

Enrolled Senate Bill 30

Sponsored by Senator MONROE (Presession filed.)

CHAPTER

AN ACT

Relating to endowment care cemeteries; amending ORS 97.810.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 97.810 is amended to read:

97.810. (1) As used in this section[,]:

(a) "Endowment care cemetery" means a cemetery that maintains an endowment care fund placed in an irrevocable trust fund.

(b) "Grave liner" means a burial receptacle designed to be installed in a grave, as defined in ORS 97.010, to assist in preventing the ground from collapsing.

(2) An endowment care cemetery shall deposit with the trustee or custodian of its endowment care fund [*not less than*] the following amounts received from the sale of plots, niches, crypts or private mausoleums:

(a) **At least 15** [*fifteen*] percent of the gross sales price with a minimum of \$5 for each grave **sold without a grave liner installed at the time of sale** or, when the gross sales price is paid in installments, **at least 15** percent of each installment until at least 15 percent of the gross sales price has been deposited, with a minimum of \$5 for each grave **sold without a grave liner installed at the time of sale**.

(b) **At least nine percent of the gross sales price for each grave sold with a grave liner installed at the time of sale or, when the gross sales price is paid in installments, at least nine percent of each installment until at least nine percent of the gross sales price has been deposited.**

[(b)] (c) **At least** five percent of the gross sales price for each niche or, when the gross sales price is paid in installments, **at least** five percent of each installment until at least five percent of the gross sales price has been deposited.

[(c)] (d) **At least** five percent of the gross sales price for each crypt or, when the gross sales price is paid in installments, **at least** five percent of each installment until at least five percent of the gross sales price has been deposited.

[(d)] (e) **At least** five percent of the gross sales price for each private mausoleum or, when the gross sales price is paid in installments, **at least** five percent of each installment until at least five percent of the gross sales price has been deposited.

(3) The cemetery authority shall, within 30 days from the receipt of a payment, deposit with the trustee or custodian of its endowment care fund any payment received by the cemetery authority that is:

(a) Required by subsection (2) of this section to be paid into the fund; or

(b) A payment for special care, gifts, grants, contributions, devises or bequests made with respect to the separate or special care of a particular plot, grave, niche, crypt, mausoleum, monument or marker or that of a particular family.

(4) Within 75 days of the end of its fiscal year, each endowment care cemetery, except one owned by a city or a county, shall file with the Director of the Department of Consumer and Business Services a statement containing the following information pertaining to the endowment care fund:

- (a) The total amount invested in bonds, securities, mortgages and other investments;
- (b) The total amount of cash on hand not invested at the close of the previous calendar or fiscal year;
- (c) The income earned by investments in the preceding calendar or fiscal year;
- (d) The amounts of such income expended for maintenance in the preceding calendar or fiscal year;
- (e) The amount paid into the fund in the preceding calendar or fiscal year; and
- (f) Such other items as the director may from time to time require to show accurately the complete financial condition of the trust on the date of the statement.

(5) All of the information appearing on the statement *[shall]* **must** be verified by an owner or officer of the cemetery authority, and **the cemetery authority shall maintain** a copy of the statement *[shall be maintained]* in the business office of the cemetery authority.

(6) The director *[shall have authority to]* **may** require, as often as the director deems necessary, the cemetery authority to make under oath a detailed report of the condition and assets of any cemetery endowment care fund.

(7) At the time of the filing of the statements of its endowment care fund each cemetery authority shall pay to the director an annual fee as follows:

- (a) Up to 100 interments per year, \$40.
- (b) Over 100 interments per year, \$100.

(8) All fees received by the director under this section shall be immediately turned over to the State Treasurer who shall deposit the moneys in the Consumer and Business Services Fund created under ORS 705.145.

(9) A cemetery may not operate as an endowment care, permanent maintenance or free care cemetery until the provisions of this section are complied with. *[There shall be printed or stamped at]*

(10) The head of all contracts and certificates of ownership or deeds referring to plots in an endowment care cemetery[,] **must contain** the following statement: "This cemetery is an endowment care cemetery," in *[lettering equivalent to]* at least 10-point *[No. 2]* black type[, and there shall be printed in the body of or stamped upon the above-described instruments].

(11) **All contracts and certificates of ownership or deeds referring to plots in an endowment care cemetery must contain** the following statement: "Endowment care means the general care and maintenance of all developed portions of the cemetery and memorials erected thereon."

[(10)] (12) A cemetery that otherwise complies with this section may be designated an endowment care cemetery even though it contains a small area that may be sold without endowed care, if it is separately set off from the remainder of the cemetery. *[There shall be printed or stamped at]* The head of all contracts and certificates of ownership or deeds referring to plots in this area **must contain** the phrase "nonendowed care" in *[lettering equivalent to]* at least 10-point *[No. 2]* black type.

[(11)] (13) A nonendowed care cemetery is a cemetery that does not deposit in an endowment care fund the minimum **amounts** specified in subsection *[(1)]* (2) of this section.

[(12)] (14) A cemetery authority may not in any way advertise or represent that it operates wholly or partially as an endowment care cemetery, or otherwise advertise or represent that it provides general care or maintenance of all or portions of the cemetery or memorials erected thereon, unless the provisions of this section are complied with.

Passed by Senate March 8, 2011

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Robert Taylor, Secretary of Senate

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Peter Courtney, President of Senate

Passed by House May 17, 2011

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Bruce Hanna, Speaker of House

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Arnie Roblan, Speaker of House

Received by Governor:

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Approved:

.....M,....., 2011

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John Kitzhaber, Governor

Filed in Office of Secretary of State:

.....M,....., 2011

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Kate Brown, Secretary of State