

Chapter 68.44 RCW
ENDOWMENT CARE FUND

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RCW 68.44.010 Funds authorized—Investments. Any cemetery authority not exempt under chapter 68.40 RCW shall establish, maintain, and operate an inviolable endowment care fund. Endowment care, special care, and other cemetery authorities' endowment care funds may be commingled for investment and the income therefrom shall be divided between the funds in the proportion that each contributed to the sum invested. The funds shall be held in the name of the trustees appointed by the cemetery authority with the words "endowment care fund" being a part of the name. [1987 c 331 § 41; 1953 c 290 § 11; 1943 c 247 § 105; Rem. Supp. 1943 § 3778-105.]

RCW 68.44.020 Use and care of funds. Endowment care funds shall not be used for any purpose other than to provide, through income only, for the endowment care stipulated in the instrument by which the fund was established. Endowment care funds shall be kept separate and distinct from all assets of the cemetery authority. Endowment care principal shall remain inviolable and may not be reduced in any way not found within RCW 11.100.020. [2005 c 365 § 114; 1987 c 331 § 42; 1953 c 290 § 12. Prior: (i) 1943 c 247 § 106; Rem. Supp. 1943 § 3778-106. (ii) 1943 c 247 § 126; Rem. Supp. 1943 § 3778-126.]

RCW 68.44.030 Authorized investments. Endowment care funds shall be kept invested in accordance with the provisions of RCW 11.100.020 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 or herself, 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. [2012 c 117 § 313; 1985 c 30 § 138. Prior: 1984 c 149 § 175; 1979 c 21 § 19; 1953 c 290 § 13; 1943 c 247 § 127; Rem. Supp. 1943 § 3778-127.]

Short title—Application—Purpose—Severability—1985 c 30: See RCW 11.02.900 through 11.02.903.

Severability—Effective dates—1984 c 149: See notes following RCW 11.02.005.

RCW 68.44.060 Unauthorized loans—Penalty. Every director or officer authorizing or consenting to a loan, and the person who receives a loan, in violation of RCW 68.44.030 are severally guilty of a class C felony punishable under chapter 9A.20 RCW. [1984 c 53 § 2; 1943 c 247 § 133; Rem. Supp. 1943 § 3778-133.]

RCW 68.44.070 Use of contributions to funds. Contributions to endowment care and special care funds are permitted for charitable purposes. Endowment care and such contributions are provisions for the discharge of a duty from the persons contributing to the persons interred or to be interred in the cemetery. This provision is for the benefit and protection of the public by preserving and keeping cemeteries from becoming neglected places of disgrace in the communities they serve. [2005 c 365 § 115; 1953 c 290 § 16. Prior: (i) 1943 c 247 § 130; Rem. Supp. 1943 § 3778-130. (ii) 1943 c 247 § 117; Rem. Supp. 1943 § 3778-117.]

RCW 68.44.080 Plans for care—Financing. The cemetery authority may adopt plans for the care, maintenance, and embellishment of its cemetery. A cemetery authority may charge and collect from all purchasers of plots or rights of interment a reasonable sum that will generate a fund, and the income from the fund will provide care, maintenance, and embellishment on an endowment basis. [2005 c 365 § 116; 1953 c 290 § 17; 1943 c 247 § 108; Rem. Supp. 1943 § 3778-108.]

RCW 68.44.090 Covenant to care for cemetery. Upon payment of the purchase price and the contribution for endowment care, a deed of conveyance or other instrument may include an agreement to care for

the cemetery, on an endowment basis to the extent the income will permit. [2005 c 365 § 117; 1953 c 290 § 18; 1943 c 247 § 109; Rem. Supp. 1943 § 3778-109.]

RCW 68.44.100 Agreement by owner to care for plot. Upon the application of an owner of a plot, and upon the payment by the owner of the amount fixed as a reasonable and proportionate contribution for endowment care, a cemetery authority may enter into an agreement with the owner for the special care of his or her plot and its appurtenances. [2005 c 365 § 118; 1953 c 290 § 19; 1943 c 247 § 110; Rem. Supp. 1943 § 3778-110.]

RCW 68.44.110 Trustees of fund. Unless an association of lot owners has been created for the purpose of appointing trustees, the cemetery authority shall appoint a minimum of three trustees for its endowment care fund, who shall hold office subject to the direction of the cemetery authority. [2005 c 365 § 119; 1987 c 331 § 43; 1953 c 290 § 20; 1943 c 247 § 111; Rem. Supp. 1943 § 3778-111.]

RCW 68.44.115 Trustee to file statement with board—Resignation of trusteeship. To be considered qualified as a trustee, each trustee of an endowment care fund appointed in accordance with this chapter shall file with the board a statement of acceptance of fiduciary responsibility, on a form approved by the board, before assuming the duties of trustee. The trustee shall remain in the trustee's fiduciary capacity until such time as the trustee advises the funeral and cemetery board in writing of the trustee's resignation of trusteeship. [2009 c 102 § 15; 1987 c 331 § 44.]

Funeral directors and embalmers account and cemetery account abolished, moneys transferred to funeral and cemetery account—2009 c 102: See note following RCW 18.39.810.

RCW 68.44.120 Directors as trustees—Secretary. The directors of a cemetery authority may be the trustees of its endowment care fund. When the fund is in the care of the directors, the secretary of the cemetery authority shall keep a true record of all of its proceedings. [2005 c 365 § 120; 1987 c 331 § 45; 1953 c 290 § 21; 1943 c 247 § 112; Rem. Supp. 1943 § 3778-112.]

RCW 68.44.130 Bank or trust company as trustee. In lieu of the appointment of a board of trustees of its endowment care fund, a cemetery authority may appoint, as sole trustee of its endowment care fund, any bank or trust company qualified to engage in the trust business. The bank or trust company shall be authorized to receive and accept the endowment care fund at the time of its appointment. [2005 c 365 § 121; 1987 c 331 § 46; 1943 c 247 § 113; Rem. Supp. 1943 § 3778-113.]

RCW 68.44.140 Compensation of trustees. Compensation to the board of trustees or trustee for services as trustee and other compensation for administration of trust funds shall not exceed the customary fees charged by banks and trust companies for like services. Such fees may not be paid from the fund principal. [2005 c 365 § 122; 1987 c 331 § 47; 1979 c 21 § 20; 1943 c 247 § 114; Rem. Supp. 1943 § 3778-114.]

RCW 68.44.150 Annual report. The cemetery authority or the trustees 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, file in its office and with the funeral and cemetery board endowment care trust fund, a report showing the actual financial condition of the funds. The report must be signed by an officer of the cemetery authority or one or more of the trustees. The report must be maintained for a period of seven years. [2009 c 102 § 16; 2005 c 365 § 123; 1987 c 331 § 48; 1979 c 21 § 21; 1943 c 247 § 115; Rem. Supp. 1943 § 3778-115.]

Funeral directors and embalmers account and cemetery account abolished, moneys transferred to funeral and cemetery account—2009 c 102: See note following RCW 18.39.810.

RCW 68.44.160 Contributions. A cemetery authority which has established an endowment care fund may take and hold, as a part of the fund, any property, real, personal, or mixed, bequeathed, devised, granted, given, or otherwise contributed to it for its endowment care fund. [2005 c 365 § 124; 1953 c 290 § 22; 1943 c 247 § 116; Rem. Supp. 1943 § 3778-116.]

RCW 68.44.170 Use of income from fund. The income from the endowment care fund shall be used solely for the general care, maintenance, and embellishment of the cemetery, and shall be applied in such manner as the cemetery authority may from time to time determine to be for the best interest of the cemetery. [1953 c 290 § 23; 1943 c 247 § 107; Rem. Supp. 1943 § 3778-107.]

RCW 68.44.180 Certain cemeteries exempt from chapter. This chapter does not apply to any cemetery controlled and operated by a coroner, county, city, town, or cemetery district. [1987 c 331 § 49.]

RCW 68.44.900 Effective date—1987 c 331. See RCW 68.05.900.