

2022 -- H 7376

=====
LC003302
=====

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2022

—————
A N A C T

RELATING TO HEALTH AND SAFETY -- CEMETERIES

Introduced By: Representatives Carson, Solomon, McNamara, Cortvriend, and Handy

Date Introduced: February 09, 2022

Referred To: House Corporations

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 23-18-1, 23-18-8.1 and 23-18-9 of the General Laws in Chapter 23-
2 18 entitled "Cemeteries" are hereby amended to read as follows:

3 **23-18-1. Definitions.**

4 The following terms used in this chapter, unless the context indicates otherwise, have the
5 following meanings:

6 (1) ~~"Agencies" mean town cemeteries, religious or ecclesiastical society cemeteries,~~
7 ~~cemetery associations, or any person, firm, corporation, or unincorporated association previously~~
8 ~~or hereafter engaged in the business of conducting a cemetery or operating a community~~
9 ~~mausoleum or columbarium.~~

10 "Annual report" means a document produced annually which describes the operation and
11 financial condition of a perpetual care fund trust and submitted to the attorney general.

12 (2) "Attorney general" means the attorney general of the state of Rhode Island, including
13 the consumer protection unit.

14 ~~(2)~~(3) "Columbarium" means a structure or room, or other space in a building or structure
15 of durable or lasting fireproof construction, containing niches, used, or intended to be used, to
16 contain cremated human remains.

17 ~~(3)~~(4) "Community mausoleum" means a structure or building of durable or lasting
18 construction, used or intended to be used, for the permanent disposition in crypts or spaces therein
19 of the remains of deceased persons, provided the crypts or spaces and their use are available to or

1 may be obtained by individuals for a price in money or other form of security.

2 ~~(4)~~(5) "Crypt" means the chamber in a mausoleum of sufficient size to contain the remains
3 of a deceased person.

4 (6) "Entities" means town cemeteries, religious or ecclesiastical society cemeteries,
5 cemetery associations, or any person, firm, corporation, or unincorporated association previously
6 or hereafter engaged in the business of conducting a cemetery or operating a community
7 mausoleum or columbarium.

8 ~~(5)~~(7) "Historic cemetery" means any tract of land which has been for more than one
9 hundred (100) years used as a burial place, whether or not marked with an historic marker, including
10 but not limited to, ancient burial places known or suspected to contain the remains of one or more
11 American Indians.

12 ~~(6)~~(8) "Niche" means a recess in a columbarium or other structure, used, or intended to be
13 used, for the permanent disposition of the cremated remains of one or more deceased persons.

14 (9) "Perpetual care" means ongoing and continued maintenance of cemetery grounds,
15 graves, crypts and mausoleums to ensure cleanliness, safety and security.

16 (10) "Perpetual care fund" means a fund consisting of money, investments, stocks, and/or
17 bonds held in a trust for the purpose of perpetual care pursuant to the provisions of this chapter.
18 Perpetual care funds are used for the general maintenance, care and management of the cemetery
19 grounds, monument features, and community mausoleums. Mowing and lawn care, during the
20 growing season, and snow clearing and road treating, during winter months, would fall under
21 perpetual care, as would upkeep of buildings, roads, paths, signage, monument features and record
22 keeping.

23 (11) "Site" means a cemetery, graveyard, or any lot of land holding the remains of
24 individuals for which funds were collected to maintain the natural and manmade features.

25 **23-18-8.1. Perpetual care funds.**

26 (a) All funds paid to or held by an agency for the purpose of funding the perpetual care of
27 cemetery lots, crypts, or niches shall be maintained in a separate perpetual care fund, and shall not
28 be commingled with any other funds of the agency; ~~and~~

29 (b) Not less than twenty percent (20%) of the sale price of a cemetery lot, crypt, or niche
30 sold with perpetual care shall be deposited by the agency in the perpetual care fund.;

31 (c) Perpetual care funds shall be used only for perpetual care;

32 (d) No portion of the perpetual care funds trust or interest or income or income of the
33 perpetual care funds trust may be used directly or indirectly for salaries or other payments to the
34 officers, directors, partners, members, or managers of the entity owning the cemetery; and

1 (e) While monuments legally belong to families of the deceased, who should bear the
2 financial responsibility to maintain them, perpetual care funds may be used for monuments'
3 maintenance, to improve the overall condition of the burial site or to preserve elements of historic
4 significance to the community.

5 **23-18-9. Penalty for violations.**

6 (a) Any person, member of a firm, or any officer or director of a corporation, failing to
7 comply with any of the provisions of this chapter, upon each and every conviction of any of the
8 provisions of this chapter, shall be fined not less than one hundred dollars (\$100) nor more than
9 five hundred dollars (\$500) ~~or by imprisonment for not less than sixty (60) days nor more than six~~
10 ~~(6) months, or by both fine and imprisonment.~~

11 (b) The superior court of this state has jurisdiction to enforce violations of this chapter. The
12 court may issue appropriate decrees, upon consent and stipulation by the parties. The court may
13 also issue restraining orders. Under no circumstances shall the state be required to post bond in any
14 action under this section.

15 (c) The attorney general is authorized to apply to the superior court for an order temporarily
16 or permanently restraining and enjoining any entity from operating in violation of any provision of
17 this chapter. The attorney general may institute proceedings as provided in subsection (b) of this
18 section.

19 (d) Nothing in this chapter shall be construed to nullify or impair any right that a buyer or
20 his or her agent or kin, may have against the entity at common law, by statute, or otherwise. The
21 provisions of this chapter shall not be exclusive and shall not relieve the seller, or their assigns,
22 from compliance with all other applicable provisions of law.

23 SECTION 2. Chapter 23-18 of the General Laws entitled "Cemeteries" is hereby amended
24 by adding thereto the following section:

25 **23-18-8.4. Perpetual care fund report.**

26 (a) The fiscal agent for any person or entity maintaining a perpetual care fund, shall
27 complete an annual report for the previous fiscal year. The report shall follow the guidelines as set
28 forth by the state and shall be shared with the public, when requested.

29 (b) Any family member or individual who has purchased a lot or space in a burial site,
30 elected official, municipal worker, Rhode Island advisory commission on historical cemeteries'
31 representative, local cemetery commission member, and any member of a "friends of cemetery"
32 group concerned about upkeep of a site, may request a copy of an annual report.

33 (c) The report shall include information regarding the perpetual care fund, as directed on
34 the state created form.

- 1 (d) The report shall include:
- 2 (1) The account balance at the start of the fiscal year;
- 3 (2) Income earned by investments in the preceding calendar or fiscal year;
- 4 (3) Income from the sale of burial lots;
- 5 (4) Income from donations to the fund;
- 6 (5) Income from other sources;
- 7 (6) Expenses for maintenance of the site that include a list of what the funds paid for, the
8 amount, and to whom the funds were issued;
- 9 (7) The name and signature of the person preparing the report;
- 10 (8) The position of the person submitting the report concerning the site;
- 11 (9) The name and location of the site for which the report has been generated; and
- 12 (10) The signature of the director, officer or person responsible for the site.
- 13 (e) The report provided, shall be for the previous calendar year, unless another year has
14 been requested.
- 15 (f) A report for any fiscal year may be requested.
- 16 (g) The request for a report should also be submitted to the local representative of the Rhode
17 Island advisory commission on historical cemeteries.
- 18 (h) If the person initiating the request for a report is unable to identify a local representative
19 of the Rhode Island advisory commission on historical cemeteries, the request can be submitted
20 directly to the commission.
- 21 (i) The Rhode Island advisory commission on historical cemeteries shall submit the request
22 to the fund/site owner.
- 23 (j) The site owner shall have thirty (30) business days to email or mail the requested report.
- 24 (k) The Rhode Island advisory commission on historical cemeteries, local municipalities
25 or the attorney general, may request multiple reports each year.
- 26 (l) The report shall be submitted to the person who initiated the report request with a copy
27 to the Rhode Island advisory commission on historical cemeteries.
- 28 (m) The Rhode Island advisory commission on historical cemeteries shall file the report
29 along with their minutes.
- 30 (n) If a report is not submitted by the thirty-first business day of the request, the Rhode
31 Island advisory commission on historical cemeteries may refer the issue to the Rhode Island
32 attorney general's office. A copy of the request including the date requested, the
33 person/organization the request was addressed to and the name of the site and fund holder, shall be
34 provided to the attorney general.

1 (o) The attorney general shall contact the fund holder, as soon as possible, seeking
2 compliance with the request.

3 (p) Failure to submit the requested document to the attorney general within thirty (30)
4 business days, may result in the imposition of a fine of up to five hundred dollars (\$500).

5 (q) The attorney general may extend the deadline for submission of the report. The reason
6 for the extension shall be shared with the individual/organization that filed the request for the report.

7 (r) The attorney general may require, as often as the attorney general deems necessary, that
8 the entity make, under oath, a detailed report of the financial condition and assets of any perpetual
9 endowment care fund trust.

10 **23-18-16. Notification.**

11 (a) Any person purchasing a burial plot, niche, or places of rest for human remains, will be
12 given the information regarding their right to request the annual report of the company/organization
13 holding perpetual care funds, as detailed in § 23-18-8.4.

14 (b) Upon request, owners of existing burial plots, niches, or places of rest for human
15 remains that have perpetual care funds, shall be notified of their right to make their authorized
16 request by the Rhode Island advisory commission on historical cemeteries, a local cemetery
17 commission, and/or a local "friends of cemetery" organization.

18 (c) The Rhode Island Advisory Commission on Historical Cemeteries shall inform all city
19 and town clerks, of this enactment of this act by November 1, 2022.

20 **23-18-17. Severability.**

21 If any provisions of this chapter or any rule or regulation made pursuant to this chapter, or
22 the application of this chapter to any person or circumstances, is held invalid by any court of
23 competent jurisdiction, the remainder of the chapter, rule, or regulation and the application of such
24 provision to other persons or circumstances shall not be affected by that invalidity. The invalidity
25 of any section or sections or parts of any section of this chapter shall not affect the validity of the
26 remainder of the chapter.

27 SECTION 3. This act shall take effect on January 1 2023.

=====
LC003302
=====

EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO HEALTH AND SAFETY -- CEMETERIES

1 This act would prohibit any funds deposited in a perpetual care fund to be used directly or
2 indirectly for salaries or other payments to individuals of the entity owning the cemetery; however
3 the funds may be used for maintenance of monuments, improvement of the burial site or
4 preservation of elements of Historic significance.

5 This act would take effect on January 1, 2023.

=====
LC003302
=====