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**ENGROSSED SUBSTITUTE HOUSE BILL 1037**

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**State of Washington 68th Legislature 2023 Regular Session**

**By** House Civil Rights & Judiciary (originally sponsored by Representative Walsh)

AN ACT Relating to family burial grounds on privately owned property; amending RCW 68.05.400, 68.20.010, 68.20.140, 68.50.130, and 84.36.020; adding a new section to chapter 68.04 RCW; and adding a new chapter to Title 68 RCW.

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

NEW SECTION. **Sec.**  A new section is added to chapter 68.04 RCW to read as follows:

"Family burial ground" means an area of privately owned land that is designated pursuant to chapter 68.--- RCW (the new chapter created in section 13 of this act) for the burial of human remains in the ground and in which burials may be, but are not required to be, restricted to a group of persons who are related to each other by birth, marriage, or adoption.

NEW SECTION. **Sec.**  (1) A natural person may designate an area of land owned by the person as a family burial ground.

(2) If a property is co-owned by two or more natural persons, a family burial ground may be established on the property only with the written consent of all co-owners of the property.

(3) A family burial ground may not be established on any property co-owned by a combination of natural persons and legal entities.

(4) A family burial ground may not be established within 150 feet of a designated critical area, as defined in RCW 36.70A.030.

(5) A family burial ground may not be established within 50 feet of an existing easement or public right-of-way.

(6) A family burial ground must be set back at least 25 feet from an existing parcel boundary.

(7) A family burial ground may not comprise greater than 10 percent of the area of the parcel upon which it is established.

NEW SECTION. **Sec.**  The owner of the property on which a family burial ground is located may not offer plots in the family burial ground for sale or charge fees for any goods or services provided by the owner in connection with the burials in the family burial ground.

NEW SECTION. **Sec.**  Within 30 days of each burial in a family burial ground, the owner of the property on which the family burial ground is located shall report the burial to the Washington state department of archaeology and historic preservation and record the burial with the county auditor of the county in which the property is situated. The owner shall report to the department and record with the county auditor:

(1) The deceased person's name as it appears on the death certificate;

(2) The deceased person's date of birth as it appears on the death certificate;

(3) The deceased person's date of death as it appears on the death certificate;

(4) The name of the owner or owners and the legal description of the property, including the assessor parcel number, where the human remains are buried; and

(5) The latitude and longitude coordinates of the grave, such as those given by a global positioning system, that are verified by two witnesses or the county coroner, sheriff, or a designee of the county coroner or sheriff.

NEW SECTION. **Sec.**  Before the sale of the property on which a family burial ground is located, the owner of the property shall disclose to the prospective buyer the existence of the family burial ground.

NEW SECTION. **Sec.**  Cities and counties are authorized to enact ordinances regulating or prohibiting the establishment of family burial grounds or the extension of existing family burial grounds and to give power to local planning commissions to pass upon and make recommendations to local legislative bodies concerning the establishment or extension of family burial grounds.

NEW SECTION. **Sec.**  Beginning on the effective date of this section, an area of privately owned land that has been established as a family burial ground or plot prior to the effective date of this section is deemed a family burial ground designated in compliance with this chapter, even if the previously established family burial ground or plot does not meet all the requirements under this chapter. Any new designation of a family burial ground on a property that already contains a family burial ground and any extension of an existing family burial ground shall comply with all the requirements of this chapter, regardless of when a family burial ground was established or designated.

**Sec.**  RCW 68.05.400 and 1979 c 21 s 13 are each amended to read as follows:

The provisions of this chapter do not apply to any of the following:

(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; or

(3) A family burial ground established pursuant to chapter 68.--- RCW (the new chapter created in section 13 of this act).

**Sec.**  RCW 68.20.010 and 1943 c 247 s 42 are each amended to read as follows:

((~~It~~)) Except as otherwise provided in chapter 68.--- RCW (the new chapter created in section 13 of this act), it is unlawful for any corporation, copartnership, firm, trust, association, or individual to engage in or transact any of the businesses of a cemetery within this state except by means of a corporation duly organized for that purpose.

**Sec.**  RCW 68.20.140 and 1987 c 331 s 33 are each amended to read as follows:

(1) This chapter does not apply to any cemetery controlled and operated by a coroner, county, city, town, or cemetery district.

(2) This chapter does not apply to any family burial ground established pursuant to chapter 68.--- RCW (the new chapter created in section 13 of this act).

**Sec.**  RCW 68.50.130 and 2019 c 432 s 21 are each amended to read as follows:

Every person who performs a disposition of any human remains, except as otherwise provided by law, in any place, except in a cemetery, a family burial ground, or a building dedicated exclusively for religious purposes, is guilty of a misdemeanor. Disposition of human remains following cremation, alkaline hydrolysis, or natural organic reduction may also occur on private property, with the consent of the property owner; and on public or government lands or waters with the approval of the government agency that has either jurisdiction or control, or both, of the lands or waters.

**Sec.**  RCW 84.36.020 and 2022 c 84 s 1 are each amended to read as follows:

The following real and personal property shall be exempt from taxation:

(1)(a) All lands, buildings, and personal property required for necessary administration and maintenance, used, or to the extent used, exclusively for public burying grounds or cemeteries without discrimination as to race, color, national origin or ancestry;

(b) The exemption provided by this subsection (1) does not apply to family burial grounds established pursuant to chapter 68.--- RCW (the new chapter created in section 13 of this act);

(2)(a) All churches, personal property, and the ground, not exceeding five acres in area, upon which a church of any nonprofit recognized religious denomination is or must be built, together with a parsonage, convent, and buildings and improvements required for the maintenance and safeguarding of such property. The area exempted must in any case include all ground covered by the church, parsonage, convent, and buildings and improvements required for the maintenance and safeguarding of such property and the structures and ground necessary for street access, parking, light, and ventilation, but the area of unoccupied ground exempted in such cases, in connection with church, parsonage, convent, and buildings and improvements required for the maintenance and safeguarding of such property, shall not exceed the equivalent of one hundred twenty by one hundred twenty feet except where additional unoccupied land may be required to conform with state or local codes, zoning, or licensing requirements. The parsonage and convent need not be on land contiguous to the church property. Except as otherwise provided in this subsection, to be exempt the property must be wholly used for church purposes.

(b) If the rental income or donations, if applicable, are reasonable and do not exceed the maintenance and operation expenses attributable to the portion of the property loaned or rented, the exemption provided by this subsection (2) is not nullified by:

(i) The loan or rental of property otherwise exempt under this subsection (2) to a nonprofit organization, association, or corporation, or school to conduct an eleemosynary activity;

(ii) The rental or use of the property by any individual, group, or entity, where such rental or use is not otherwise authorized by this subsection (2), for not more than fifty days in each calendar year, and the property is not used for pecuniary gain or to promote business activities for more than fifteen of the fifty days in each calendar year. The fifty and fifteen-day limitations provided in this subsection (2)(b)(ii) do not include days during which setup and takedown activities take place immediately preceding or following a meeting or other event by an individual, group, or entity using the property as provided in this subsection (2)(b)(ii). The 15-day and 50-day limitations provided in this subsection (2)(b)(ii) do not apply to the use of the property for pecuniary gain or for business activities if the property is used for activities related to a qualifying farmers market, as defined in RCW 66.24.170, and all income received from rental or use of the exempt property is used for capital improvements to the exempt property, maintenance and operation of the exempt property, or exempt purposes. The exempt property may be used for up to 53 days for the purposes of a qualifying farmers market; or

(iii) An inadvertent use of the property in a manner inconsistent with the purpose for which exemption is granted, if the inadvertent use is not part of a pattern of use. A pattern of use is presumed when an inadvertent use is repeated in the same assessment year or in two or more successive assessment years.

NEW SECTION. **Sec.**  Sections 2 through 7 of this act constitute a new chapter in Title 68 RCW.

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