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LC02025  
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**STATE OF RHODE ISLAND**

**IN GENERAL ASSEMBLY**

**JANUARY SESSION, A.D. 2003**

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A N A C T

RELATING TO HEALTH AND SAFETY -- CEMETERIES

Introduced By: Representative Brian G. Coogan

Date Introduced: February 12, 2003

Referred To: House Corporations

It is enacted by the General Assembly as follows:

1           SECTION 1. Sections 23-18-1, 23-18-8.2 and 23-18-8.3 of the General Laws in Chapter  
2 23-18 entitled "Cemeteries" are hereby amended to read as follows:

3           **23-18-1. Definitions.** -- The following terms used in this chapter, unless the context  
4 indicates otherwise, have the following meanings:

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

9           (2) "Columbarium" means a structure or room, or other space in a building or structure  
10 of durable or lasting fireproof construction, containing niches, used, or intended to be used, to  
11 contain cremated human remains.

12           (3) "Community mausoleum" means a structure or building of durable or lasting  
13 construction, used or intended to be used, for the permanent disposition in crypts or spaces  
14 therein of the remains of deceased persons, provided the crypts or spaces and their use are  
15 available to or may be obtained by individuals for a price in money or other form of security.

16           (4) "Crypt" means the chamber in a mausoleum of sufficient size to contain the remains  
17 of a deceased person.

18           (5) "Historic cemetery" means any tract of land which has been for more than one  
19 hundred (100) years used as a burial place, whether or not marked with an historic marker,

1 including but not limited to, ancient burial places known or suspected to contain the remains of  
2 one or more American Indians.

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

5 (7) "Cemetery" means land used or to be used for burial of human remains, conducted by  
6 an incorporated, unincorporated, religious or secular memorial park or memorial garden and may  
7 include a structure used or to be used for burial and a structure used or to be used for cremation.

8 (8) "Engage in the operation of a cemetery" means owning, controlling, leasing,  
9 maintaining or operating a facility management agreement for a cemetery, including performing  
10 activities for:

11 (a) the establishment or improvement of a cemetery;

12 (b) performing interments/entombments; and

13 (c) the care, preservation, or embellishment of a cemetery.

14 (9) "Burial" means all final disposition of human remains, including:

15 (a) earth burial;

16 (b) mausoleum entombment; and

17 (c) niche or columbarium.

18 (10) "Ownership" means the right of burial of human remains.

19 (11) "Interment" and "entombment" means all final disposition of human remains,

20 including:

21 (a) earth burial;

22 (b) mausoleum entombment; and

23 (c) niche or columbarium interment.

24 (12) "Burial goods business" means a business that provides burial goods.

25 (13) "Provide burial goods" means:

26 (a) to sell, erect, install or inscribe burial monuments; or

27 (b) sell grave lines, or any other cemetery products, excluding caskets, vaults, and urns.

28 (14) "Crematory" means a structure and facility for the purpose of cremating human  
29 remains and meeting the health code requirements and approval of state and local ordinances and  
30 permits.

31 (15) "Developed land area" means land in a cemetery:

32 (a) that is available for burial;

33 (b) where roads, paths, or buildings have been laid out or built; or

34 (c) where burial lots have been outlined on a plat or in a record or sales brochure.

1           **23-18-8.2. Additional deposits. --** If at any time after a cemetery lot, crypt, or niche has  
2 been sold an agency receives additional funds from any source ~~for~~ that has been referenced or  
3 implied as perpetual care of the a lot, crypt, or niche, all of the funds collected one hundred  
4 percent (100%) of the amount referenced or referred to as perpetual care shall be deposited in the  
5 perpetual care fund.

6           **23-18-8.3. Maintenance of perpetual care funds. --** All funds paid to or held by the  
7 agency are placed in a restricted fund whereas: (a) The corpus or principal of perpetual care funds  
8 shall be maintained intact, and shall not be expended to pay for perpetual care or any other  
9 expenses, but the income and other earnings on the corpus or principal of perpetual care funds  
10 thereon may be so expended.

11           (b) the agency may borrow from the perpetual care fund, based on current commercial  
12 loan market rates, for the construction and development of a community mausoleum, crematory  
13 or columbarium.

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

16           **23-18-15. Ownership of lot or crypt. --** The ownership of a lot or crypt sold or conveyed  
17 in a cemetery shall be held by the owner only for the purpose of burial of human remains:

18           (a) the interest of an owner of burial lot or crypt that is held for the burial of the owner or  
19 others and not held as an investment is not:

- 20           (i) considered property;
- 21           (ii) subject for attachment or execution for debt;
- 22           (iii) subject to the solvency laws of the state;
- 23           (iv) to be inventoried to the estate of the owner; or
- 24           (v) subject to inheritance taxes.

25           (b) One who holds ownership in a cemetery is subject to the rules and regulations of the  
26 cemetery and to the terms of any contract made with the cemetery.

27           SECTION 3. Title 23 of the General Laws entitled "Health and Safety" is hereby  
28 amended by adding thereto the following chapter:

29                                 CHAPTER 18.17

30   PRE-NEED BURIAL CONTRACTS

31           **23-18.17-1. Definitions. (1)** "Burial space" means land or space in a structure used or to  
32 be used for disposition of human remains.

- 33           (2) "Burial means all final disposition of human remains, including:
- 34           (a) earth burial;

- 1           (b) mausoleum entombment; and
- 2           (c) niche or columbarium.
- 3           (3) "Buyer" means a person who buys pre-need goods or pre-need services.
- 4           (4) "Pre-need burial contract" means a written instrument under which pre-need goods or
- 5 pre-need services are to be sold and delivered or performed.
- 6           (5) "Pre-need goods" means goods that are sold:
- 7           (a) before the buyers death; and
- 8           (b) in connection with a burial.
- 9           (6) "Pre-need goods" includes:
- 10           (a) a grave liner or grave box; a vault or casket is not considered goods of a cemetery and
- 11 therefore prohibited from sale;
- 12           (b) a memorial;
- 13           (c) a monument;
- 14           (d) a scroll;
- 15           (e) a vase.
- 16           (7) "Pre-need goods" does not include a burial space.
- 17           (8) "Pre-need services" means services that are sold:
- 18           (a) before the buyer's death; and
- 19           (b) in connection with a burial.
- 20           (9) "Pre-need services" include:
- 21           (a) opening and closing a grave;
- 22           (b) monument or memorial installation.
- 23           (10) "Specific funds" mean money that is identified to a specific pre-need burial contract.
- 24           (11) "Merchandise account" means a pre-need escrow or trust account with:
- 25           (a) a banking institution that is insured by an agency of the federal government; or
- 26           (b) a savings and loan association that is insured by an agency of the federal government.
- 27           **23-18.17-2. Provisions of contract.** -- A pre-need contract may provide for delivery of
- 28 identified pre-need goods by providing for the seller to:
- 29           (1) transfer physical possession of the pre-need goods to the buyer or designee of the
- 30 buyer;
- 31           (2) attach the pre-need goods to a designated burial space or burial structure;
- 32           (3) pay for and suitable store the pre-need goods until needed, at a cemetery or other
- 33 location of the sell, if;
- 34           (a) the pre-need goods are marked with the name of the buyer and the sale is supported

1 by a verifiable record; and

2 (b) title has been transferred to the buyer or designee of the buyer; or

3 (c) have the supplier of the pre-need goods:

4 (i) cause title to be transferred to the buyer or designee of the buyer; and

5 (ii) agree in writing to ship the pre-need goods at the direction of the buyer or designee of  
6 the buyer.

7 (4) Except as otherwise provided, a pre-need burial contract may not provide for interest  
8 or finance charge on any goods or services which cannot be delivered until the time of death;

9 (5) A cemetery that makes a pre-need burial contract may impose interest or a finance  
10 charge on pre-need goods delivered before death or pre-need services performed before death;

11 (6) A cemetery may sell a pre-need burial contract to a commercial lending institution of  
12 the pre-need burial contract signed by the original buyer of the pre-need goods or pre-need  
13 services contains the following language in 12 point or larger type.

14 "Notice to consumers: This contract of sale may be sold to a commercial lending  
15 institution. After the sale, the commercial lending institution may impose interest or a finance  
16 charge on the remaining balance due."

17 **23-18.17-3. Delivery and provision of merchandise and services.** -- (a) A seller has  
18 one hundred twenty (120) days after the contract has been paid in full to deliver the merchandise  
19 or provide the services.

20 (c) If the seller cannot deliver the merchandise or provide the service within one hundred  
21 twenty (120) days after the contract has been paid in full, the seller must:

22 (1) place in the "merchandise account" one hundred percent (100%) of the wholesale cost  
23 of goods for undelivered merchandise; and

24 (2) fifty percent (50%) of the payment that is for pre-need services.

25 (c) This section does not apply to:

26 (1) a pre-need burial contract under which all pre-need goods and pre-need services are  
27 delivered or performed within sixty (60) days after the contract is paid in full; or

28 (2) money that a seller receives for pre-need goods and pre-need services to be delivered  
29 or performed within sixty (60) days after receipt of any payment on account of the sale, if the  
30 buyer's obligation for these goods or pre-need services is separately itemized.

31 **23-18.17-4. Cancellation.** -- (a) A buyer may cancel a pre-need burial contract as to pre-  
32 need goods not delivered or pre-need services not performed if the buyer:

33 (1) permanently moves more than twenty-five (25) miles from the cemetery specified in  
34 the pre-need burial contract; and

1           (2) gives to the seller written notice, under oath of the move and includes the buyer's new  
2 permanent address.

3           (3) In that event:

4           (1) the seller shall certify the cancellation of the pre-need burial contract and pay to the  
5 buyer one hundred percent (100%) of the amount that has been paid for those goods and services  
6 which have not been delivered or rendered less a reasonable administrative cost.

7           **23-18.17-5. Default.** -- If a buyer defaults on a pre-need burial contract and as a result,  
8 the seller terminates the pre-need burial contract:

9           (1) the seller shall certify this to the merchandise account by recording:

10           (i) the default and termination of the pre-need burial contract;

11           (ii) the amount of the specific funds; and

12           (iii) the reasonable expenses of the seller.

13           (2) the fund shall then pay:

14           (i) to the buyer, those specific funds less the reasonable expenses of the seller; and

15           (ii) the seller, the reasonable expenses of the seller.

16           **23-18.17-6. Records and disclosure.** -- (a) Each seller shall keep detailed records of all  
17 pre-need contracts and specific funds for the purpose of maintaining.

18           (b) A seller of a pre-need burial contract shall provide each buyer or prospective buyer  
19 with a general price list or the buyer or prospective buyer to keep which shall include:

20           (1) specific prices for:

21           (i) ground opening and closing;

22           (ii) extra depth interment;

23           (iii) interment of cremated remains;

24           (iv) mausoleum entombment;

25           (v) special prices or additional charges; and

26           (3) general priced ranges for:

27           (i) burial space;

28           (ii) mausoleums;

29           (iii) memorializations;

30           (iv) memorial;

31           (v) early and late care, other than perpetual care.

32           (c) If the at-need prices for goods and services offered by a seller differ from the pre-need  
33 prices offered by that seller, the general price list shall provide a side-by-side comparison  
34 between the at-need and pre-need prices.

1           (d) A seller of pre-need burial contract shall disclose to the buyer all goods and services  
2 that are required at the time of need that are not included in the pre-need burial contract.

3           **23-18.17-7. Cancellation.** -- The buyer's cancellation and refund rights under this  
4 section:

5           (a) The person responsible for installation of the goods sold and any warranties for the  
6 goods sold; and

7           (b) If the pre-need contract provides for goods or services to be delivered or performed  
8 before death:

9           (i) That interest or finance charges will be imposed;

10           (ii) That interest or finance charges are not allowed on other pre-need burial contracts  
11 that do not provide for goods or services to be delivered or performed before death;

12           (iii) The manner of delivery of goods including where the goods are stored; and

13           (iv) The buyers remedy if delivered goods are damaged or destroyed.(iv) The buyers  
14 remedy if delivered goods are damaged or destroyed.

15           SECTION 4. Section 5-33.2-1 of the General Laws in Chapter 5-33.2 entitled "Funeral  
16 Director/Embalmer Funeral Service Establishments" is hereby amended to read as follows:

17           **5-33.2-1. Definitions.** -- (a) "Board" means the state board of funeral  
18 directors/embalmers.

19           (b) "Cremation" means a two (2) part procedure where a dead human body or body parts  
20 are reduced by direct flames to residue which includes bone fragments and the pulverization of  
21 the bone fragments to a coarse powdery consistency.

22           (c) "Department" means the Rhode Island department of health.

23           (d) "Division" means the division of professional regulation created under chapter 26 of  
24 this title.

25           (e) "Embalmer" means any person who has completed an internship, full course of study  
26 at an accredited mortuary science school, has passed the national board examination and is  
27 engaged in the practice or profession of embalming, as defined in this section.

28           (f) "Embalming" means the practice, science or profession of preserving, disinfecting,  
29 and preparing in any manner, dead human bodies for burial, cremation or transportation.

30           (g) "Funeral" means a period following death in which there are religious services or  
31 other rites or ceremonies with the body of the deceased present.

32           (h) (1) "Funeral directing" means:

33           (i) Conducting funeral services; or

34           (ii) The arrangement for disposition of dead human bodies, except in the case of any

1 religion where the preparation of the body or the provision of funeral services should be done  
2 according to religious custom or belief.

3 (2) Only funeral directors/embalmers, working for a licensed funeral establishment are  
4 allowed to meet with families for the purpose of arranging funerals. Provided, that any person  
5 who assumed an ownership interest from their spouse or any widow or widower of a licensed  
6 funeral director who at the time of November 1, 1995 has been meeting with families to arrange  
7 for the conducting of funeral services are allowed to continue this practice.

8 (i) "Funeral director/embalmer" means any person engaged, or holding himself or herself  
9 out as engaged in the practice, or profession of funeral directing, and the science, practice or  
10 profession of embalming as previously defined, including a funeral director of record, who may  
11 be a funeral director at more than one establishment or any other word or title intending to imply  
12 or designate him or her as a funeral director/embalmer, undertaker, or mortician. The holder of  
13 this license must be the holder of an embalmer's license.

14 (j) "Funeral director/embalmer intern" means any person engaged in learning the  
15 practice, or profession of funeral directing and the science, practice or profession of embalming  
16 under the instruction and supervision of a funeral director/embalmer licensed and registered under  
17 the provisions of this chapter and actively engaged in the practice, or profession of funeral  
18 directing and embalming in this state.

19 (k) "Funeral establishment" means a fixed place, establishment or premises, licensed by  
20 the department, devoted to the activities which are incident, convenient, or related to the care and  
21 preparation, arrangement, financial and otherwise, for the funeral, transportation, burial or other  
22 disposition of human dead bodies and including, but not limited to, a suitable room with all  
23 instruments and supplies used for the storage and/or preparation of dead human bodies for burial  
24 or other disposition.

25 (l) "Funeral merchandise" means those items which are normally presented for sale as  
26 part of the funeral home operation ~~on a for-profit basis~~. These items include caskets, sealed  
27 warranted outer burial containers, and burial clothing. Not included are urns, grave markers, and  
28 non-sealed outer burial containers. All persons engaged in the sale of funeral merchandise must  
29 comply with the provisions of chapter 33 of this title.

30 (m) "Person" includes individuals, partnership, corporations, limited liability companies,  
31 associations and organization of all kinds.

32 (n) "Practice of funeral service" means a person engaging in providing shelter, care and  
33 custody of human dead remains; in the practice of preparing of the human dead remains by  
34 embalming or other methods for burial or other disposition; in entering into a funeral service



1 contract; engaging in the functions of funeral directing and/or embalming as presently known  
2 including those stipulated within this chapter and as defined in the federal trade commission  
3 "funeral rule". The practice of conducting funeral services is conducted in the presence of a  
4 licensed funeral director/embalmer.

5 SECTION 5. This act shall take effect upon passage.

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

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- 1           This act would regulate pre-need burial contracts and provide for other regulations of the
- 2 funeral industry.
- 3           This act would take effect upon passage.

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