW SECTION. Sec. 3. Fifty percent of all funds collected in payment of each prearrangement contract, excluding sales tax and endowment care if such charge is made, may be retained by the cemetery authority. Deposits to the prearrangement trust fund shall be made not later than the twentieth day of each month following receipt of each payment as made on the last fifty percent of each prearrangement contract, excluding sales tax and endowment care, if such charge is made.

NEW SECTION. Sec. 4. All prearrangement trust funds shall be deposited in a qualified public depository as defined by section 1 of this 1973 amendatory act. Such savings accounts shall be designated as the prearrangement trust fund of the particular cemetery authority for the benefit of the beneficiaries named in any prearrangement contract.

NEW SECTION. Sec. 5. A bank, trust company, or savings and loan association designated as the depository of prearrangement funds shall permit withdrawal by a cemetery authority of all funds deposited under any specific prearrangement contract plus interest accrued thereon, under the following circumstances and conditions:

(1) If the cemetery authority files a verified statement with the depository that the prearrangement merchandise and services covered by a contract have been furnished and delivered in accordance therewith; or

(2) If the cemetery authority files a verified statement that a specific prearrangement contract has been canceled in accordance with its terms.

NEW SECTION. Sec. 6. Any purchaser or beneficiary or beneficiaries may, upon written demand of any cemetery authority, demand that any prearrangement contract with such cemetery authority be terminated. In such event, the cemetery authority shall within thirty days refund to such purchaser or beneficiary or beneficiaries all moneys which have been deposited by such cemetery authority with any depository according to the provisions of this chapter, along with such interest as may have been earned by the deposit of such moneys. In any case, where, under a prearrangement contract there is more than one beneficiary, no written demand as provided in this section shall be honored by any cemetery authority unless the written demand provided for herein shall bear the signatures of all of such beneficiaries.

NEW SECTION. Sec. 7. Prearrangement contracts shall automatically terminate if the cemetery authority shall go out of business, become insolvent or bankrupt, make an assignment for the benefit of creditors, or for any other reason be unable to fulfill

the obligations under the contract, in which event, and upon demand by the purchaser or beneficiary or beneficiaries of any prearrangement contract, the depository of the prearrangement funds shall refund to purchasers of prearrangement contracts all funds deposited in accordance with said contracts, unless otherwise ordered by a court of competent jurisdiction.

NEW SECTION. Sec. 8. Prearrangement trust funds shall not be used in any way, directly or indirectly, for the benefit of the cemetery authority or any director, officer, agent or employee of any cemetery authority, including, but not limited to any encumbrance, pledge, or other utilization or prearrangement trust funds as collateral or other security.

NEW SECTION. Sec. 9. Any cemetery authority selling prearrangement merchandise or other prearrangement services shall file in its office or offices and with the cemetery board a written report upon forms prepared by the cemetery board which shall state the amount of the principle of the prearrangement trust fund or funds, the depository of such fund or funds, and cash on hand which is or may be due to such fund as well as such other information the board may deem appropriate. All information appearing on such written reports shall be revised at least annually and shall be verified by the president, and the secretary or auditor preparing the same.

NEW SECTION. Sec. 10. Every prearrangement contract shall contain language which informs the purchaser of the prearrangement trust fund and the amount to be deposited in the prearrangement trust fund, which shall not be less than fifty percent of the cash purchase price of the merchandise and services in the contract and shall not include charges for endowment care when included in the purchase price.

NEW SECTION. Sec. 11. No cemetery authority shall sell, offer to sell or authorize the sale of cemetery merchandise or services or accept funds in payment of any prearrangement contract, either directly or indirectly, unless such acts are performed in compliance with this act, and under the authority of a valid, subsisting and unsuspended certificate of authority to operate a cemetery in this state by the Washington state cemetery board.

Sec. 12. Section 42, chapter 290, Laws of 1953 and RCW 68.05.130 are each amended to read as follows:

The board shall examine the endowment care and prearrangement trust fund or funds of a cemetery authority:

(1) Within one year after June 11, 1953 and whenever it deems necessary, but at least once every three years after the original examination;

(2) Whenever the cemetery authority in charge of endowment

care or prearrangement trust fund or funds fails to file the reports required by this chapter; or

(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, or whenever it is requested by verified petition signed by twenty-five purchasers or beneficiaries of prearrangement merchandise or services alleging that the prearrangement trust funds are not in compliance with this 1973 amendatory act, in either of which cases, the examination shall be at the expense of the petitioners.

(4) The expense of the endowment care examination as provided in subdivisions (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, or the expense of the prearrangement trust examination as provided in subdivisions (1) and (2) of this section, not to exceed one hundred dollars per day for each examiner engaged in the examination shall be paid by the cemetery authority. Such examination shall be privately conducted in the principal office of the cemetery authority.

Sec. 13. Section 43, chapter 290, Laws of 1953 and RCW 68.05.140 are each amended to read as follows:

If any cemetery authority refuses to pay any 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.

Sec. 14. Section 44, chapter 290, Laws of 1953 and RCW 68.05.150 are each amended to read as follows:

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.

(4) Shall have free access to all records required to be maintained pursuant to this 1973 amendatory act with respect to prearrangement merchandise or services.

(5) Shall ascertain if the cemetery authority has complied with the laws applicable to prearrangement trust funds.

Sec. 15. Section 45, chapter 290, Laws of 1953 and RCW 68.05.160 are each amended to read as follows:

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, or if the board finds that the cemetery authority has failed to comply with the requirements of this 1973 amendatory act with respect to prearrangement contracts, merchandise or services, and/or prearrangement trust funds, the board shall require such cemetery authority to comply with chapter 68.40 or with this 1973 amendatory act as the case may be.

Sec. 16. Section 40, chapter 290, Laws of 1953 and RCW 68.05.180 are each amended to read as follows:

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:

(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.

(4) A statement showing the information required to be filed pursuant to section 9 of this 1973 amendatory act.

~~((The))~~ These reports 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.

Sec. 17. Section 5, chapter 99, Laws of 1969 ex. sess. and RCW 68.05.255 are each amended to read as follows:

Prior to the sale or transfer of ownership or control of any cemetery authority, any person, corporation or other legal entity desiring to acquire such ownership or control shall apply in writing for a new certificate of authority to operate a cemetery and shall comply with all provisions of Title 68 RCW relating to applications for, and the basis for granting, an original certificate of authority. The board shall, in addition, enter any order deemed

necessary for the protection of all endowment care funds and/or prearrangement trust fund during such transfer. Persons and business entities selling and persons and business entities purchasing ownership or control of a cemetery authority shall each file an endowment care fund report and/or a prearrangement trust fund report showing the status of ((said)) such funds immediately before and immediately after such transfer on a written report form prescribed by the board. Failure to comply with this section shall be a gross misdemeanor and any sale or transfer in violation of this section shall be void.

NEW SECTION. Sec. 18. Sections 1 through 11 of this 1973 amendatory act shall constitute a new chapter in Title 68 RCW.

Passed the House March 17, 1973.

Passed the Senate April 10, 1973.

Approved by the Governor April 20, 1973.

Filed in Office of Secretary of State April 23, 1973.

CHAPTER 69

[House Bill No. 847]

LEGAL AID PROGRAMS--

ALL COUNTIES

AN ACT Relating to the operation of legal aid services in counties; and repealing section 3, chapter 93, Laws of 1939 and RCW 2.50.030.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

NEW SECTION. Section 1. Section 3, chapter 93, Laws of 1939 and RCW 2.50.030 are each repealed.

Passed the House March 17, 1973.

Passed the Senate April 15, 1973.

Approved by the Governor April 20, 1973.

Filed in Office of Secretary of State April 23, 1973.

CHAPTER 70

[Substitute House Bill No. 903]

VOTE COUNTING CENTERS--

LOCATION

AN ACT Relating to elections; and amending section 27, chapter 109, Laws of 1967 ex. sess. and RCW 29.34.160.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON: