

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

Section 1. Section 15.24.090, chapter 11, Laws of 1961 as last amended by section 27, chapter 240, Laws of 1967 and RCW 15.24.090 are each amended to read as follows:

If it appears from investigation by the commission that the revenue from the assessment levied on fresh apples hereunder is inadequate to accomplish the purposes of this chapter the commission shall adopt a resolution setting forth the necessities of the industry, extent and probable cost of the required research, market promotion and advertising, extent of public convenience, interest, and necessity, and probable revenue from the assessment levied. It shall thereupon increase the assessment to such sum as shall be determined by the commission to be necessary for such purposes based upon a rate per one hundred pounds of apples, gross billing weight, shipped in bulk, container, or any style of package; but no increase shall be made prior to adoption of said resolution. An increase shall become effective sixty days after such resolution is adopted: PROVIDED, That no increase in such assessment shall become effective unless the same shall be first referred by the commission to a referendum mail ballot by the apple growers of this state conducted under the supervision of the director and be approved by a majority of such growers voting thereon and also be approved by voting growers who operate more than fifty percent of the acreage voted in the same election: PROVIDED, FURTHER, That after such mail ballot, if the same be favorable to such increase, the commission shall nevertheless exercise its independent judgment and discretion as to whether or not to approve such increase(~~(: AND PROVIDED FURTHER, That in any event such increase shall not amount to more than two cents per one hundred pounds of apples, gross billing weight, in any one year)~~)).

Passed the Senate February 16, 1979.

Passed the House February 28, 1979.

Approved by the Governor March 7, 1979.

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CHAPTER 21

[Substitute House Bill No. 82]

CEMETERIES—ENDOWMENT CARE—PREARRANGEMENT CONTRACTS

AN ACT Relating to cemeteries, morgues, and human remains; amending section 4, chapter 247, Laws of 1943 and RCW 68.04.040; amending section 6, chapter 247, Laws of 1943 and RCW 68.04.060; amending section 16, chapter 247, Laws of 1943 and RCW 68.04.160; amending section 32, chapter 290, Laws of 1953 as amended by section 2, chapter 351, Laws of 1977 ex. sess. and RCW 68.05.050; amending section 39, chapter 290, Laws of 1953 and RCW 68.05.090; amending section 42, chapter 290, Laws of 1953 as amended by section 12, chapter 68, Laws of 1973 1st ex. sess. and RCW 68.05.130; amending section 44, chapter 290, Laws of 1953 as amended by section 14, chapter 68, Laws of 1973 1st ex. sess. and RCW 68.05.150; amending section 45, chapter 290, Laws of 1953 as amended by section 15, chapter 68, Laws of 1973 1st ex. sess. and RCW 68.05.160;

amending section 40, chapter 290, Laws of 1953 as last amended by section 3, chapter 351, Laws of 1977 ex. sess. and RCW 68.05.180; amending section 5, chapter 99, Laws of 1969 ex. sess. as amended by section 17, chapter 68, Laws of 1973 1st ex. sess. and RCW 68.05.255; amending section 30, chapter 290, Laws of 1953 as amended by section 1, chapter 133, Laws of 1961 and RCW 68.05.280; amending section 31, chapter 247, Laws of 1943 and RCW 68.08.180; amending section 91, chapter 247, Laws of 1943 and RCW 68.32.040; amending section 98, chapter 247, Laws of 1943 and RCW 68.32.060; amending section 120, chapter 247, Laws of 1943 as amended by section 5, chapter 290, Laws of 1953 and RCW 68.40.020; amending section 127, chapter 247, Laws of 1943 as amended by section 13, chapter 290, Laws of 1953 and RCW 68.44.030; amending section 114, chapter 247, Laws of 1943 and RCW 68.44.140; amending section 115, chapter 247, Laws of 1943 and RCW 68.44.150; amending section 1, chapter 68, Laws of 1973 1st ex. sess. as amended by section 1, chapter 55, Laws of 1975 1st ex. sess. and RCW 68.46.010; amending section 3, chapter 68, Laws of 1973 1st ex. sess. and RCW 68.46.030; amending section 6, chapter 68, Laws of 1973 1st ex. sess. and RCW 68.46.060; amending section 7, chapter 68, Laws of 1973 1st ex. sess. and RCW 68.46.070; amending section 6, chapter 351, Laws of 1977 ex. sess. and RCW 68.46.120; amending section 146, chapter 247, Laws of 1943 and RCW 68.48.070; adding a new section to chapter 68.04 RCW; adding a new section to chapter 68.05 RCW; adding a new section to chapter 68.40 RCW; adding new sections to chapter 68.46 RCW; repealing section 131, chapter 247, Laws of 1943, section 15, chapter 290, Laws of 1953 and RCW 68.44.050; and prescribing penalties.

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

Section 1. Section 4, chapter 247, Laws of 1943 and RCW 68.04.040 are each amended to read as follows:

"Cemetery" means any one, or a combination of more than one, of the following, in a place used, or intended to be used, and dedicated, for cemetery purposes:

- (1) A burial park, for earth interments.
- (2) A mausoleum, for crypt (~~(or vault)~~) interments.
- (3) A columbarium, for permanent cinerary interments.

Sec. 2. Section 6, chapter 247, Laws of 1943 and RCW 68.04.060 are each amended to read as follows:

"Mausoleum" means a structure or building for the entombment of human remains in crypts (~~(or vaults)~~) in a place used, or intended to be used, and dedicated, for cemetery purposes.

Sec. 3. Section 16, chapter 247, Laws of 1943 and RCW 68.04.160 are each amended to read as follows:

"Crypt" (~~(or "vault")~~) means a space in a mausoleum of sufficient size, used or intended to be used, to entomb uncremated human remains.

NEW SECTION. Sec. 4. There is added to chapter 68.04 RCW a new section to read as follows:

"Vault", "lawn crypt" or "liner" means any container which is buried in the ground and into which human remains are placed in the burial process.

Sec. 5. Section 32, chapter 290, Laws of 1953 as amended by section 2, chapter 351, Laws of 1977 ex. sess. and RCW 68.05.050 are each amended to read as follows:

Three members of the board shall be persons who have had (~~(a minimum of five years)~~) experience in this state in the active administrative

management of a cemetery (~~(corporation)~~) authority or as a member of the board of directors thereof (~~(for this period)~~). Two members of the board shall be persons who have legal, accounting, or other professional experience which relates to the duties of the board. The sixth member of the board shall represent the general public and shall not have a financial interest in the cemetery business.

Sec. 6. Section 39, chapter 290, Laws of 1953 and RCW 68.05.090 are each amended to read as follows:

The board shall enforce and administer the provisions of chapters 68.04 through ~~((68.44))~~ 68.46 RCW, subject to provisions of RCW 68.05.280 and shall have standing to seek enforcement of said provisions in the superior court of the state of Washington for the county in which the principal office of the cemetery authority is located. The board may refer such evidence as may be available concerning violations of chapters 68.04 through 68.46 RCW or of any rule or order promulgated by the board to the attorney general or the proper prosecuting attorney, who may in his discretion, with or without such a reference, in addition to any other action the board might commence, bring an action in the name of the board against any person to restrain and prevent the doing of any act or practice prohibited or declared unlawful in chapters 68.04 through 68.46 RCW.

Sec. 7. Section 42, chapter 290, Laws of 1953 as amended by section 12, chapter 68, Laws of 1973 1st ex. sess. 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 except where the cemetery authority is either required by the board to, or voluntarily files an annual financial report for the fund certified by a certified public accountant or a licensed public accountant in accordance with generally accepted auditing standards;

(2) Whenever the cemetery authority in charge of endowment care or prearrangement trust fund or funds fails after reasonable notice from the board 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)) title, in either of which cases, the examination shall be at the expense of the petitioners.

(4) The expense of the endowment care and prearrangement trust fund 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. 8. Section 44, chapter 290, Laws of 1953 as amended by section 14, chapter 68, Laws of 1973 1st ex. sess. 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))~~ chapter and to chapter 68.46 RCW with respect to prearrangement merchandise or services((-), unconstructed crypts or niches, or undeveloped graves; and

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

Sec. 9. Section 45, chapter 290, Laws of 1953 as amended by section 15, chapter 68, Laws of 1973 1st ex. sess. 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))~~ chapter and chapter 68.46 RCW with respect to prearrangement contracts, merchandise, or services, ((and/)) unconstructed crypts or niches or undeveloped graves, or prearrangement trust funds, the board shall require such cemetery authority to comply with this chapter or with chapter 68.40 or 68.46 RCW ((or with this 1973 amendatory act)), as the case may be.

Sec. 10. Section 40, chapter 290, Laws of 1953 as last amended by section 3, chapter 351, Laws of 1977 ex. sess. and RCW 68.05.180 are each amended to read as follows:

Each cemetery authority in charge of cemetery endowment care funds shall annually, and within ninety days after the end of the calendar or fiscal year of the cemetery authority, file with the board ~~((annually, on or before~~

the thirtieth day of June;)) a written report in form and content 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 RCW 68.46.090).~~

These reports shall be verified by the president or vice president, one other officer of the cemetery authority, the accountant or auditor preparing the same, and, if required by the board for good cause, a certified public accountant in accordance with generally accepted auditing standards.

Sec. 11. Section 5, chapter 99, Laws of 1969 ex. sess. as amended by section 17, chapter 68, Laws of 1973 1st 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. As a condition of applying for a new certificate of authority, the entity desiring to acquire such ownership or control must agree to be bound by all then existing prearrangement contracts and the board shall enter that agreement as a condition of the 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 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. 12. There is added to chapter 68.05 RCW a new section to read as follows:

Members of the board shall be immune from suit in any action, civil or criminal, based upon any official acts performed in good faith as members of such board, and the state shall defend, indemnify, and hold the members of the board harmless from all claims or suits arising in any manner from such acts. Expenses incurred by the state under this section shall be paid from the general fund.

Sec. 13. Section 30, chapter 290, Laws of 1953 as amended by section 1, chapter 133, Laws of 1961 and RCW 68.05.280 are each amended to read as follows:

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.))~~

(1) Nonprofit cemeteries which are owned or operated by any recognized religious denomination which qualifies for an exemption from real estate taxation under RCW 84.36.020 on any of its churches or the ground upon which any of its churches are or will be built; or

(2) Any cemetery controlled and operated by a coroner, county, city, town, or cemetery district.

Sec. 14. Section 31, chapter 247, Laws of 1943 and RCW 68.08.180 are each amended to read as follows:

The cemetery authority may inter or cremate any remains upon the receipt of a written authorization of a person representing himself to be a person who has acquired the right to control the disposition of the remains. A cemetery authority is not liable for interring or cremating pursuant to such authorization, unless it has actual notice that such representation is untrue.

In the event the state of Washington or any of its agencies provide the funds for the disposition of any remains and the state or its agency elects to provide the funds for cremation only, the cemetery authority shall not be criminally or civilly liable for cremating the remains.

Sec. 15. Section 91, chapter 247, Laws of 1943 and RCW 68.32.040 are each amended to read as follows:

If no interment is made in an interment plot which has been transferred by deed or certificate of ownership to an individual owner, or if all remains

previously interred are lawfully removed, upon the death of the owner, unless ~~((he))~~ the owner has disposed of the plot either ~~((in his will))~~ by specific devise or by a written declaration filed and recorded in the office of the cemetery authority, the plot descends to the surviving spouse or, if there is no surviving spouse, to the heirs at law of the owner subject to the rights of interment of the decedent ~~((and his surviving spouse))~~.

Sec. 16. Section 98, chapter 247, Laws of 1943 and RCW 68.32.060 are each amended to read as follows:

Whenever an interment of the remains of a member or of a relative of a member of the family of the record owner or of the remains of the record owner is made in a plot transferred by deed or certificate of ownership to an individual owner and both the owner and the surviving spouse, if any, die((s)) with children then living without making disposition of the plot either ~~((in his will))~~ by a specific devise, or by a written declaration filed and recorded in the office of the cemetery authority, the plot ~~((thereby becomes inalienable and shall be held as the family plot of the owner))~~ shall thereafter be held as a family plot and shall be subject to alienation only upon agreement of the children of the owner living at the time of said alienation.

Sec. 17. Section 120, chapter 247, Laws of 1943 as amended by section 5, chapter 290, Laws of 1953 and RCW 68.40.020 are each amended to read as follows:

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 deeds referring to plots in the section, the phrase "nonendowment care" in lettering equivalent to a minimum of ten point number two black type; PROVIDED, That no nonendowment care section may be established after the effective date of this 1979 act.

NEW SECTION. Sec. 18. There is added to chapter 68.40 RCW a new section to read as follows:

After the effective date of this 1979 act, no nonendowment care cemetery may be established. However, any nonendowment care cemetery in existence on the effective date of this 1979 act may continue to operate as a nonendowment care cemetery.

Sec. 19. Section 127, chapter 247, Laws of 1943 as amended by section 13, chapter 290, Laws of 1953 and RCW 68.44.030 are each amended to read as follows:

Endowment care funds shall be kept invested in accordance with the provisions of RCW 30.24.020 subject to the following restrictions:

(1) No officer or director of the cemetery authority, trustee of the endowment care or special care funds, or spouse, sibling, parent, grandparent, or issue of such officer, director, or trustee, shall borrow any of such funds for himself, directly or indirectly.

(2) No funds shall be loaned to the cemetery authority, its agents, or employees, or to any corporation, partnership, or other business entity in which the cemetery authority has any ownership interest.

(3) No funds shall be invested with persons or business entities operating in a business field directly related to cemeteries, including, but not limited to, mortuaries, monument production and sales, florists, and rental of funeral facilities.

(4) Notwithstanding any other provisions contained in this section, funds may be invested in any commercial bank, mutual savings bank, or savings and loan association duly chartered and operating under the laws of the United States or statutes of the state of Washington.

Sec. 20. Section 114, chapter 247, Laws of 1943 and RCW 68.44.140 are each amended to read as follows:

~~((No sum in excess of five percent of the income derived from the fund in any year shall be paid as compensation to the board of trustees for its services as trustee.))~~ Compensation to the board of trustees or trustee for services as trustee and other compensation for administration of trust funds shall not exceed in the aggregate the customary fees charged by banks and trust companies for like services.

Sec. 21. Section 115, chapter 247, Laws of 1943 and RCW 68.44.150 are each amended to read as follows:

The cemetery authority or the persons in whose names the funds are held shall, annually, and within ninety days after the end of the calendar or fiscal year of the cemetery authority, make and keep on file ~~((with it))~~ for seven years a true and correct written report, verified on oath by an officer of the cemetery authority or by the oath of one or more of the trustees, showing the actual financial condition of the funds.

Sec. 22. Section 1, chapter 68, Laws of 1973 1st ex. sess. as amended by section 1, chapter 55, Laws of 1975 1st ex. sess. and RCW 68.46.010 are each amended to read as follows:

Unless the context clearly indicates otherwise, the ~~((words used))~~ following terms as used only in this chapter have the meaning given in this section:

(1) "Prearrangement contract" means a contract for purchase of cemetery merchandise or services, unconstructed crypts or niches, or undeveloped graves 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.

(2) "Cemetery authority" shall have the same meaning as in RCW 68-.04.190, and shall also include any individual, partnership, firm, joint venture, corporation, company, association, or join stock company, any of which sells cemetery services or merchandise, unconstructed crypts or niches, or undeveloped graves through a prearrangement contract, but shall not include insurance companies licensed under chapter 48.05 RCW.

(3) "Cemetery merchandise or services" (~~shall mean and include~~) and "merchandise or services" mean those services normally performed by cemetery authorities, including the sale of monuments, markers, memorials, nameplates, liners, vaults, boxes, urns, vases, interment services, or any one or more of them.

(4) "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.

(5) "Depository" means a qualified public depository as defined by RCW 39.58.010, a credit union as governed by chapter 31.12 RCW, a mutual savings bank as governed by Title 32 RCW, a savings and loan association as governed by Title 33 RCW, and a federal credit union or a federal savings and loan association organized, operated, and governed by any act of congress, in which prearrangement funds are deposited by any cemetery authority.

(6) "Board" means the cemetery board established under chapter 68.05 RCW or its authorized representative.

(7) "Undeveloped grave" means any grave in an area which a cemetery authority has not landscaped and groomed to the extent customary in the cemetery industry in that community.

NEW SECTION. Sec. 23. There is added to chapter 68.46 RCW a new section to read as follows:

No cemetery authority shall enter into prearrangement contracts in this state unless the cemetery authority has obtained a prearrangement sales license issued by the board or its authorized representative and such license is then current and valid.

Sec. 24. Section 3, chapter 68, Laws of 1973 1st ex. sess. and RCW 68-.46.030 are each amended to read as follows:

~~((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.))~~ (1) A cemetery authority shall deposit in its prearrangement trust account a percentage of all funds collected in payment of each prearrangement contract equal to the greater of:

- (a) Fifty percent of the contract price; or
- (b) The percentage which the total of the wholesale cost of merchandise and the direct cost of services to be provided pursuant to the contract is of the total contract price.

(2) Any cemetery authority which does not file and maintain with the board a bond as provided in subsection (4) of this section shall deposit in its prearrangement trust fund fifty percent, or greater percentage as determined under subsection (1) of this section, of all moneys received in payment of each prearrangement contract, excluding sales tax and endowment care if such charge is made.

(3) Any cemetery authority which files and maintains with the board a bond as provided in subsection (4) of this section shall deposit in its prearrangement trust fund each payment as made on the last fifty percent, or greater percentage as determined under subsection (1) of this section, of each prearrangement contract, excluding sales tax and endowment care, if such charge is made.

(4) Each cemetery authority electing to make payments to its prearrangement trust fund pursuant to subsection (3) of this section shall file and maintain with the board a bond, issued by a surety company authorized to do business in the state, in the amount by which the cemetery authority's contingent liability for refunds pursuant to RCW 68.46.060 exceeds the amount deposited in its prearrangement trust fund. The bond shall run to the state and shall be conditioned that it is for the use and benefit of any person requesting a refund pursuant to RCW 68.46.060 if the cemetery authority does not promptly pay to said person the refund due pursuant to RCW 68.46.060. In addition to any other remedy, every person not promptly receiving the refund due pursuant to RCW 68.46.060 may sue the surety for the refund. The liability of the surety shall not exceed the amount of the bond. Termination or cancellation shall not be effective unless notice is delivered by the surety to the board at least thirty days prior to the date of termination or cancellation. The board shall immediately notify the cemetery authority affected by the termination or cancellation by certified mail, return receipt requested. The cemetery authority shall thereupon obtain another bond or make such other arrangement as may be satisfactory to the board to assure its ability to make refunds pursuant to RCW 68.46.060.

(5) 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)) required to be deposited.

(6) Any failure to fund a prearrangement contract as required by this section shall be grounds for revocation of the cemetery authorities' prearrangement sales license.

Sec. 25. Section 6, chapter 68, Laws of 1973 1st ex. sess. and RCW 68-46.060 are each amended to read as follows:

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)~~) fifty percent of the moneys received less the cost of any merchandise delivered or services performed before the termination. 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.

Sec. 26. Section 7, chapter 68, Laws of 1973 1st ex. sess. and RCW 68.46.070 are each amended to read as follows:

Prearrangement contracts shall ~~((automatically))~~ terminate upon demand of the purchaser of the contract 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. 27. There is added to chapter 68.46 RCW a new section to read as follows:

In the event the beneficiary or beneficiaries of a prearrangement contract make no claim within fifty years of the date of the contract for the merchandise and services provided in the prearrangement contract, the funds deposited in the prearrangement trust funds attributable to that contract and the interest on said funds shall be transferred to the cemetery authority's endowment fund to be used for the uses and purposes for which the endowment fund was established. However, the cemetery authority shall remain obligated for merchandise and services, unconstructed crypts or niches, and undeveloped graves under the terms of the prearrangement contract. Claims may be made for merchandise and services, unconstructed crypts or niches, and undeveloped graves on a prearrangement contract after the funds have been transferred to the endowment fund and shall be paid for from the endowment fund income to the extent of the funds attributable to the prearrangement contract.

NEW SECTION. Sec. 28. There is added to chapter 68.46 RCW a new section to read as follows:

To apply for a prearrangement sales license, a cemetery authority shall:

- (1) File with the board its request showing:
 - (a) Its name, location, and organization date;

(b) The kinds of cemetery business or merchandise it proposes to transact;

(c) A statement of its current financial condition, management, and affairs on a form satisfactory to or furnished by the board; and

(d) Such other documents, stipulations, or information as the board may reasonably require to evidence compliance with the provisions of this chapter; and

(2) Deposit with the board the fees required by this chapter to be paid for filing the accompanying documents, and for the prearrangement sales license, if granted.

NEW SECTION. Sec. 29. There is added to chapter 68.46 RCW a new section to read as follows:

All prearrangement sales licenses issued under this chapter shall be valid for one year unless extended by the board or its authorized representative for a maximum of thirty days, or such larger extension as the board shall allow for good cause shown.

The board shall set and shall collect in advance the fees required for licensing.

All fees so collected shall be remitted by the board to the state treasurer and the funds shall be credited to the cemetery board fund.

NEW SECTION. Sec. 30. There is added to chapter 68.46 RCW a new section to read as follows:

The board or its authorized representative may refuse to renew or may revoke or suspend a cemetery authority's prearrangement sales license, if the cemetery authority:

(1) Fails to comply with any provision of this chapter or any proper order or regulation of the board;

(2) Is found by the board to be in such condition that further execution of prearrangement contracts would be hazardous to purchasers or beneficiaries and the people of this state;

(3) Refuses to be examined, or refuses to submit to examination or to produce its accounts, records, and files for examination by the board when required;

(4) Is found by the board after investigation or receipt of reliable information to be managed by persons who are incompetent or untrustworthy or so lacking in managerial experience as to make the proposed or continued operation hazardous to purchasers, beneficiaries, or the public; or

(5) Is found by the board to use false, misleading, or deceptive advertisements or sales methods.

NEW SECTION. Sec. 31. There is added to chapter 68.46 RCW a new section to read as follows:

The board or its authorized representative shall give a cemetery authority notice of its intention to suspend, revoke, or refuse to renew a prearrangement sales license, and shall grant the cemetery authority a hearing, in the manner required for contested cases under chapter 34.04 RCW, before the order of suspension, revocation, or refusal may become effective.

No cemetery authority whose prearrangement sales license has been suspended, revoked, or refused shall subsequently be authorized to enter into prearrangement contracts unless the grounds for such suspension, revocation, or refusal in the opinion of the board no longer exist and the cemetery authority is otherwise fully qualified. Any prearrangement sale by an unlicensed cemetery authority shall be voidable by the purchaser who shall be entitled to a full refund.

NEW SECTION. Sec. 32. There is added to chapter 68.46 RCW a new section to read as follows:

(1) The board or its authorized representative may issue and serve upon a cemetery authority a notice of charges if in the opinion of the board or its authorized representative the cemetery authority:

(a) Is engaging in or has engaged in practices likely to endanger the future delivery of cemetery merchandise or services, unconstructed crypts or niches, or undeveloped graves;

(b) Is violating or has violated any statute of the state of Washington or any rule of the board; or

(c) Is about to do an act prohibited in (1)(a) or (1)(b) of this section when the opinion is based upon reasonable cause.

(2) The notice shall contain a statement of the facts constituting the alleged violation or practice and shall fix a time and place at which a hearing will be held to determine whether an order to cease and desist should issue against the cemetery authority. The hearing shall be set not earlier than ten nor later than thirty days after service of the notice unless a later date is set by the board or its authorized representative at the request of the cemetery authority.

Unless the cemetery authority appears at the hearing by a duly authorized representative it shall be deemed to have consented to the issuance of a cease and desist order. In the event of this consent or if upon the record made at the hearing the board finds that any violation or practice specified in the notice of charges has been established, the board may issue and serve upon the cemetery authority an order to cease and desist from the violation or practice. The order may require the cemetery authority and its directors, officers, employees, and agents to cease and desist from the violation or practice and may require the cemetery authority to take affirmative action to correct the conditions resulting from the violation or practice.

(3) A cease and desist order shall become effective at the expiration of ten days after service of the order upon the cemetery authority except that a

cease and desist order issued upon consent shall become effective as provided in the order unless it is stayed, modified, terminated, or set aside by action of the board or a reviewing court.

(4) The powers of the board under this section are in addition to the power of the board to refuse to renew or to revoke or suspend a cemetery authority's prearrangement sales license.

NEW SECTION. Sec. 33. There is added to chapter 68.46 RCW a new section to read as follows:

Whenever the board or its authorized representative determines that a cemetery authority is in violation of this chapter or that the continuation of acts or practices of the cemetery authority is likely to cause insolvency or substantial dissipation of assets or earnings of the cemetery authority or to otherwise seriously prejudice the interests of the purchasers or beneficiaries of prearrangement contracts, the board, or its authorized representative, may issue a temporary order requiring the cemetery authority to cease and desist from the violation or practice. The order shall become effective upon service on the cemetery authority and shall remain effective unless set aside, limited, or suspended by a court in proceedings under section 34 of this 1979 act or until the board dismisses the charges specified in the notice under section 32 of this 1979 act or until the effective date of a cease and desist order issued against the cemetery authority under section 32 of this 1979 act.

NEW SECTION. Sec. 34. There is added to chapter 68.46 RCW a new section to read as follows:

Within ten days after a cemetery authority has been served with a temporary cease and desist order, the cemetery authority may apply to the superior court in the county of its principal place of business for an injunction setting aside, limiting, or suspending the order pending completion of the administrative proceedings under section 32 of this 1979 act.

NEW SECTION. Sec. 35. There is added to chapter 68.46 RCW a new section to read as follows:

Any administrative hearing under section 32 of this 1979 act may be held at such place as is designated by the board and shall be conducted in accordance with chapter 34.04 RCW.

Within sixty days after the hearing the board shall render a decision which shall include findings of fact upon which the decision is based and shall issue and serve upon each party to the proceeding an order or orders consistent with section 32 of this 1979 act.

Review of the decision shall be as provided in chapter 34.04 RCW.

NEW SECTION. Sec. 36. There is added to chapter 68.46 RCW a new section to read as follows:

The board may apply to the superior court of the county of the principal place of business of the cemetery authority affected for enforcement of any

effective and outstanding order issued under section 32 or 33 of this 1979 act, and the court shall have jurisdiction to order compliance with the order.

NEW SECTION. Sec. 37. There is added to chapter 68.46 RCW a new section to read as follows:

(1) Each authorized cemetery authority shall within ninety days after the close of its accounting year file with the board a true and accurate statement of its financial condition, transactions, and affairs for the preceding year. The statement shall be on such forms and shall contain such information as required by this chapter and by the board.

(2) The board shall suspend or revoke the prearrangement sales license of any cemetery authority which fails to file such a statement when due or after any extension of time which the board has, for good cause, granted.

NEW SECTION. Sec. 38. There is added to chapter 68.46 RCW a new section to read as follows:

No cemetery authority shall use a prearrangement contract without first filing the form of such contract with the board: **PROVIDED,** That the board may order the cemetery authority to cease using any prearrangement contract form which:

- (1) Is in violation of any provision of this chapter;
- (2) Is misleading or deceptive; or
- (3) Is being used in connection with solicitation by false, misleading or deceptive advertising or sales practices.

Use of a prearrangement contract form which is not on file with the board or which the board has ordered the cemetery authority not to use shall be a violation of this chapter.

NEW SECTION. Sec. 39. There is added to chapter 68.46 RCW a new section to read as follows:

Any person who violates or aids or abets any person in the violation of any of the provisions of this chapter shall be guilty of a gross misdemeanor. A violation shall constitute an unfair practice under chapter 19.86 RCW and shall be grounds for revocation of the certificate of authority under chapter 68.05 RCW or revocation of the prearrangement sales license under this chapter. Retail installment transactions under this chapter shall be governed by chapter 63.14 RCW. The provisions of this chapter shall be cumulative and nonexclusive and shall not affect any other remedy available at law.

NEW SECTION. Sec. 40. There is added to chapter 68.46 RCW a new section to read as follows:

To qualify for and hold a prearrangement sales license a cemetery authority must comply with and qualify according to the provisions of this chapter.

Sec. 41. Section 6, chapter 351, Laws of 1977 ex. sess. and RCW 68-46.120 are each amended to read as follows:

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.~~)

(1) To nonprofit cemeteries which are owned or operated by any recognized religious denomination which qualifies for an exemption from real estate taxation under RCW 84.36.020 on any of its churches or the ground upon which any of its churches are or will be built; or

(2) To any cemetery controlled and operated by a coroner, county, city, town, or cemetery district.

Sec. 42. Section 146, chapter 247, Laws of 1943 and RCW 68.48.070 are each amended to read as follows:

The provisions of RCW 68.20.010 through 68.20.040, 68.24.020 through 68.24.150, 68.24.180, and chapters 68.32, 68.40 and 68.44 RCW, relating to private cemeteries, do not apply to any of the following:

~~(1) ((Any religious corporation, church, 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;~~

~~(2) Any county, town or city cemetery.))~~ Nonprofit cemeteries which are owned or operated by any recognized religious denomination which qualifies for an exemption from real estate taxation under RCW 84.36.020 on any of its churches or the ground upon which any of its churches are or will be built; or

(2) Any cemetery controlled and operated by a coroner, county, city, town, or cemetery district.

NEW SECTION. Sec. 43. There is added to chapter 68.46 RCW a new section to read as follows:

The cemetery board may grant an exemption from any or all of the requirements of this chapter relating to prearrangement contracts to any cemetery authority which:

(1) Sells less than twenty prearrangement contracts per year; and

(2) Deposits one hundred percent of all funds received into a trust fund under RCW 68.46.030, as now or hereafter amended.

NEW SECTION. Sec. 44. Section 131, chapter 247, Laws of 1943, section 15, chapter 290, Laws of 1953 and RCW 68.44.050 are each repealed.

Passed the House February 21, 1979.

Passed the Senate March 1, 1979.

Approved by the Governor March 13, 1979.

Filed in Office of Secretary of State March 13, 1979.