
HOUSE BILL 2744

State of Washington 54th Legislature 1996 Regular Session

By Representatives D. Schmidt, Scott, Radcliff, Koster, Stevens, Sherstad, Blanton, Thompson, Elliot and Costa

Read first time 01/17/96. Referred to Committee on Financial Institutions & Insurance.

1 AN ACT Relating to cemeteries; amending RCW 68.04.190, 68.05.020,
2 68.05.040, 68.05.050, 68.05.080, 68.05.090, 68.05.100, 68.05.105,
3 68.05.115, 68.05.150, 68.05.155, 68.05.160, 68.05.170, 68.05.173,
4 68.05.175, 68.05.180, 68.05.190, 68.05.195, 68.05.210, 68.05.235,
5 68.05.240, 68.05.254, 68.05.259, 68.05.300, 68.05.310, 68.05.320,
6 68.05.330, 68.05.340, 68.05.350, 68.05.360, 68.05.370, 68.24.090,
7 68.40.010, 68.40.040, 68.40.085, 68.44.030, 68.44.070, 68.44.080,
8 68.44.090, 68.44.100, 68.44.110, 68.44.115, 68.44.120, 68.44.130,
9 68.44.150, 68.44.160, 68.44.170, 68.46.010, 68.46.030, 68.46.040,
10 68.46.050, 68.46.055, 68.46.060, 68.46.070, 68.46.075, 68.46.080,
11 68.46.090, 68.46.100, 68.46.110, 68.46.130, 68.46.150, 68.46.160,
12 68.46.170, and 68.60.010; adding new sections to chapter 68.05 RCW;
13 adding a new section to chapter 68.40 RCW; adding a new section to
14 chapter 18.39 RCW; recodifying RCW 68.05.195; and repealing RCW
15 68.05.024, 68.05.028, 68.05.060, 68.05.095, 68.05.120, 68.05.185,
16 68.05.205, 68.05.215, 68.05.225, 68.05.245, 68.05.285, and 68.05.390.

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

18 **Sec. 1.** RCW 68.04.190 and 1943 c 247 s 19 are each amended to read
19 as follows:

1 "Cemetery authority" or "endowment care cemetery authority"
2 includes cemetery corporation, association, corporation sole, or other
3 person owning or controlling cemetery lands or property.

4 **Sec. 2.** RCW 68.05.020 and 1953 c 290 s 27 are each amended to read
5 as follows:

6 The term "board" as used in this chapter means the ((cemetery))
7 board of governors of the state association of endowment care trustees.

8 NEW SECTION. **Sec. 3.** "State association" as used in this chapter
9 means the state association of endowment care trustees chartered under
10 RCW 68.05.040.

11 NEW SECTION. **Sec. 4.** "Trustee" and "trustee representative" as
12 used in this chapter mean the person selected by the trustees of an
13 endowment care fund to be the trustees' representative to the state
14 association of endowment care trustees.

15 **Sec. 5.** RCW 68.05.040 and 1987 c 331 s 5 are each amended to read
16 as follows:

17 ~~((A cemetery board is created to consist of six members to be
18 appointed by the governor. Appointments shall be for four year terms.
19 Each member shall hold office until the expiration of the term for
20 which the member is appointed or until a successor has been appointed
21 and qualified.))~~ (1) A state association of endowment care trustees is
22 chartered, to which all endowment care funds qualifying as endowment
23 care trustees under chapters 68.40 and 68.44 RCW shall be members. An
24 endowment care fund reporting to the state cemetery board under
25 chapters 68.40 and 68.44 RCW at the time of the effective date of this
26 act that has at least fifty thousand dollars in the fund shall
27 designate a trustee representative as a member of the state
28 association. Changes in the designation must be made in writing to the
29 board.

30 The state association shall be a nonprofit corporation and shall
31 maintain its nonprofit status with the secretary of state. The state
32 association may adopt and amend bylaws establishing its organization
33 and method of operation.

34 (2) Effective January 2, 1997, the state cemetery board is
35 dissolved. All records, data, files, equipment, and cash balances in

1 the dedicated cemetery fund must be transferred to the state
2 association. The members of the dissolving board shall determine by
3 January 2, 1997, in consultation with the director of licensing, what
4 constitutes the records, data, files, and equipment. The state
5 treasurer shall determine the fund balance, after all claims have been
6 presented, transferring the balance to an account opened by the state
7 association. The department of licensing may charge the association
8 fair market value for physical property transferred, but may not charge
9 for records, computer programs, documents, and files.

10 (3) The state association and its governing board shall hold all
11 meetings open to the public with thirty-day notice of the meetings
12 provided to at least one newspaper of general circulation in the
13 Spokane, Seattle, and Olympia areas and to at least one newspaper of
14 general circulation in the community where an agenda item concerns a
15 local endowment care fund.

16 (4) The term of office for each member to be elected by the board
17 of governors must be staggered so that one full term expires each year
18 on the first Tuesday after the first Monday in January. For a vacancy,
19 the board shall select a replacement who shall serve until the next
20 meeting of the association, at which time the unexpired term must stand
21 for election.

22 (5) At the time the state cemetery board is dissolved, each of the
23 three incumbent cemetery members of the state cemetery board shall
24 become a member of the board of governors, assuming that the member has
25 been designated as a trustee representative by the endowment care fund
26 of the member's cemetery. Otherwise, the position is considered
27 vacant, with the term expiring under current appointment expiration.
28 The carryover members shall serve in the newly created elective
29 positions until their terms of office expire. At its organizational
30 meeting, the state association shall elect as many board of governor's
31 members needed to complete a full complement of four elected members,
32 and shall take such action as is necessary to bring the state cemetery
33 board's cemetery members' terms into staggered four-year term
34 expiration dates if more than one of those member's terms expires
35 during the same year.

36 NEW SECTION. Sec. 6. A six-member board of governors shall manage
37 the affairs of an association. The board has full authority to act on
38 behalf of the association in all matters affecting the association, so

1 long as the board is in compliance with the association's bylaws. The
2 board shall determine the membership status of each member endowment
3 care fund and report the status at the annual meeting of the
4 association.

5 **Sec. 7.** RCW 68.05.050 and 1979 c 21 s 5 are each amended to read
6 as follows:

7 ~~((Three))~~ The trustee representatives of the state association
8 shall elect four members of the board ~~((shall be persons))~~ who have had
9 experience in this state in the active administrative management of
10 ~~((a))~~ an endowment care cemetery authority ~~((or as a member of the~~
11 ~~board of directors thereof. Two members of the board shall be persons~~
12 ~~who have legal, accounting, or other professional))~~ and who are either
13 current designated trustee representatives or members of the board of
14 trustees of a member endowment care fund in an endowment care cemetery
15 authority. One member must be an attorney appointed by the majority
16 leader of the state senate and one member must be a certified public
17 accountant appointed by the speaker of the house of representatives;
18 both of these members must have had experience which relates to the
19 duties of the board. ~~((The sixth member of the board shall represent~~
20 ~~the general public and shall not have a financial interest in the~~
21 ~~cemetery business.))~~ A member of the board of governors must be elected
22 or appointed to a four-year term and hold office until the expiration
23 of the term for which the member is elected or appointed and until a
24 successor has been elected or appointed and has been qualified.

25 **Sec. 8.** RCW 68.05.080 and 1987 c 331 s 6 are each amended to read
26 as follows:

27 ~~((The board shall meet at least twice a year in order to conduct~~
28 ~~its business and may meet at such other times as it may designate. The~~
29 ~~chair, the director, or a majority of board members may call a meeting.~~
30 ~~The board may meet at any place within this state.))~~ The trustee
31 representatives designated to the state association shall meet in
32 Thurston county on the first Tuesday after the first Monday in January
33 of each year for the purposes of electing a board of governors, filling
34 vacancies of unexpired terms, and conducting such business as is
35 properly brought before it. By November 1, 1996, the chair of the
36 dissolving state cemetery board shall notify all endowment care funds
37 of the procedures for appointing a designated trustee representative

1 and the time and place for the January 2, 1997, organizational meeting
2 at which the chair of the dissolving board shall be the acting chair.

3 **Sec. 9.** RCW 68.05.090 and 1987 c 331 s 7 are each amended to read
4 as follows:

5 The board (~~((shall enforce and administer the provisions of chapters~~
6 ~~68.04 through 68.50 RCW, subject to provisions of RCW 68.05.280. The~~
7 ~~board may adopt and amend bylaws establishing its organization and~~
8 ~~method of operation. In addition to enforcement of this chapter the~~
9 ~~board shall enforce chapters 68.20, 68.24, 68.28, 68.32, 68.36, 68.40,~~
10 ~~68.44, 68.46, and 68.50 RCW.))~~ may: Hire employees; retain legal and
11 professional counsel; set filing, application, and endorsement fees;
12 adopt standards of conduct for member endowment care funds consistent
13 with state law; seek civil action in courts; and take disciplinary and
14 civil actions deemed necessary to enforce chapters 68.40, 68.44, and
15 68.46 RCW. The board may refer such evidence as may be available
16 concerning violations of chapters 68.20, 68.24, 68.28, 68.32, 68.36,
17 68.40, 68.44, 68.46, and 68.50 RCW to the attorney general or the
18 proper prosecuting attorney, who may in his or her discretion, with or
19 without such a reference, in addition to any other action the board
20 might commence, bring an action in the name of the board against any
21 person to restrain and prevent the doing of any act or practice
22 prohibited or declared unlawful in chapters 68.20, 68.24, 68.28, 68.32,
23 68.36, 68.40, 68.44, 68.46, or 68.50 RCW and shall have standing to
24 seek enforcement of said provisions in the superior court of the state
25 of Washington for the county in which the principal office of the
26 endowment care cemetery authority is located.

27 **Sec. 10.** RCW 68.05.100 and 1993 c 43 s 3 are each amended to read
28 as follows:

29 The board may establish necessary rules and regulations for the
30 enforcement of this title and the laws subject to its jurisdiction and
31 prescribe the form of statements and reports provided for in this
32 title. Rules (~~((regulating the cremation of human remains and~~
33 ~~establishing permit requirements shall be adopted in consultation with~~
34 ~~the state board of funeral directors and embalmers))~~ adopted before the
35 effective date of this section by the state cemetery board are rules of
36 the board of governors and remain as rules of the board of governors
37 until amended or repealed.

1 **Sec. 11.** RCW 68.05.105 and 1987 c 331 s 10 are each amended to
2 read as follows:

3 The board has the following authority:

4 ~~(1) ((To adopt, amend, and rescind such rules as are deemed~~
5 ~~necessary to carry out this title;~~

6 ~~(2) To investigate all complaints or reports of unprofessional~~
7 ~~conduct as defined in this chapter and to hold hearings;~~

8 ~~(3) To issue subpoenas and administer oaths in connection with any~~
9 ~~investigation, hearing, or proceeding held under this title;~~

10 ~~(4))~~ To take or cause depositions to be taken and use other
11 discovery procedures as needed in any investigation, hearing, or
12 proceeding held under this title;

13 ~~((5) To compel attendance of witnesses at hearings;~~

14 ~~(6) In the course of investigating a complaint, to conduct practice~~
15 ~~reviews;~~

16 ~~(7))~~ (2) To take emergency action pending proceedings by the
17 board;

18 ~~((8) To use the office of administrative hearings as authorized in~~
19 ~~chapter 34.12 RCW to conduct hearings. However, the board shall make~~
20 ~~the final decision;~~

21 ~~(9))~~ (3) To use consultants or individual members of the board to
22 assist in the direction of investigations ~~((and issuance of statements~~
23 ~~of charges)).~~ However, those board members shall not subsequently
24 participate in the hearing of the case;

25 ~~((10))~~ (4) To enter into contracts for professional services
26 determined to be necessary for adequate enforcement of this title;

27 ~~((11))~~ (5) To contract with persons or organizations to provide
28 services necessary for the monitoring and supervision of licensees, or
29 authorities who are for any authorized purpose subject to monitoring by
30 the board;

31 ~~((12) To adopt standards of professional conduct or practice;~~

32 ~~(13) To grant or deny authorities or license applications, and in~~
33 ~~the event of a finding of unprofessional conduct by an applicant,~~
34 ~~authority, or license holder, to impose any sanction against a license~~
35 ~~applicant, authority, or license holder provided by this title;~~

36 ~~(14))~~ (6) To enter into ~~((an))~~ assurances ~~((of discontinuance in~~
37 ~~lieu of issuing a statement of charges or conducting a hearing)).~~ The
38 assurances shall consist of a statement of the law in question and an
39 agreement to not violate the stated provision. The applicant, holder

1 of an authority to operate, or license holder shall not be required to
2 admit to any violation of the law, nor shall the assurances be
3 construed as such an admission. Violation of an assurance under this
4 subsection is grounds for disciplinary action;

5 ~~((15))~~ (7) To revoke the ~~((license))~~ endorsement or authority;

6 ~~((16))~~ (8) To suspend the ~~((license))~~ endorsement or authority
7 for a fixed or indefinite term;

8 ~~((17))~~ (9) To restrict or limit the ~~((license))~~ endorsement or
9 authority;

10 ~~((18) To censure or reprimand;~~

11 ~~(19))~~ (10) To cause compliance with conditions of probation for a
12 designated period of time;

13 ~~((20) To fine for each violation of this title, not to exceed one
14 thousand dollars per violation. Funds received shall be placed in the
15 cemetery account;~~

16 ~~(21))~~ (11) To order corrective action.

17 Any of the actions under this section may be totally or partly
18 stayed by the board. In determining what action is appropriate, the
19 board must first consider what sanctions are necessary to protect or
20 compensate the public. All costs associated with compliance with
21 orders issued under this section are the obligation of the ~~((license
22 or))~~ endorsee, authority holder, or applicant.

23 NEW SECTION. Sec. 12. A cemetery that has an endowment care fund
24 must have an authority to operate issued by the board of governors.
25 The board shall advise the health department within the county where
26 the cemetery is located if the cemetery fails to renew its certificate
27 of authority or is the subject of discipline whereby the certificate of
28 authority is revoked or suspended.

29 NEW SECTION. Sec. 13. Only endowment care cemeteries may receive
30 endorsements to make prearrangement sales. The board of governors may
31 grant an endorsement upon proper application and review and may revoke
32 or suspend an endorsement for cause. An endorsement must be issued in
33 accordance with chapter 68.46 RCW. Without an endorsement, an
34 endowment care cemetery authority may not enter into prearrangement
35 contracts as defined in chapter 68.46 RCW.

1 **Sec. 14.** RCW 68.05.115 and 1987 c 331 s 11 are each amended to
2 read as follows:

3 Prior to the sale or transfer of ownership (~~or control~~) of any
4 endowment care cemetery authority or the creation of a new cemetery,
5 (~~any person,~~) a corporation or other legal entity desiring to acquire
6 such ownership (~~or control~~) or desiring to create a new endowment
7 care cemetery shall apply in writing to the board for a new certificate
8 of authority to operate ((a)) an endowment care cemetery and shall
9 comply with all provisions of Title 68 RCW relating to applications
10 for, and the basis for granting, an original certificate of authority.
11 The board shall, in addition, enter any order deemed necessary for the
12 protection of all endowment care funds and/or prearrangement trust fund
13 during such transfer. As a condition of applying for a new certificate
14 of authority, the entity desiring to acquire such ownership or control
15 must agree to be bound by all then existing prearrangement contracts
16 and the board shall enter that agreement as a condition of the
17 transfer. Persons and business entities selling and persons and
18 business entities purchasing ownership or control of ((a)) an endowment
19 care cemetery authority shall each verify and attest to an endowment
20 care fund report and/or a prearrangement trust fund report showing the
21 status of such funds on the date of the sale on a written report form
22 prescribed by the board. Such reports shall be considered part of the
23 application for authority to operate. (~~Failure to comply with this~~
24 ~~section shall be a gross misdemeanor and any sale or transfer in~~
25 ~~violation of this section shall be void.~~)

26 **Sec. 15.** RCW 68.05.150 and 1979 c 21 s 8 are each amended to read
27 as follows:

28 In making (~~such~~) examinations of endowment care funds and
29 prearrangement trust funds the board:

30 (1) Shall have free access to the books and records of the
31 endowment care cemetery authority relating to the endowment care funds,
32 their collection and investment, and the number of graves, crypts, and
33 niches under endowment care;

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

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

1 (4) Shall have free access to all records required to be maintained
2 pursuant to this chapter and to chapter 68.46 RCW with respect to
3 prearrangement merchandise or services, unconstructed crypts or niches,
4 or undeveloped graves; and

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

7 **Sec. 16.** RCW 68.05.155 and 1987 c 331 s 12 are each amended to
8 read as follows:

9 To enter into prearrangement contracts as defined in RCW 68.46.010,
10 ((a)) an endowment care cemetery authority shall have a valid
11 prearrangement ((sales—license)) endorsement. To apply for a
12 prearrangement ((sales—license)) endorsement, ((a)) an endowment care
13 cemetery authority shall:

14 (1) File with the board its request showing:

15 (a) Its name, location, and organization date;

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

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

20 (d) The name of its designated trustee representative; and

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

24 (2) Deposit with the ((department)) board the fees required by
25 ((this—chapter)) the board to be paid for filing the accompanying
26 documents, and for the prearrangement ((sales—license)) endorsement, if
27 granted.

28 **Sec. 17.** RCW 68.05.160 and 1979 c 21 s 9 are each amended to read
29 as follows:

30 If any examination made by the board, or any report filed with it,
31 shows that there has not been collected and deposited in the endowment
32 care funds the minimum amounts required by this title, or if the board
33 finds that the endowment care cemetery authority has failed to comply
34 with the requirements of this chapter and chapter 68.46 RCW with
35 respect to prearrangement contracts, merchandise, or services,
36 unconstructed crypts or niches or undeveloped graves, or prearrangement
37 trust funds, the board shall require such endowment care cemetery

1 authority to comply with this chapter or with chapter 68.40 or 68.46
2 RCW, as the case may be. The board may withdraw a certificate of
3 authority or prearrangement endorsement if the endowment care cemetery
4 authority fails to comply. The board shall refer the failure to the
5 prosecuting attorney in the county in which the cemetery is located.

6 **Sec. 18.** RCW 68.05.170 and 1987 c 331 s 23 are each amended to
7 read as follows:

8 (1) Whenever the board finds(~~(, after notice and hearing,)~~) that
9 any endowment care funds have been invested in violation of this title,
10 it shall by written order mailed to the person or body in charge of the
11 fund require the reinvestment of the funds in conformity with this
12 title within the period specified by it which shall be not more than
13 six months. Such period may be extended by the board in its
14 discretion.

15 (2) The board may bring actions for the preservation and protection
16 of endowment care funds in the superior court of the county in which
17 the cemetery is located and the court shall appoint substitute trustees
18 and make any other order which may be necessary for the preservation,
19 protection, and recovery of endowment care funds, whenever ((a)) an
20 endowment care cemetery authority or the trustees of its fund have:

21 (a) Transferred or attempted to transfer any property to, or made
22 any loan from, the endowment care funds for the benefit of the
23 endowment care cemetery authority or any director, officer, agent, or
24 employee of the endowment care cemetery authority or trustee of any
25 endowment care funds; or,

26 (b) Failed to reinvest endowment care funds in accordance with a
27 board order issued under subsection one of this section; or,

28 (c) Invested endowment care funds in violation of this title; or,

29 (d) Taken action or failed to take action to preserve and protect
30 the endowment care funds, evidencing a lack of concern therefor; or,

31 (e) Become financially irresponsible or transferred control of the
32 endowment care cemetery authority to any person who, or business entity
33 which, is financially irresponsible; or,

34 (f) Is in danger of becoming insolvent or has gone into bankruptcy
35 or receivership; or,

36 (g) Taken any action in violation of Title 68 RCW or failed to take
37 action required by Title 68 RCW or has failed to comply with lawful
38 rules, regulations and orders of the board.

1 (3) Whenever the board or its representative has reason to believe
2 that endowment care funds or prearrangement trust funds are in danger
3 of being lost or dissipated during the time required for notice and
4 ~~((hearing))~~ board action, it may request an emergency order from a
5 court of competent jurisdiction to immediately impound or seize
6 documents, financial instruments, or other trust fund assets, or take
7 other actions deemed necessary under the circumstances for the
8 preservation and protection of endowment care funds or prearrangement
9 trust funds, including, but not limited to, immediate substitutions of
10 trustees.

11 **Sec. 19.** RCW 68.05.173 and 1987 c 331 s 24 are each amended to
12 read as follows:

13 Upon violation of any of the provisions of this title, the board
14 may revoke or suspend the certificate of authority and may revoke,
15 suspend, or terminate the prearrangement ~~((sales license))~~ endorsement
16 of any endowment care cemetery authority.

17 **Sec. 20.** RCW 68.05.175 and 1987 c 331 s 13 are each amended to
18 read as follows:

19 A permit or endorsement issued ~~((by the cemetery board or))~~ under
20 chapter 18.39 RCW is required in order to operate a crematory or
21 conduct a cremation. ~~((Crematories owned or operated by or located on~~
22 ~~property licensed as a funeral establishment shall be regulated by the~~
23 ~~board of funeral directors and embalmers. Crematories not affiliated~~
24 ~~with a funeral establishment shall be regulated by the cemetery~~
25 ~~board.))~~

26 **Sec. 21.** RCW 68.05.180 and 1979 c 21 s 10 are each amended to read
27 as follows:

28 Each endowment care cemetery authority in charge of cemetery
29 endowment care funds or trustee in charge of the funds shall annually,
30 and within ninety days after the end of the calendar or fiscal year of
31 the endowment care cemetery authority, file with the board a written
32 report in form and content prescribed by the board.

33 These reports shall be verified by the president or vice
34 president~~((, one other officer))~~ of the endowment care cemetery
35 authority, the designated trustee representative, the accountant or
36 auditor preparing the same, and, if required by the board for good

1 cause, a certified public accountant in accordance with generally
2 accepted auditing standards.

3 **Sec. 22.** RCW 68.05.190 and 1953 c 290 s 41 are each amended to
4 read as follows:

5 The board shall examine the reports filed with it as to their
6 compliance with the requirements of the law. Following the examination
7 of all reports, the board shall file with the majority leader of the
8 senate, the speaker of the house of representatives, and the secretary
9 of state a report on the general status of endowment care cemetery
10 trust funds and related cemetery prearrangement trust funds.

11 **Sec. 23.** RCW 68.05.195 and 1987 c 331 s 15 are each amended to
12 read as follows:

13 Any person other than persons defined in RCW 68.50.160 who buries
14 or otherwise disposes of cremated remains by land, by air, or by sea
15 shall have a permit or endorsement issued in accordance with RCW
16 ((68.05.100)) 18.39.175 and shall be subject to that section.

17 **Sec. 24.** RCW 68.05.210 and 1969 ex.s. c 99 s 2 are each amended to
18 read as follows:

19 The board may require such proof as it deems advisable concerning
20 the compliance by ((such applicant)) each member with an endowment care
21 fund to all the laws, rules, regulations, ordinances, and orders
22 applicable to it. The board shall also require proof that the
23 ((applicant)) associated endowment care cemetery authority and its
24 officers and ((directors)) trustees are financially responsible,
25 trustworthy, and have good personal and business reputations((, in
26 order that only cemeteries of permanent benefit to the community in
27 which they are located will be established in this state)).

28 **Sec. 25.** RCW 68.05.235 and 1987 c 331 s 19 are each amended to
29 read as follows:

30 (1) Each authorized endowment care cemetery authority shall within
31 ninety days after the close of its accounting year file with the board
32 upon the board's request a true and accurate statement of its financial
33 condition, transactions, and affairs for the preceding year. The
34 statement shall be on such forms and shall contain such information as
35 required by this chapter and by the board.

1 (2) The board shall suspend or revoke the prearrangement ((sales
2 license)) endorsement of any endowment care cemetery authority which
3 fails to comply with the request.

4 **Sec. 26.** RCW 68.05.240 and 1953 c 290 s 52 are each amended to
5 read as follows:

6 It shall be a misdemeanor for any endowment care cemetery authority
7 to make any interment without a valid, subsisting, and unsuspended
8 certificate of authority. Each interment shall be a separate
9 violation.

10 **Sec. 27.** RCW 68.05.254 and 1987 c 331 s 21 are each amended to
11 read as follows:

12 (1) The board shall examine the endowment care and prearrangement
13 trust fund or funds of ((a)) an endowment care cemetery authority:

14 (a) Whenever it deems necessary, but at least once every three
15 years after the original examination except where the endowment care
16 cemetery authority is either required by the board to, or voluntarily
17 files an annual financial report for the fund certified by a certified
18 public accountant or a licensed public accountant in accordance with
19 generally accepted auditing standards;

20 (b) One year following the issuance of a new certificate of
21 authority;

22 (c) Whenever the endowment care cemetery authority in charge of
23 endowment care or prearrangement trust fund or funds fails after
24 reasonable notice from the board to file the reports required by this
25 chapter; or

26 (d) Whenever it is requested by verified petition signed by twenty-
27 five lot owners alleging that the endowment care funds are not in
28 compliance with this title, or whenever it is requested by verified
29 petition signed by ((twenty-five)) one hundred purchasers or
30 beneficiaries of prearrangement merchandise or services alleging that
31 the prearrangement trust funds are not in compliance with this title,
32 in either of which cases, the examination shall be at the expense of
33 the petitioners.

34 (2) The expense of the endowment care and prearrangement trust
35 fund examination as provided in subsection (1) (a) and (b) of this
36 section shall be paid by the endowment care cemetery authority. Such

1 examination shall be privately conducted in the principal office of the
2 endowment care cemetery authority.

3 (3) The requirements that examinations be conducted once every
4 three years and that they be conducted in the principal office of the
5 endowment care cemetery authority do not apply to any endowment care or
6 prearrangement trust fund that is less than ~~((twenty-five))~~ fifty
7 thousand dollars. The board shall, at its discretion, decide when and
8 where the examinations shall take place.

9 **Sec. 28.** RCW 68.05.259 and 1987 c 331 s 22 are each amended to
10 read as follows:

11 If any endowment care cemetery authority refuses to pay any
12 examination expenses within thirty days of completion of the
13 examination or refuses to pay certain examination expenses in advance
14 as required by the ~~((department))~~ board for cause, the board shall
15 revoke any existing certificate of authority. Examination expenses
16 incurred in conjunction with a transfer of ownership of a cemetery
17 shall be paid by the selling entity. ~~((All examination expense moneys
18 collected by the department shall be paid to the department.))~~

19 **Sec. 29.** RCW 68.05.300 and 1987 c 331 s 25 are each amended to
20 read as follows:

21 The board may revoke, suspend, or terminate a certificate of
22 authority or prearrangement ~~((sales license))~~ endorsement if ((a)) an
23 endowment care cemetery authority:

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

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

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

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

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

3 **Sec. 30.** RCW 68.05.310 and 1989 c 175 s 124 are each amended to
4 read as follows:

5 The board or its authorized representative shall give ((a)) an
6 endowment care cemetery authority notice of its intention to suspend,
7 revoke, or refuse to renew a certificate of authority or a
8 prearrangement ((sales license)) endorsement, and shall grant the
9 endowment care cemetery authority a hearing, in the manner ((required
10 for adjudicative proceedings under chapter 34.05 RCW, the
11 Administrative Procedure Act,)) prescribed by the board's rules before
12 the order of suspension, revocation, or refusal may become effective.

13 No endowment care cemetery authority whose prearrangement ((sales
14 license)) endorsement has been suspended, revoked, or refused shall be
15 authorized to enter into prearrangement contracts. Any prearrangement
16 sale by an ((unlicensed)) unendorsed endowment care cemetery authority
17 shall be voidable by the purchaser who shall be entitled to a full
18 refund.

19 **Sec. 31.** RCW 68.05.320 and 1979 c 21 s 32 are each amended to read
20 as follows:

21 (1) The board or its authorized representative may issue and serve
22 upon ((a)) an endowment care cemetery authority a notice of charges if
23 in the opinion of the board or its authorized representative the
24 endowment care cemetery authority:

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

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

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

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

1 its authorized representative at the request of the endowment care
2 cemetery authority.

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

15 (3) A cease and desist order shall become effective at the
16 expiration of ten days after service of the order upon the endowment
17 care cemetery authority except that a cease and desist order issued
18 upon consent shall become effective as provided in the order unless it
19 is stayed, modified, terminated, or set aside by action of the board or
20 a reviewing court.

21 (4) The powers of the board under this section are in addition to
22 the power of the board to refuse to renew or to revoke or suspend ((a))
23 an endowment care cemetery authority's prearrangement ((~~sales license~~))
24 endorsement.

25 **Sec. 32.** RCW 68.05.330 and 1987 c 331 s 27 are each amended to
26 read as follows:

27 Unless specified otherwise in this title, any person who violates
28 or aids or abets any person in the violation of any of the provisions
29 of this title shall be guilty of a class C felony punishable under
30 chapter 9A.20 RCW. A violation ((~~shall constitute an unfair practice~~
31 ~~under chapter 19.86 RCW and shall be~~)) is grounds for revocation of the
32 certificate of authority under this chapter or revocation of the
33 prearrangement ((~~sales license~~)) endorsement under this chapter.
34 Retail installment transactions under this chapter shall be governed by
35 chapter 63.14 RCW. The provisions of this chapter shall be cumulative
36 and nonexclusive and shall not affect any other remedy available at
37 law.

1 **Sec. 33.** RCW 68.05.340 and 1987 c 331 s 28 are each amended to
2 read as follows:

3 Whenever the board or its authorized representative determines that
4 ((a)) an endowment care cemetery authority is in violation of this
5 title or that the continuation of acts or practices of the endowment
6 care cemetery authority is likely to cause insolvency or substantial
7 dissipation of assets or earnings of the endowment care cemetery
8 authority's endowment care or prearrangement trust fund or to otherwise
9 seriously prejudice the interests of the purchasers or beneficiaries of
10 prearrangement contracts, the board, or its authorized representative,
11 may issue a temporary order requiring the endowment care cemetery
12 authority to cease and desist from the violation or practice. The
13 order shall become effective upon service on the endowment care
14 cemetery authority and shall remain effective unless set aside,
15 limited, or suspended by a court in proceedings under RCW 68.05.350 or
16 until the board dismisses the charges specified in the notice under RCW
17 68.05.320 or until the effective date of a cease and desist order
18 issued against the endowment care cemetery authority under RCW
19 68.05.320.

20 **Sec. 34.** RCW 68.05.350 and 1987 c 331 s 29 are each amended to
21 read as follows:

22 Within ten days after ((a)) an endowment care cemetery authority
23 has been served with a temporary cease and desist order, the endowment
24 care cemetery authority may apply to the superior court in the county
25 of its principal place of business for an injunction setting aside,
26 limiting, or suspending the order pending completion of the
27 administrative proceedings under RCW 68.05.320.

28 **Sec. 35.** RCW 68.05.360 and 1987 c 331 s 30 are each amended to
29 read as follows:

30 ~~((Any administrative hearing under RCW 68.05.320 may be held at
31 such place as is designated by the board and shall be conducted in
32 accordance with chapter 34.05 RCW.))~~

33 Within sixty days after the hearing the board shall render a
34 decision which shall include findings of fact upon which the decision
35 is based and shall issue and serve upon each party to the proceeding an
36 order or orders consistent with RCW 68.05.320.

1 (~~Review of the decision shall be as provided in chapter 34.05~~
2 ~~RCW.~~)

3 **Sec. 36.** RCW 68.05.370 and 1987 c 331 s 31 are each amended to
4 read as follows:

5 The board may apply to the superior court of the county of the
6 principal place of business of the endowment care cemetery authority
7 affected for enforcement of any effective and outstanding order issued
8 under RCW 68.05.320 or 68.05.340, and the court shall have jurisdiction
9 to order compliance with the order.

10 NEW SECTION. **Sec. 37.** A new section is added to chapter 68.05 RCW
11 to read as follows:

12 Upon the petitioned request of at least thirty-three and one-third
13 percent of the members, the board shall consider the matter of removal
14 of a member. The petition must set forth cause for the removal. The
15 board upon receipt of a petition shall convene a meeting for the
16 purpose of considering the petition within forty-five days of receipt
17 of the petition. At the meeting, the board may accept testimony, make
18 inquiry, and determine disposition of the petition request.

19 **Sec. 38.** RCW 68.24.090 and 1987 c 331 s 34 are each amended to
20 read as follows:

21 Property dedicated to cemetery purposes shall be held and used
22 exclusively for cemetery purposes, unless and until the dedication is
23 removed from all or any part of it by an order and decree of the
24 superior court of the county in which the property is situated, in a
25 proceeding brought by the cemetery authority for that purpose and upon
26 notice of hearing and proof satisfactory to the court:

27 (1) That no interments were made in or that all interments have
28 been removed from that portion of the property from which dedication is
29 sought to be removed(~~(-)~~);

30 (2) That the portion of the property from which dedication is
31 sought to be removed is not being used for interment of human
32 remains(~~(-)~~); and

33 (3) For an endowment care cemetery authority, that notice of the
34 proposed removal of dedication has been given the ((cemetery)) board of
35 governors of the state association of endowment care trustees in

1 writing at least sixty days before filing the proceedings in superior
2 court.

3 **Sec. 39.** RCW 68.40.010 and 1987 c 331 s 35 are each amended to
4 read as follows:

5 After July 1, 1987, ((a)) an endowment care cemetery authority not
6 exempt under this chapter shall deposit in an endowment care fund not
7 less than the following amounts for plots sold: Ten percent of the
8 gross sales price, with a minimum of ((~~ten~~)) twenty-five dollars for
9 each adult grave; ten percent of the gross sales price, with a minimum
10 of ((~~five~~)) twenty dollars for each niche; and ten percent of the gross
11 sales price, with a minimum of ((~~thirty~~)) fifty dollars for each crypt.

12 In the event that ((a)) an endowment care cemetery authority sells
13 a lot, crypt, or niche at a price that is less than its current list
14 price, or gives away, bequeaths, or otherwise gives title to a lot,
15 crypt, or niche, such lot, crypt, or niche shall be endowed at the rate
16 at which it would normally be endowed: A minimum of ten percent of
17 normal sales price or ((~~ten~~)) twenty-five dollars per ((~~lot~~)) adult
18 grave, whichever is greater; ten percent of normal sales price or
19 ((~~five~~)) twenty dollars per niche, whichever is greater; and ten
20 percent of normal sales price or ((~~thirty~~)) fifty dollars per crypt,
21 whichever is greater.

22 The deposits shall be made not later than the twentieth day of the
23 month following the final payment on the sale price. If a contract for
24 crypts, niches, or graves is sold, pledged, or otherwise encumbered as
25 security for a loan by the endowment care cemetery authority, the
26 endowment care cemetery authority shall pay into the endowment care
27 fund ten percent of the gross sales price with a minimum of ((~~ten~~))
28 twenty-five dollars for each adult grave, ((~~five~~)) twenty dollars for
29 each niche, and ((~~thirty~~)) fifty dollars for each crypt within twenty
30 days of receipt of payment of the proceeds from such sale or loan.

31 Any cemetery hereafter established shall have deposited in an
32 endowment care fund the sum of ((~~twenty-five~~)) one hundred thousand
33 dollars before disposing of any plot or making any sale thereof.

34 NEW SECTION. **Sec. 40.** A new section is added to chapter 68.40 RCW
35 to read as follows:

36 A cemetery with less than fifty thousand dollars in the total of
37 its endowment care funds is subject to this title and:

- 1 (1) May not represent itself as an endowment care cemetery;
2 (2) Shall report to the board of governors on forms proscribed by
3 the board; and
4 (3) Shall post prominently a sign with the words "endowment care
5 fund under development."

6 **Sec. 41.** RCW 68.40.040 and 1987 c 331 s 37 are each amended to
7 read as follows:

8 ((A)) An endowment care cemetery authority not exempt under this
9 chapter shall file in its principal office for review by plot owners
10 the previous seven fiscal years' endowment care reports as filed with
11 the ((cemetery)) board of governors of the state association of
12 endowment care trustees in accordance with RCW 68.44.150.

13 **Sec. 42.** RCW 68.40.085 and 1953 c 290 s 24 are each amended to
14 read as follows:

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

19 **Sec. 43.** RCW 68.44.030 and 1985 c 30 s 138 are each amended to
20 read as follows:

21 Endowment care funds shall be kept invested in accordance with the
22 provisions of RCW 11.100.020 subject to the following restrictions:

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

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

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

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

5 **Sec. 44.** RCW 68.44.070 and 1953 c 290 s 16 are each amended to
6 read as follows:

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

21 **Sec. 45.** RCW 68.44.080 and 1953 c 290 s 17 are each amended to
22 read as follows:

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

29 **Sec. 46.** RCW 68.44.090 and 1953 c 290 s 18 are each amended to
30 read as follows:

31 Upon payment of the purchase price and the amount fixed as a
32 proportionate contribution for endowment care, there may be included in
33 the deed of conveyance or by separate instrument, an agreement to care,
34 in accordance with the plan adopted, for the cemetery and its
35 appurtenances on an endowment basis to the proportionate extent the

1 income received by the endowment care cemetery authority from the
2 contribution will permit.

3 **Sec. 47.** RCW 68.44.100 and 1953 c 290 s 19 are each amended to
4 read as follows:

5 Upon the application of an owner of a plot, and upon the payment by
6 him or her of the amount fixed as a reasonable and proportionate
7 contribution for endowment care, ((a)) an endowment care cemetery
8 authority may enter into an agreement with him or her for the care of
9 his or her plot and its appurtenances.

10 **Sec. 48.** RCW 68.44.110 and 1987 c 331 s 43 are each amended to
11 read as follows:

12 Unless an association of lot owners has been created for the
13 purpose of appointing trustees, the endowment care cemetery authority
14 shall appoint a board of not less than three members as trustees for
15 its endowment care fund, who shall hold office subject to the direction
16 of the endowment care cemetery authority.

17 **Sec. 49.** RCW 68.44.115 and 1987 c 331 s 44 are each amended to
18 read as follows:

19 To be considered qualified as a trustee, each trustee of an
20 endowment care fund appointed in accordance with this chapter shall
21 file with the board of governors of the state association of endowment
22 care trustees a statement of acceptance of fiduciary responsibility, on
23 a form approved by the board, before assuming the duties of trustee.
24 The trustee shall remain in the trustee's fiduciary capacity until such
25 time as the trustee advises the ((cemetery)) board of governors in
26 writing of the trustee's resignation of trusteeship.

27 **Sec. 50.** RCW 68.44.120 and 1987 c 331 s 45 are each amended to
28 read as follows:

29 The directors of ((a)) an endowment care cemetery authority may be
30 the trustees of its endowment care fund. When the fund is in the care
31 of the directors as a board of trustees the secretary of the endowment
32 care cemetery authority shall act as its secretary and keep a true
33 record of all of its proceedings.

1 **Sec. 51.** RCW 68.44.130 and 1987 c 331 s 46 are each amended to
2 read as follows:

3 In lieu of the appointment of a board of trustees of its endowment
4 care fund, any endowment care cemetery authority may appoint as sole
5 trustee of its endowment care fund any bank or trust company qualified
6 to engage in the trust business, and said bank or trust company shall
7 be authorized to receive and accept said fund, including any
8 accumulated endowment care fund in existence at the time of its
9 appointment, and to designate the trustee representative.

10 **Sec. 52.** RCW 68.44.150 and 1987 c 331 s 48 are each amended to
11 read as follows:

12 The endowment care cemetery authority or the trustees in whose
13 names the funds are held shall, annually, and within ninety days after
14 the end of the calendar or fiscal year of the endowment care cemetery
15 authority, make and keep on file for seven years a true and correct
16 written report, verified on oath by an officer of the endowment care
17 cemetery authority or by the oath of one or more of the trustees,
18 showing the actual financial condition of the funds.

19 **Sec. 53.** RCW 68.44.160 and 1953 c 290 s 22 are each amended to
20 read as follows:

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

26 **Sec. 54.** RCW 68.44.170 and 1953 c 290 s 23 are each amended to
27 read as follows:

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

33 **Sec. 55.** RCW 68.46.010 and 1979 c 21 s 22 are each amended to read
34 as follows:

1 Unless the context clearly indicates otherwise, the following terms
2 as used only in this chapter have the meaning given in this section:

3 (1) "Prearrangement contract" means a contract for purchase of
4 cemetery merchandise or services, unconstructed crypts or niches, or
5 undeveloped graves to be furnished at a future date for a specific
6 consideration which is paid in advance by one or more payments in one
7 sum or by installment payments.

8 (2) "Cemetery authority" shall have the same meaning as in RCW
9 68.04.190, and shall also include any individual, partnership, firm,
10 joint venture, corporation, company, association, or (~~join~~{joint})
11 joint stock company, any of which sells cemetery services or
12 merchandise, unconstructed crypts or niches, or undeveloped graves
13 through a prearrangement contract, but shall not include insurance
14 companies licensed under chapter 48.05 RCW.

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

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

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

31 (6) "Board" means the (~~cemetery~~) board of governors established
32 under chapter 68.05 RCW or its authorized representative.

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

36 **Sec. 56.** RCW 68.46.030 and 1984 c 53 s 3 are each amended to read
37 as follows:

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

4 (a) Fifty percent of the contract price; or

5 (b) The percentage which the total of the wholesale cost of
6 merchandise and the direct cost of services to be provided pursuant to
7 the contract is of the total contract price.

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

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

21 (4) Each endowment care cemetery authority electing to make
22 payments to its prearrangement trust fund pursuant to subsection (3) of
23 this section shall file and maintain with the board a bond, issued by
24 a surety company authorized to do business in the state, in the amount
25 by which the cemetery authority's contingent liability for refunds
26 pursuant to RCW 68.46.060 exceeds the amount deposited in its
27 prearrangement trust fund. The bond shall run to the ((state)) board
28 of governors and shall be conditioned that it is for the use and
29 benefit of any person requesting a refund pursuant to RCW 68.46.060 if
30 the endowment care cemetery authority does not promptly pay to said
31 person the refund due pursuant to RCW 68.46.060. In addition to any
32 other remedy, every person not promptly receiving the refund due
33 pursuant to RCW 68.46.060 may sue the surety for the refund. The
34 liability of the surety shall not exceed the amount of the bond.
35 Termination or cancellation shall not be effective unless notice is
36 delivered by the surety to the board at least thirty days prior to the
37 date of termination or cancellation. The board shall immediately
38 notify the cemetery authority affected by the termination or
39 cancellation by certified mail, return receipt requested. The

1 endowment care cemetery authority shall thereupon obtain another bond
2 or make such other arrangement as may be satisfactory to the board to
3 assure its ability to make refunds pursuant to RCW 68.46.060.

4 (5) Deposits to the prearrangement trust fund shall be made not
5 later than the twentieth day of each month following receipt of each
6 payment required to be deposited. If a prearrangement contract is
7 sold, pledged, or otherwise encumbered as security for a loan by the
8 endowment care cemetery authority, the endowment care cemetery
9 authority shall pay into the prearrangement trust fund fifty percent of
10 the total sale price of the prearrangement contract within twenty days
11 of receipt of payment of the proceeds from the sale or loan.

12 (6) Any failure to fund a prearrangement contract as required by
13 this section shall be grounds for revocation of the endowment care
14 cemetery authority's prearrangement ((sales license)) endorsement.

15 **Sec. 57.** RCW 68.46.040 and 1987 c 331 s 50 are each amended to
16 read as follows:

17 All prearrangement trust funds shall be deposited in a qualified
18 public depository as defined by RCW 68.46.010 or in instruments insured
19 by any agency of the federal government, if these securities are held
20 in public depository. Such savings accounts shall be designated as the
21 "prearrangement trust fund" by name and the particular endowment care
22 cemetery authority for the benefit of the beneficiaries named in any
23 prearrangement contract.

24 **Sec. 58.** RCW 68.46.050 and 1995 1st sp.s. c 18 (E2SHB 1908) s 65
25 are each amended to read as follows:

26 (1) A bank, trust company, or savings and loan association
27 designated as the depository of prearrangement funds shall permit
28 withdrawal by ((a)) an endowment care cemetery authority of all funds
29 deposited under any specific prearrangement contract plus interest
30 accrued thereon, under the following circumstances and conditions:

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

35 (b) If the endowment care cemetery authority files a verified
36 statement that a specific prearrangement contract has been canceled in
37 accordance with its terms.

1 (2) The department of social and health services shall notify the
2 endowment care cemetery authority maintaining a prearrangement trust
3 fund regulated by this chapter that the department has a claim on the
4 estate of a beneficiary for long-term care services. Such notice shall
5 be renewed at least every three years. The endowment care cemetery
6 authority upon becoming aware of the death of a beneficiary shall give
7 notice to the department of social and health services, office of
8 financial recovery, who shall file any claim there may be within thirty
9 days of the notice.

10 **Sec. 59.** RCW 68.46.055 and 1984 c 53 s 8 are each amended to read
11 as follows:

12 (1) No cemetery authority may enter into a retail contract for the
13 purchase of debentures, shares, scrip, bonds, notes, or any instrument
14 or evidence of indebtedness, excluding retail installment sales
15 transactions governed by chapter 63.14 RCW, which directly or
16 indirectly requires or permits the cemetery authority to furnish to the
17 holder at a future date cemetery merchandise or services, or crypts,
18 niches, or graves.

19 (2) ((A)) An endowment care cemetery authority which enters into
20 prearrangement contracts for the sale of unconstructed crypts or niches
21 or undeveloped graves or which conveys undeveloped graves by gift shall
22 maintain an adequate inventory of constructed crypts or niches and
23 developed graves which in quality are equal to or better than the
24 unconstructed crypts or niches, or undeveloped graves if they were
25 constructed or developed. In the event of the death of a purchaser or
26 owner of an unconstructed crypt or niche or undeveloped grave before
27 the unconstructed crypt or niche or undeveloped grave is constructed or
28 developed the cemetery authority shall provide a constructed crypt or
29 niche or developed grave of equal or better quality without additional
30 cost or charge. If two or more unconstructed crypts or niches or
31 undeveloped graves are conveyed with the intention that the crypts or
32 niches or graves shall be contiguous to each other or maintained
33 together as a group and the death of any one purchaser or owner in such
34 group occurs before the unconstructed crypts or niches or undeveloped
35 graves are developed, the cemetery authority shall provide additional
36 constructed crypts or niches or developed graves of equal or better
37 quality contiguous to each other or together as a group as originally

1 intended to other purchasers or owners in the group without additional
2 cost or charge.

3 **Sec. 60.** RCW 68.46.060 and 1987 c 331 s 51 are each amended to
4 read as follows:

5 Any purchaser or beneficiary or beneficiaries may, upon written
6 demand of any endowment care cemetery authority, demand that any
7 prearrangement contract with such cemetery authority be terminated. In
8 such event, the endowment care cemetery authority shall within thirty
9 days refund to such purchaser or beneficiary or beneficiaries fifty
10 percent of the moneys received less the contractual price of any
11 merchandise delivered or services performed before the termination plus
12 interest earned. In any case, where, under a prearrangement contract
13 there is more than one beneficiary, no written demand as provided in
14 this section shall be honored by any endowment care cemetery authority
15 unless the written demand provided for in this section shall bear the
16 signatures of all of such beneficiaries.

17 **Sec. 61.** RCW 68.46.070 and 1987 c 331 s 52 are each amended to
18 read as follows:

19 Prearrangement contracts shall terminate upon demand of the
20 purchaser of the contract if the endowment care cemetery authority
21 shall go out of business, become insolvent or bankrupt, make an
22 assignment for the benefit of creditors, or for any other reason be
23 unable to fulfill the obligations under the contract. Upon demand by
24 the purchaser or beneficiary or beneficiaries of any prearrangement
25 contract, the endowment care cemetery authority shall refund one
26 hundred percent of the original contract, less delivered services and
27 merchandise, including funds held in deposit and interest earned
28 thereon, unless otherwise ordered by a court of competent jurisdiction.

29 **Sec. 62.** RCW 68.46.075 and 1979 c 21 s 27 are each amended to read
30 as follows:

31 In the event the beneficiary or beneficiaries of a prearrangement
32 contract make no claim within fifty years of the date of the contract
33 for the merchandise and services provided in the prearrangement
34 contract, the funds deposited in the prearrangement trust funds
35 attributable to that contract and the interest on said funds shall be
36 transferred to the endowment care cemetery authority's endowment fund

1 to be used for the uses and purposes for which the endowment fund was
2 established. However, the endowment care cemetery authority shall
3 remain obligated for merchandise and services, unconstructed crypts or
4 niches, and undeveloped graves under the terms of the prearrangement
5 contract. Claims may be made for merchandise and services,
6 unconstructed crypts or niches, and undeveloped graves on a
7 prearrangement contract after the funds have been transferred to the
8 endowment fund and shall be paid for from the endowment fund income to
9 the extent of the funds attributable to the prearrangement contract.

10 **Sec. 63.** RCW 68.46.080 and 1973 1st ex.s. c 68 s 8 are each
11 amended to read as follows:

12 Prearrangement trust funds shall not be used in any way, directly
13 or indirectly, for the benefit of the endowment care cemetery authority
14 or any director, officer, agent, or employee of any cemetery authority,
15 including, but not limited to any encumbrance, pledge, or other
16 utilization or prearrangement trust funds as collateral or other
17 security.

18 **Sec. 64.** RCW 68.46.090 and 1983 c 190 s 1 are each amended to read
19 as follows:

20 Any endowment care cemetery authority selling prearrangement
21 merchandise or other prearrangement services shall file in its office
22 or offices and with the ((cemetery)) board of governors a written
23 report upon forms prepared by the ((cemetery)) board which shall state
24 the amount of the principle of the prearrangement trust fund or funds,
25 the depository of such fund or funds, and cash on hand which is or may
26 be due to such fund as well as such other information the board may
27 deem appropriate. All information appearing on such written reports
28 shall be revised at least annually. These reports shall be verified by
29 the president(~~(, or the vice president, and one other officer)~~) of the
30 endowment care cemetery authority, the designated endowment care
31 trustee representative, the accountant or auditor who prepared the
32 report, and, if required by the board for good cause, a certified
33 public accountant in accordance with generally accepted auditing
34 standards. Verification of these reports by a certified public
35 accountant in accordance with generally accepted auditing standards
36 shall be required on reports from endowment care cemetery authorities

1 which manage prearrangement trust funds totaling in excess of ((five
2 hundred thousand)) one million dollars.

3 **Sec. 65.** RCW 68.46.100 and 1987 c 331 s 53 are each amended to
4 read as follows:

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

11 Every prearrangement contract shall contain language prominently
12 featured on the face of the contract disclosing to the purchaser what
13 items will be delivered before need, either stored or installed, and
14 thus not subject to funding or refund.

15 Every prearrangement contract for the sale of unconstructed crypts
16 or niches or undeveloped graves and every conveyance instrument shall
17 contain language which informs the purchaser that if the purchaser dies
18 before the unconstructed crypt or niche or undeveloped grave is
19 constructed or developed the endowment care cemetery authority must
20 provide, without additional cost or charge, a constructed crypt or
21 niche or developed grave of equal or better quality than the
22 unconstructed crypt or niche or undeveloped grave would have been if it
23 were constructed or developed.

24 **Sec. 66.** RCW 68.46.110 and 1973 1st ex.s. c 68 s 11 are each
25 amended to read as follows:

26 No cemetery authority shall sell, offer to sell, or authorize the
27 sale of cemetery merchandise or services or accept funds in payment of
28 any prearrangement contract, either directly or indirectly, unless such
29 acts are performed in compliance with chapter 68, Laws of 1973 1st ex.
30 sess., and under the authority of a valid, subsisting, and unsuspended
31 certificate of authority to operate ((a)) an endowment care cemetery in
32 this state by the ((Washington state cemetery)) board of governors of
33 the state association of endowment care trustees.

34 **Sec. 67.** RCW 68.46.130 and 1979 c 21 s 43 are each amended to read
35 as follows:

1 The (~~cemetery~~) board of governors may grant an exemption from any
2 or all of the requirements of this chapter relating to prearrangement
3 contracts to any endowment care cemetery authority which:

- 4 (1) Sells less than twenty prearrangement contracts per year; and
5 (2) Deposits one hundred percent of all funds received into a trust
6 fund under RCW 68.46.030, as now or hereafter amended.

7 **Sec. 68.** RCW 68.46.150 and 1979 c 21 s 40 are each amended to read
8 as follows:

9 To qualify for and hold a prearrangement (~~sales license~~)
10 endorsement, an endowment care cemetery authority must comply with and
11 qualify according to the provisions of this chapter.

12 **Sec. 69.** RCW 68.46.160 and 1979 c 21 s 38 are each amended to read
13 as follows:

14 No endowment care cemetery authority shall use a prearrangement
15 contract without first filing the form of such contract with the
16 board(~~(: PROVIDED, That)~~) of governors. However, the board may order
17 the endowment care cemetery authority to cease using any prearrangement
18 contract form which:

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

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

26 **Sec. 70.** RCW 68.46.170 and 1979 c 21 s 23 are each amended to read
27 as follows:

28 No cemetery authority shall enter into prearrangement contracts in
29 this state unless (~~the cemetery~~) that authority is an endowment care
30 authority and has obtained a prearrangement (~~sales license~~)
31 endorsement issued by the board or its authorized representative and
32 (~~such license~~) the endorsement is then current and valid.

33 **Sec. 71.** RCW 68.60.010 and 1990 c 92 s 1 are each amended to read
34 as follows:

1 Unless the context clearly requires otherwise, the definitions in
2 this section apply throughout this chapter.

3 (1) "Abandoned cemetery" means a burial ground of the human dead
4 (~~(in [for])~~) for which the county assessor can find no record of an
5 owner; or where the last known owner is deceased and lawful conveyance
6 of the title has not been made; or in which a cemetery company,
7 cemetery association, corporation, or other organization formed for
8 the purposes of burying the human dead has either disbanded, been
9 administratively dissolved by the secretary of state, or otherwise
10 ceased to exist, and for which title has not been conveyed.

11 (2) "Historical cemetery" means any burial site or grounds which
12 contain within them human remains buried prior to November 11, 1889;
13 except that: (a) Cemeteries holding a valid certificate of authority
14 to operate granted under RCW 68.05.115 (~~(and 68.05.215,)~~); (b)
15 cemeteries owned or operated by any recognized religious denomination
16 that qualifies for an exemption from real estate taxation under RCW
17 84.36.020 on any of its churches or the ground upon which any of its
18 churches are or will be built(~~(τ)~~); and (c) cemeteries controlled or
19 operated by a coroner, county, city, town, or cemetery district shall
20 not be considered historical cemeteries.

21 (3) "Historic grave" means a grave or graves that were placed
22 outside a cemetery dedicated pursuant to this chapter and to chapter
23 68.24 RCW, prior to June 7, 1990, except Indian graves and burial
24 cairns protected under chapter 27.44 RCW.

25 (4) "Cemetery" has the meaning provided in RCW 68.04.040(2).

26 NEW SECTION. **Sec. 72.** The following acts or parts of acts are
27 each repealed:

28 (1) RCW 68.05.024 and 1987 c 331 s 2;

29 (2) RCW 68.05.028 and 1987 c 331 s 3;

30 (3) RCW 68.05.060 and 1984 c 287 s 102, 1975-'76 2nd ex.s. c 34
31 156, & 1953 c 290 s 33;

32 (4) RCW 68.05.095 and 1987 c 331 s 8 & 1953 c 290 s 34;

33 (5) RCW 68.05.120 and 1953 c 290 s 38;

34 (6) RCW 68.05.185 and 1987 c 331 s 14 & 1943 c 247 s 56;

35 (7) RCW 68.05.205 and 1993 c 43 s 4, 1987 c 331 s 16, 1983 1st
36 ex.s. c 5 s 1, 1977 ex.s. c 351 s 4, 1969 ex.s. c 99 s 4, & 1953 c 290
37 s 51;

- 1 (8) RCW 68.05.215 and 1987 c 331 s 17, 1969 ex.s. c 99 s 3, & 1953
2 c 290 s 50;
3 (9) RCW 68.05.225 and 1987 c 331 s 18 & 1979 c 21 s 29;
4 (10) RCW 68.05.245 and 1987 c 331 s 20;
5 (11) RCW 68.05.285 and 1953 c 290 s 29; and
6 (12) RCW 68.05.390 and 1987 c 331 s 32.

7 NEW SECTION. **Sec. 73.** Sections 3, 4, 6, 12, and 13 of this act
8 are each added to chapter 68.05 RCW.

9 NEW SECTION. **Sec. 74.** RCW 68.05.195 is recodified as a section in
10 chapter 18.39 RCW.

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