

SECOND REGULAR SESSION

HOUSE BILL NO. 2696

101ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE WEST.

5576H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal section 214.270, RSMo, and to enact in lieu thereof one new section relating to human and pet cemeteries.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Section 214.270, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 214.270, to read as follows:

214.270. As used in sections 214.270 to 214.410, the following terms mean:

- (1) "Agent" or "authorized agent", any person empowered by the cemetery operator to represent the operator in dealing with the general public, including owners of the burial space in the cemetery;
- (2) "Burial merchandise", a monument, marker, memorial, tombstone, headstone, urn, outer burial container, or similar article ~~[which]~~ **that** may contain specific lettering, shape, color, or design as specified by the purchaser;
- (3) "Burial space", one or more than one plot, grave, mausoleum, crypt, lawn, surface lawn crypt, niche, or space used or intended for the interment of the human dead;
- (4) "Cemetery", property restricted in use for the interment of the human dead by formal dedication or reservation by deed but shall not include any of the foregoing held or operated by the state or federal government or any political subdivision thereof, any incorporated city or town, any county, or any religious organization, cemetery association, or fraternal society holding the same for sale solely to members and their immediate families;
- (5) "Cemetery association", any number of persons who shall have associated themselves by articles of agreement in writing as a not-for-profit association or organization, whether incorporated or unincorporated, formed for the purpose of ownership, preservation,

EXPLANATION — Matter enclosed in bold-faced brackets ~~[thus]~~ in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

18 care, maintenance, adornment, and administration of a cemetery. Cemetery associations shall
19 be governed by a board of directors. Directors shall serve without compensation;

20 (6) "Cemetery operator" or "operator", any person who owns, controls, operates, or
21 manages a cemetery;

22 (7) "Cemetery prearranged contract", any contract with a cemetery or cemetery
23 operator for burial merchandise or burial services covered by sections 214.270 to 214.410
24 ~~[which]~~ **that** is entered into before the death of the individual for whom the burial
25 merchandise or burial services are intended;

26 (8) "Cemetery service" or "burial service", those services performed by a cemetery
27 owner or operator licensed as an endowed care or nonendowed cemetery including setting a
28 monument or marker, setting a tent, excavating a grave, interment, entombment, inurnment,
29 setting a vault, or other related services within the cemetery;

30 (9) "Columbarium", a building or structure for the inurnment of cremated human
31 remains;

32 (10) "Community mausoleum", a mausoleum containing a substantial area of
33 enclosed space and having either a heating, ventilating, or air conditioning system;

34 (11) "Department", department of commerce and insurance;

35 (12) "Developed acreage", the area ~~[which]~~ **that** has been platted into grave spaces
36 and has been developed with roads, paths, features, or ornamentations and in which burials
37 can be made;

38 (13) "Director", director of the division of professional registration;

39 (14) "Division", division of professional registration;

40 (15) "Endowed care", the maintenance, repair, and care of all burial space subject to
41 the endowment within a cemetery, including any improvements made for the benefit of such
42 burial space. Endowed care shall include the general overhead expenses needed to
43 accomplish such maintenance, repair, care, and improvements. Endowed care shall include
44 the terms perpetual care, permanent care, continual care, eternal care, care of duration, or any
45 like term;

46 (16) "Endowed care cemetery", a cemetery, or a section of a cemetery, ~~[which]~~ **that**
47 represents itself as offering endowed care and ~~[which]~~ **that** complies with the provisions of
48 sections 214.270 to 214.410;

49 (17) "Endowed care fund", "endowed care trust", or "trust", any cash or cash
50 equivalent, to include any income therefrom, impressed with a trust by the terms of any gift,
51 grant, contribution, payment, devise, or bequest to an endowed care cemetery, or its endowed
52 care trust, or funds to be delivered to an endowed care cemetery's trust received pursuant to a
53 contract and accepted by any endowed care cemetery operator or ~~[his]~~ **the operator's** agent.

54 This definition includes the terms endowed care funds, maintenance funds, memorial care
55 funds, perpetual care funds, or any like term;

56 (18) "Escrow account", an account established in lieu of an endowed care fund as
57 provided under section 214.330 or an account used to hold deposits under section 214.387;

58 (19) "Escrow agent", an attorney, title company, certified public accountant, or other
59 person authorized by the division to exercise escrow powers under the laws of this state;

60 (20) "Escrow agreement", an agreement subject to approval by the office between an
61 escrow agent and a cemetery operator or its agent or related party with common ownership[-]
62 to receive and administer payments under cemetery prearranged contracts sold by the
63 cemetery operator;

64 (21) "Family burial ground", a cemetery in which no burial space is sold to the public
65 and in which interments are restricted to persons related by blood or marriage;

66 (22) "Fraternal cemetery", a cemetery owned, operated, controlled, or managed by
67 any fraternal organization or auxiliary organizations thereof, in which the sale of burial space
68 is restricted solely to its members and their immediate families;

69 (23) "Garden mausoleum", a mausoleum without a substantial area of enclosed space
70 and having its crypt and niche fronts open to the atmosphere. Ventilation of the crypts by
71 forced air or otherwise does not constitute a garden mausoleum as a community mausoleum;

72 (24) "Government cemetery", or "municipal cemetery", a cemetery owned, operated,
73 controlled, or managed by the federal government, the state, or a political subdivision of the
74 state, including a county or municipality or instrumentality thereof;

75 (25) "Grave" or "plot", a place of ground in a cemetery, used or intended to be used
76 for burial of human remains;

77 (26) **"Human and pet cemetery", a tract of real estate separate from a cemetery**
78 **in which both human remains and the remains of creatures other than human may be**
79 **interred and memorialized at the discretion of the lot holder and subject to the rules of**
80 **the human and pet cemetery. Burial space in a human and pet cemetery shall have the**
81 **same meaning as defined in this section but be applicable to pets as well as human dead.**
82 **A human and pet cemetery shall be treated as a cemetery under sections 214.270 to**
83 **214.410 for purposes of licensing and endowed care;**

84 (27) "Human remains", the body of a deceased person in any state of decomposition,
85 as well as cremated remains;

86 ~~[(27)]~~ (28) "Inurnment", placing an urn containing cremated remains in a burial
87 space;

88 ~~[(28)]~~ (29) "Lawn crypt", a burial vault or other permanent container for a casket
89 ~~[which]~~ **that** is permanently installed below ground prior to the time of the actual interment.
90 A lawn crypt may permit single or multiple interments in a grave space;

91 ~~[(29)]~~ **(30)** "Mausoleum", a structure or building for the entombment of human
92 remains in crypts;

93 ~~[(30)]~~ **(31)** "Niche", a space in a columbarium used or intended to be used for
94 inurnment of cremated remains;

95 ~~[(31)]~~ **(32)** "Nonendowed care cemetery", or "nonendowed cemetery", a cemetery or
96 a section of a cemetery for which no endowed care trust fund has been established in
97 accordance with sections 214.270 to 214.410;

98 ~~[(32)]~~ **(33)** "Office", the office of endowed care cemeteries within the division of
99 professional registration;

100 ~~[(33)]~~ **(34)** "Owner of burial space", a person to whom the cemetery operator or ~~[his]~~
101 **the operator's** authorized agent has transferred the right of use of burial space;

102 ~~[(34)]~~ **(35)** "Person", an individual, corporation, partnership, joint venture,
103 association, trust, or any other legal entity;

104 ~~[(35)]~~ **(36)** "Registry", the list of cemeteries maintained in the division office for
105 public review. The division may charge a fee for copies of the registry;

106 ~~[(36)]~~ **(37)** "Religious cemetery", a cemetery owned, operated, controlled, or
107 managed by any church, convention of churches, religious order, or affiliated auxiliary
108 thereof in which the sale of burial space is restricted solely to its members and their
109 immediate families;

110 ~~[(37)]~~ **(38)** "Surface lawn crypt", a sealed burial chamber whose lid protrudes above
111 the land surface;

112 ~~[(38)]~~ **(39)** "Total acreage", the entire tract ~~[which]~~ **that** is dedicated to or reserved for
113 cemetery purposes;

114 ~~[(39)]~~ **(40)** "Trustee of an endowed care fund", the separate legal entity qualified
115 under section 214.330 appointed as trustee of an endowed care fund.

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