

FIRST REGULAR SESSION

HOUSE BILL NO. 1111

100TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE VEIT.

2167H.02I

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal sections 193.265, 208.010, 214.010, 214.020, 214.030, 214.035, 214.040, 214.131, 214.132, 214.160, 214.170, 214.205, 214.208, 214.209, 214.260, 214.270, 214.275, 214.276, 214.277, 214.280, 214.282, 214.283, 214.300, 214.310, 214.320, 214.325, 214.330, 214.335, 214.340, 214.345, 214.360, 214.363, 214.365, 214.367, 214.370, 214.380, 214.385, 214.387, 214.389, 214.390, 214.392, 214.400, 214.410, 214.504, 214.508, 214.512, 214.516, 324.010, 324.022, and 436.410, RSMo, and to enact in lieu thereof twenty-one new sections relating to cemeteries, with penalty provisions.

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

Section A. Sections 193.265, 208.010, 214.010, 214.020, 214.030, 214.035, 214.040, 214.131, 214.132, 214.160, 214.170, 214.205, 214.208, 214.209, 214.260, 214.270, 214.275, 214.276, 214.277, 214.280, 214.282, 214.283, 214.300, 214.310, 214.320, 214.325, 214.330, 214.335, 214.340, 214.345, 214.360, 214.363, 214.365, 214.367, 214.370, 214.380, 214.385, 214.387, 214.389, 214.390, 214.392, 214.400, 214.410, 214.504, 214.508, 214.512, 214.516, 324.010, 324.022, and 436.410, RSMo, are repealed and twenty-one new sections enacted in lieu thereof, to be known as sections 193.265, 208.010, 214.010, 214.015, 214.020, 214.030, 214.035, 214.040, 214.131, 214.132, 214.160, 214.170, 214.205, 214.208, 214.209, 214.260, 214.504, 214.508, 214.516, 324.010, and 324.022, to read as follows:

193.265. 1. For the issuance of a certification or copy of a death record, the applicant shall pay a fee of thirteen dollars for the first certification or copy and a fee of ten dollars for each additional copy ordered at that time. For the issuance of a certification or copy of a birth, marriage, divorce, or fetal death record, the applicant shall pay a fee of fifteen dollars. No fee shall be required or collected for a certification of birth, death, or marriage if the request for

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.

6 certification is made by the children's division, the division of youth services, a guardian ad
7 litem, or a juvenile officer on behalf of a child or person under twenty-one years of age who has
8 come under the jurisdiction of the juvenile court under section 211.031. All fees shall be
9 deposited to the state department of revenue. Beginning August 28, 2004, for each vital records
10 fee collected, the director of revenue shall credit four dollars to the general revenue fund, five
11 dollars to the children's trust fund, one dollar shall be credited to the endowed care cemetery
12 audit fund, and three dollars for the first copy of death records and five dollars for birth,
13 marriage, divorce, and fetal death records shall be credited to the Missouri public services health
14 fund established in section 192.900. Money in the endowed care cemetery audit fund shall be
15 available by appropriation to the division of professional registration to pay its expenses in
16 administering [~~sections 214.270 to 214.410~~] **section 214.015**. All interest earned on money
17 deposited in the endowed care cemetery audit fund shall be credited to the endowed care
18 cemetery fund. Notwithstanding the provisions of section 33.080 to the contrary, money placed
19 in the endowed care cemetery audit fund shall not be transferred and placed to the credit of
20 general revenue until the amount in the fund at the end of the biennium exceeds three times the
21 amount of the appropriation from the endowed care cemetery audit fund for the preceding fiscal
22 year. The money deposited in the public health services fund under this section shall be
23 deposited in a separate account in the fund, and moneys in such account, upon appropriation,
24 shall be used to automate and improve the state vital records system, and develop and maintain
25 an electronic birth and death registration system. For any search of the files and records, when
26 no record is found, the state shall be entitled to a fee equal to the amount for a certification of
27 a vital record for a five-year search to be paid by the applicant. For the processing of each
28 legitimation, adoption, court order or recording after the registrant's twelfth birthday, the state
29 shall be entitled to a fee equal to the amount for a certification of a vital record. Except
30 whenever a certified copy or copies of a vital record is required to perfect any claim of any
31 person on relief, or any dependent of any person who was on relief for any claim upon the
32 government of the state or United States, the state registrar shall, upon request, furnish a certified
33 copy or so many certified copies as are necessary, without any fee or compensation therefor.

34 2. For the issuance of a certification of a death record by the local registrar, the applicant
35 shall pay a fee of thirteen dollars for the first certification or copy and a fee of ten dollars for each
36 additional copy ordered at that time. For the issuance of a certification or copy of a birth,
37 marriage, divorce, or fetal death record, the applicant shall pay a fee of fifteen dollars; except
38 that, in any county with a charter form of government and with more than six hundred thousand
39 but fewer than seven hundred thousand inhabitants, a donation of one dollar may be collected
40 by the local registrar over and above any fees required by law when a certification or copy of any
41 marriage license or birth certificate is provided, with such donations collected to be forwarded

42 monthly by the local registrar to the county treasurer of such county and the donations so
43 forwarded to be deposited by the county treasurer into the housing resource commission fund to
44 assist homeless families and provide financial assistance to organizations addressing
45 homelessness in such county. The local registrar shall include a check-off box on the application
46 form for such copies. All fees, other than the donations collected in any county with a charter
47 form of government and with more than six hundred thousand but fewer than seven hundred
48 thousand inhabitants for marriage licenses and birth certificates, shall be deposited to the official
49 city or county health agency. A certified copy of a death record by the local registrar can only
50 be issued within twenty-four hours of receipt of the record by the local registrar.
51 Computer-generated certifications of death records may be issued by the local registrar after
52 twenty-four hours of receipt of the records. The fees paid to the official county health agency
53 shall be retained by the local agency for local public health purposes.

208.010. 1. In determining the eligibility of a claimant for public assistance pursuant
2 to this law, it shall be the duty of the family support division to consider and take into account
3 all facts and circumstances surrounding the claimant, including his or her living conditions,
4 earning capacity, income and resources, from whatever source received, and if from all the facts
5 and circumstances the claimant is not found to be in need, assistance shall be denied. In
6 determining the need of a claimant, the costs of providing medical treatment which may be
7 furnished pursuant to sections 208.151 to 208.158 shall be disregarded. The amount of benefits,
8 when added to all other income, resources, support, and maintenance shall provide such persons
9 with reasonable subsistence compatible with decency and health in accordance with the standards
10 developed by the family support division; provided, when a husband and wife are living together,
11 the combined income and resources of both shall be considered in determining the eligibility of
12 either or both. "Living together" for the purpose of this chapter is defined as including a husband
13 and wife separated for the purpose of obtaining medical care or nursing home care, except that
14 the income of a husband or wife separated for such purpose shall be considered in determining
15 the eligibility of his or her spouse, only to the extent that such income exceeds the amount
16 necessary to meet the needs (as defined by rule or regulation of the division) of such husband or
17 wife living separately. In determining the need of a claimant in federally aided programs there
18 shall be disregarded such amounts per month of earned income in making such determination
19 as shall be required for federal participation by the provisions of the federal Social Security Act
20 (42 U.S.C.A. Section 301, et seq.), or any amendments thereto. When federal law or regulations
21 require the exemption of other income or resources, the family support division may provide by
22 rule or regulation the amount of income or resources to be disregarded.

23 2. Benefits shall not be payable to any claimant who:

24 (1) Has or whose spouse with whom he or she is living has, prior to July 1, 1989, given
25 away or sold a resource within the time and in the manner specified in this subdivision. In
26 determining the resources of an individual, unless prohibited by federal statutes or regulations,
27 there shall be included (but subject to the exclusions pursuant to subdivisions (4) and (5) of this
28 subsection, and subsection 5 of this section) any resource or interest therein owned by such
29 individual or spouse within the twenty-four months preceding the initial investigation, or at any
30 time during which benefits are being drawn, if such individual or spouse gave away or sold such
31 resource or interest within such period of time at less than fair market value of such resource or
32 interest for the purpose of establishing eligibility for benefits, including but not limited to
33 benefits based on December, 1973, eligibility requirements, as follows:

34 (a) Any transaction described in this subdivision shall be presumed to have been for the
35 purpose of establishing eligibility for benefits or assistance pursuant to this chapter unless such
36 individual furnishes convincing evidence to establish that the transaction was exclusively for
37 some other purpose;

38 (b) The resource shall be considered in determining eligibility from the date of the
39 transfer for the number of months the uncompensated value of the disposed of resource is
40 divisible by the average monthly grant paid or average Medicaid payment in the state at the time
41 of the investigation to an individual or on his or her behalf under the program for which benefits
42 are claimed, provided that:

43 a. When the uncompensated value is twelve thousand dollars or less, the resource shall
44 not be used in determining eligibility for more than twenty-four months; or

45 b. When the uncompensated value exceeds twelve thousand dollars, the resource shall
46 not be used in determining eligibility for more than sixty months;

47 (2) The provisions of subdivision (1) of this subsection shall not apply to a transfer, other
48 than a transfer to claimant's spouse, made prior to March 26, 1981, when the claimant furnishes
49 convincing evidence that the uncompensated value of the disposed of resource or any part thereof
50 is no longer possessed or owned by the person to whom the resource was transferred;

51 (3) Has received, or whose spouse with whom he or she is living has received, benefits
52 to which he or she was not entitled through misrepresentation or nondisclosure of material facts
53 or failure to report any change in status or correct information with respect to property or income
54 as required by section 208.210. A claimant ineligible pursuant to this subsection shall be
55 ineligible for such period of time from the date of discovery as the family support division may
56 deem proper; or in the case of overpayment of benefits, future benefits may be decreased,
57 suspended or entirely withdrawn for such period of time as the division may deem proper;

58 (4) Owns or possesses resources in the sum of one thousand dollars or more; provided,
59 however, that if such person is married and living with spouse, he or she, or they, individually

60 or jointly, may own resources not to exceed two thousand dollars; and provided further, that in
61 the case of a temporary assistance for needy families claimant, a MO HealthNet blind claimant,
62 a MO HealthNet aged claimant, or a MO HealthNet permanent and total disability claimant, the
63 provision of this subsection shall not apply;

64 (5) Prior to October 1, 1989, owns or possesses property of any kind or character,
65 excluding amounts placed in an irrevocable prearranged funeral or burial contract under chapter
66 436, or has an interest in property, of which he or she is the record or beneficial owner, the value
67 of such property, as determined by the family support division, less encumbrances of record,
68 exceeds twenty-nine thousand dollars, or if married and actually living together with husband
69 or wife, if the value of his or her property, or the value of his or her interest in property, together
70 with that of such husband and wife, exceeds such amount;

71 (6) In the case of temporary assistance for needy families, if the parent, stepparent, and
72 child or children in the home owns or possesses property of any kind or character, or has an
73 interest in property for which he or she is a record or beneficial owner, the value of such
74 property, as determined by the family support division and as allowed by federal law or
75 regulation, less encumbrances of record, exceeds one thousand dollars, excluding the home
76 occupied by the claimant, amounts placed in an irrevocable prearranged funeral or burial contract
77 under chapter 436, one automobile which shall not exceed a value set forth by federal law or
78 regulation and for a period not to exceed six months, such other real property which the family
79 is making a good-faith effort to sell, if the family agrees in writing with the family support
80 division to sell such property and from the net proceeds of the sale repay the amount of
81 assistance received during such period. If the property has not been sold within six months, or
82 if eligibility terminates for any other reason, the entire amount of assistance paid during such
83 period shall be a debt due the state;

84 (7) In the case of MO HealthNet blind claimants, MO HealthNet aged claimants, and
85 MO HealthNet permanent and total disability claimants, starting in fiscal year 2018, owns or
86 possesses resources not to exceed two thousand dollars; provided, however, that if such person
87 is married and living with spouse, he or she, or they, individually or jointly, may own resources
88 not to exceed four thousand dollars except for medical savings accounts and independent living
89 accounts as defined and limited under subsection 3 of section 208.146. These resource limits
90 shall be increased annually by one thousand dollars and two thousand dollars respectively until
91 the sum of resources reach the amount of five thousand dollars and ten thousand dollars
92 respectively by fiscal year 2021. Beginning in fiscal year 2022 and each successive fiscal year
93 thereafter, the division shall measure the cost-of-living percentage increase, if any, as of the
94 preceding July over the level as of July of the immediately preceding year of the Consumer Price
95 Index for All Urban Consumers or successor index published by the U.S. Department of Labor

96 or its successor agency, and the sum of resources allowed under this subdivision shall be
97 modified accordingly to reflect any increases in the cost-of-living, with the amount of the
98 resource limit rounded to the nearest five cents;

99 (8) Is an inmate of a public institution, except as a patient in a public medical institution.

100 3. In determining eligibility and the amount of benefits to be granted pursuant to
101 federally aided programs, the income and resources of a relative or other person living in the
102 home shall be taken into account to the extent the income, resources, support and maintenance
103 are allowed by federal law or regulation to be considered.

104 4. In determining eligibility and the amount of benefits to be granted pursuant to
105 federally aided programs, the value of burial lots or any amounts placed in an irrevocable
106 prearranged funeral or burial contract under chapter 436 shall not be taken into account or
107 considered an asset of the burial lot owner or the beneficiary of an irrevocable prearranged
108 funeral or funeral contract. For purposes of this section, “burial lots” means ~~[any burial space~~
109 ~~as defined in section 214.270]~~ **one or more plot, grave, mausoleum, crypt, lawn, surface lawn**
110 **crypt, niche, or space used or intended for the interment of the human dead and includes**
111 any memorial, monument, marker, tombstone or letter marking ~~[a burial space]~~ **the same**. If the
112 beneficiary, as defined in chapter 436, of an irrevocable prearranged funeral or burial contract
113 receives any public assistance benefits pursuant to this chapter and if the purchaser of such
114 contract or his or her successors in interest transfer, amend, or take any other such actions
115 regarding the contract so that any person will be entitled to a refund, such refund shall be paid
116 to the state of Missouri with any amount in excess of the public assistance benefits provided
117 under this chapter to be refunded by the state of Missouri to the purchaser or his or her
118 successors. In determining eligibility and the amount of benefits to be granted under federally
119 aided programs, the value of any life insurance policy where a seller or provider is made the
120 beneficiary or where the life insurance policy is assigned to a seller or provider, either being in
121 consideration for an irrevocable prearranged funeral contract under chapter 436, shall not be
122 taken into account or considered an asset of the beneficiary of the irrevocable prearranged funeral
123 contract. In addition, the value of any funds, up to nine thousand nine hundred ninety-nine
124 dollars, placed into an irrevocable personal funeral trust account, where the trustee of the
125 irrevocable personal funeral trust account is a state or federally chartered financial institution
126 authorized to exercise trust powers in the state of Missouri, shall not be taken into account or
127 considered an asset of the person whose funds are so deposited if such funds are restricted to be
128 used only for the burial, funeral, preparation of the body, or other final disposition of the person
129 whose funds were deposited into said personal funeral trust account. No person or entity shall
130 charge more than ten percent of the total amount deposited into a personal funeral trust in order
131 to create or set up said personal funeral trust, and any fees charged for the maintenance of such

132 a personal funeral trust shall not exceed three percent of the trust assets annually. Trustees may
133 commingle funds from two or more such personal funeral trust accounts so long as accurate
134 books and records are kept as to the value, deposits, and disbursements of each individual
135 depositor's funds and trustees are to use the prudent investor standard as to the investment of any
136 funds placed into a personal funeral trust. If the person whose funds are deposited into the
137 personal funeral trust account receives any public assistance benefits pursuant to this chapter and
138 any funds in the personal funeral trust account are, for any reason, not spent on the burial,
139 funeral, preparation of the body, or other final disposition of the person whose funds were
140 deposited into the trust account, such funds shall be paid to the state of Missouri with any
141 amount in excess of the public assistance benefits provided under this chapter to be refunded by
142 the state of Missouri to the person who received public assistance benefits or his or her
143 successors. No contract with any cemetery, funeral establishment, or any provider or seller shall
144 be required in regards to funds placed into a personal funeral trust account as set out in this
145 subsection.

146 5. In determining the total property owned pursuant to subdivision (5) of subsection 2
147 of this section, or resources, of any person claiming or for whom public assistance is claimed,
148 there shall be disregarded any life insurance policy, or prearranged funeral or burial contract, or
149 any two or more policies or contracts, or any combination of policies and contracts, which
150 provides for the payment of one thousand five hundred dollars or less upon the death of any of
151 the following:

152 (1) A claimant or person for whom benefits are claimed; or

153 (2) The spouse of a claimant or person for whom benefits are claimed with whom he or
154 she is living.

155

156 If the value of such policies exceeds one thousand five hundred dollars, then the total value of
157 such policies may be considered in determining resources; except that, in the case of temporary
158 assistance for needy families, there shall be disregarded any prearranged funeral or burial
159 contract, or any two or more contracts, which provides for the payment of one thousand five
160 hundred dollars or less per family member.

161 6. Beginning September 30, 1989, when determining the eligibility of institutionalized
162 spouses, as defined in 42 U.S.C. Section 1396r-5, for medical assistance benefits as provided for
163 in section 208.151 and 42 U.S.C. Sections 1396a, et seq., the family support division shall
164 comply with the provisions of the federal statutes and regulations. As necessary, the division
165 shall by rule or regulation implement the federal law and regulations which shall include but not
166 be limited to the establishment of income and resource standards and limitations. The division
167 shall require:

168 (1) That at the beginning of a period of continuous institutionalization that is expected
169 to last for thirty days or more, the institutionalized spouse, or the community spouse, may request
170 an assessment by the family support division of total countable resources owned by either or both
171 spouses;

172 (2) That the assessed resources of the institutionalized spouse and the community spouse
173 may be allocated so that each receives an equal share;

174 (3) That upon an initial eligibility determination, if the community spouse's share does
175 not equal at least twelve thousand dollars, the institutionalized spouse may transfer to the
176 community spouse a resource allowance to increase the community spouse's share to twelve
177 thousand dollars;

178 (4) That in the determination of initial eligibility of the institutionalized spouse, no
179 resources attributed to the community spouse shall be used in determining the eligibility of the
180 institutionalized spouse, except to the extent that the resources attributed to the community
181 spouse do exceed the community spouse's resource allowance as defined in 42 U.S.C. Section
182 1396r-5;

183 (5) That beginning in January, 1990, the amount specified in subdivision (3) of this
184 subsection shall be increased by the percentage increase in the Consumer Price Index for All
185 Urban Consumers between September, 1988, and the September before the calendar year
186 involved; and

187 (6) That beginning the month after initial eligibility for the institutionalized spouse is
188 determined, the resources of the community spouse shall not be considered available to the
189 institutionalized spouse during that continuous period of institutionalization.

190 7. Beginning July 1, 1989, institutionalized individuals shall be ineligible for the periods
191 required and for the reasons specified in 42 U.S.C. Section 1396p.

192 8. The hearings required by 42 U.S.C. Section 1396r-5 shall be conducted pursuant to
193 the provisions of section 208.080.

194 9. Beginning October 1, 1989, when determining eligibility for assistance pursuant to
195 this chapter there shall be disregarded unless otherwise provided by federal or state statutes the
196 home of the applicant or recipient when the home is providing shelter to the applicant or
197 recipient, or his or her spouse or dependent child. The family support division shall establish by
198 rule or regulation in conformance with applicable federal statutes and regulations a definition of
199 the home and when the home shall be considered a resource that shall be considered in
200 determining eligibility.

201 10. Reimbursement for services provided by an enrolled Medicaid provider to a recipient
202 who is duly entitled to Title XIX Medicaid and Title XVIII Medicare Part B, Supplementary
203 Medical Insurance (SMI) shall include payment in full of deductible and coinsurance amounts

204 as determined due pursuant to the applicable provisions of federal regulations pertaining to Title
205 XVIII Medicare Part B, except for hospital outpatient services or the applicable Title XIX cost
206 sharing.

207 11. A “community spouse” is defined as being the noninstitutionalized spouse.

208 12. An institutionalized spouse applying for Medicaid and having a spouse living in the
209 community shall be required, to the maximum extent permitted by law, to divert income to such
210 community spouse to raise the community spouse’s income to the level of the minimum monthly
211 needs allowance, as described in 42 U.S.C. Section 1396r-5. Such diversion of income shall
212 occur before the community spouse is allowed to retain assets in excess of the community spouse
213 protected amount described in 42 U.S.C. Section 1396r-5.

214.010. 1. Any ~~[town, city, village or county]~~ **political subdivision** in the state of
2 Missouri may purchase, receive and hold real estate within such ~~[city, town, village or county]~~
3 **political subdivision** for the burial of the dead, and may lease, sell or otherwise dispose of the
4 same. The ~~[council of such cities, towns and villages or county commissioners]~~ **governing body**
5 **of such political subdivision** may make rules and pass ordinances or orders imposing penalties
6 and fines not exceeding one thousand dollars, regulating, protecting and governing cemeteries
7 within such cities, towns, villages, and counties, the owners of lots therein, visitors thereto, and
8 punishing trespassers thereon.

9 2. **An owner of a cemetery may sell or otherwise transfer a cemetery to a political**
10 **subdivision within the state of Missouri. A transfer shall include all property of the**
11 **cemetery, real or personal; all files, paper or electronic, containing records related to the**
12 **cemetery, if any; all funds held by a person or entity for the cemetery including, but not**
13 **limited to, endowed care trust funds, escrow funds, prearranged contract funds, bank**
14 **accounts, and investment accounts; and all interest in trusts whose purpose is to provide**
15 **for any lawful purpose of the cemetery, including such funds for which the cemetery is an**
16 **owner, grantor, or beneficiary. Any funds so received by a political subdivision shall be**
17 **maintained in a segregated fund and shall be used only for the purposes to provide for the**
18 **care, maintenance, and upkeep of the cemetery.**

19 3. **In addition to any other powers or authorities, any political subdivision may**
20 **choose to exercise the following authorities:**

21 (1) **Issue licenses to any cemetery within its jurisdiction as either an endowed**
22 **cemetery, nonendowed cemetery, or any other type of cemetery the political subdivision**
23 **may define by local ordinance;**

24 (2) **Conduct examinations and audits of any cemetery within its jurisdiction,**
25 **including any endowed care trust funds or any other funds available for the operation,**
26 **care, and maintenance of the cemetery; and**

27 **(3) Accept title to any cemetery within its jurisdiction.**

**214.015. 1. The department of health and senior services shall manage the endowed
2 care cemetery audit fund established under section 193.265.**

3 **2. Any political subdivision that has adopted licensing pursuant to this chapter
4 shall be eligible to apply to the department for payment from the endowed care audit fund
5 to assist with the costs incurred by the political subdivision in conducting audits of
6 endowed care funds for cemeteries licensed by that political subdivision. Applications for
7 grants from the fund shall be made in writing and include:**

8 **(1) The name and address of the cemetery sought to be audited;**

9 **(2) The name of an individual at the political subdivision authorized to make the
10 application, including that person's name, job title, address, telephone number, and email
11 address, if applicable;**

12 **(3) The name; firm name, if any; address; and telephone number of the individuals
13 retained to perform the audit along with verification of their professional qualifications to
14 conduct the audit;**

15 **(4) The estimated cost of the audit;**

16 **(5) The anticipated sources of payment for the audit;**

17 **(6) The amount of moneys requested to assist with the audit; and**

18 **(7) Any other information the department may require to ensure that funds shall
19 be used solely to assist with the expenses of the of audit.**

20 **3. The department shall have the discretion to approve or deny any request for
21 funds under this section and may request any documentation to support the claim of the
22 political subdivision for any such moneys from the endowed care audit fund.**

23 **4. All funds paid by the department shall be paid directly to the political
24 subdivision.**

214.020. Any [~~town, city or village~~] political subdivision in the state of Missouri which
2 now owns or may hereafter acquire any cemetery, may by ordinance establish a fund for the
3 preservation, care, upkeep and adornment of such cemetery, such fund to be known as "Perpetual
4 Care Cemetery Fund", and may accept and acquire by gift or donation, money or funds to be
5 placed to the credit of such perpetual care cemetery fund. Such [~~town, city or village~~] **political**
6 **subdivision** may also deposit in such fund a portion of the income derived from the sale of lots
7 in such cemetery as shall be determined by ordinance of such [~~town, city or village~~] **political**
8 **subdivision**. Such moneys and funds so placed in such perpetual care cemetery fund shall be
9 invested from time to time in bonds of the United States government or of the state of Missouri,
10 or may be placed in any bank or savings and loan association which is authorized to do business
11 in this state so long as the funds so deposited are protected by federal deposit insurance. The

12 income therefrom shall be expended by such ~~[town, city or village]~~ **political subdivision** for the
13 preservation, care, upkeep and adornment of such cemetery, for the repurchasing of cemetery lots
14 previously sold, and for no other purpose whatsoever. The principal of said perpetual care
15 cemetery fund shall not be encroached upon for any purpose whatsoever and no money shall be
16 transferred out of such perpetual care cemetery fund except for the purposes of being invested
17 as provided for in this section and for the repurchasing of cemetery lots previously sold. The
18 ~~[city council]~~ **governing body** of the ~~[various towns, cities or villages which]~~ **political**
19 **subdivision that** shall establish such perpetual care cemetery fund shall by ordinance accept any
20 gift or donation to such fund, and shall by said ordinance direct the treasurer of said ~~[town, city~~
21 ~~or village]~~ **political subdivision** to place such money or funds to the credit of such perpetual care
22 cemetery fund. Such ~~[city council]~~ **governing body** shall have all the necessary authority by
23 ordinance to invest such funds as provided for in this section.

214.030. The cemetery lots owned by ~~[such county, city, town or village]~~ **a political**
2 **subdivision** shall be conveyed by deed signed by the mayor, **officer**, or presiding commissioner
3 of said ~~[county, city, town or village]~~ **political subdivision**, duly attested by the clerk of such
4 ~~[county, city, town or village]~~ **political subdivision**, or other officer performing the duties of
5 clerk, and shall vest in the purchaser, his or her heirs and assigns, a right in fee simple to such
6 lot for the sole purpose of interment pursuant to the regulations of the council or commission,
7 except that such fee simple right may be revested in the ~~[county, city, town or village]~~ **political**
8 **subdivision** pursuant to section 214.035.

214.035. 1. For purposes of this section, the term "lot owner" means the purchaser of
2 the cemetery lot or such purchaser's heirs, administrators, trustees, legatees, devisees, or assigns.

3 2. Whenever a ~~[county, city, town or village]~~ **political subdivision** has acquired real
4 estate for the purpose of maintaining a cemetery or has acquired a cemetery from ~~[a cemetery~~
5 ~~association]~~ **any person or entity**, and such ~~[county, city, town or village]~~ **political subdivision**
6 or its predecessor in title has conveyed any platted lot or designated piece of ground within the
7 area of such cemetery, and the governing body of such ~~[county, city, town or village]~~ **political**
8 **subdivision** is the governing body of such cemetery pursuant to section 214.010, the title to any
9 conveyed platted lots or designated pieces of ground, other than ground in which dead human
10 remains are actually buried and all ground within two feet thereof, may be revested in the
11 ~~[county, city, town or village]~~ **political subdivision** in the following manner and subject to the
12 following conditions:

13 (1) No interment shall have been made in the lot and the title to such lot shall have been
14 vested in the present owner for a period of at least fifty years prior to the commencement of any
15 proceedings pursuant to this section;

16 (2) ~~[If the lot owner of any cemetery lot is a resident of the county where the cemetery~~
17 ~~is located,]~~ The governing body **of the political subdivision** shall cause to be served upon such
18 lot owner a notice that proceedings have been initiated to revest the title of such lot in the
19 ~~[county, city, town or village]~~ **political subdivision** and that such lot owner may within the time
20 provided by the notice file with the clerk or other officer performing the duties of clerk of such
21 ~~[county, city, town or village]~~ **political subdivision**, as applicable, a statement in writing
22 explaining how rights in the cemetery lot were acquired and such person's desire to claim such
23 rights in the lot. The notice shall be served in the manner provided for service of summons in
24 a civil case and shall provide a period of not less than thirty days in which the statement can be
25 filed. If the governing body ascertains that the statement filed by the lot owner is correct and the
26 statement contains a claim asserting the rights of the lot owner in the lot, all proceedings by the
27 governing body to revest title of the lot in the ~~[county, city, town or village]~~ **political**
28 **subdivision** shall be null and void and such proceedings shall be summarily terminated by the
29 governing body as to the lots identified in the statement;

30 (3) ~~[If it is determined by the return of the sheriff of the county in which the cemetery~~
31 ~~is located that the lot owner is not a resident of the county and cannot be found in the county, the~~
32 ~~governing body may cause the notice required by subdivision (2) of this subsection to be~~
33 ~~published once each week for two consecutive weeks in a newspaper of general circulation~~
34 ~~within the county, city, town or village. Such notice shall contain a general description of the~~
35 ~~title revestment proceedings to be undertaken by the governing body pursuant to this section, lot~~
36 ~~numbers and descriptions and lot owners' names. In addition, the notice shall notify the lot~~
37 ~~owner that such lot owner may, within the time provided, file with the clerk or other officer~~
38 ~~performing the duties of a clerk a statement setting forth how such lot owner acquired rights in~~
39 ~~the cemetery lot and that such lot owner desires to assert such rights. If the governing body~~
40 ~~ascertains that the statement filed by the lot owner is correct and the statement contains a claim~~
41 ~~asserting the rights of the lot owner in the lot, all proceedings by the governing body to revest~~
42 ~~title to the lot in the county, city, town or village shall be null and void and such proceedings~~
43 ~~shall be summarily terminated by the governing body as to the lots identified in the statement;~~

44 ~~——(4)]~~ All notices, with proofs of service, mailing and publication of such notices, and all
45 ordinances or other resolutions adopted by the governing body relative to these revestment
46 proceedings shall be made a part of the records of such governing body;

47 ~~[(5)]~~ (4) Upon expiration of the period of time allowed for the filing of statements by lot
48 owners as contained in the notice served personally, by mail or published, all parties who fail to
49 file with the clerk, or other officer performing the duties of clerk in such ~~[county, city, town or~~
50 ~~village]~~ **political subdivision**, their statement asserting their rights in the cemetery lots shall be
51 deemed to have abandoned their rights and claims in the lot, and the governing body may bring

52 an action in the circuit court of the county in which the cemetery is located against all lot owners
53 in default, joining as many parties so in default as it may desire in one action, to have the rights
54 of the parties in such lots or parcels terminated and the property restored to the governing body
55 of such cemetery free of any right, title or interest of all such defaulting parties or their heirs,
56 administrators, trustees, legatees, devisees or assigns. Such action in all other respects shall be
57 brought and determined in the same manner as ordinary actions to determine title to real estate;

58 ~~[(6)]~~ (5) In all such cases the fact that the grantee, holder or lot owner has not, for a term
59 of more than fifty successive years, had occasion to make an interment in the cemetery lot and
60 the fact that such grantee, holder or lot owner did not upon notification assert a claim in such lot,
61 pursuant to this section, shall be prima facie evidence that the party has abandoned any rights
62 such party may have had in such lot;

63 ~~[(7)]~~ (6) A certified copy of the judgments in such actions quieting title may be filed in
64 the office of the recorder of deeds in and for the county in which the cemetery is situated;

65 ~~[(8)]~~ (7) All notices and all proceedings pursuant to this section shall distinctly describe
66 the portion of such cemetery lot unused for burial purposes and the ~~[county, city, town or village]~~
67 **political subdivision** shall leave sufficient ingress to, and egress from, any grave upon the lot,
68 either by duly dedicated streets or alleys in the cemetery, or by leaving sufficient amounts of the
69 unused portions of the cemetery for such purposes;

70 ~~[(9)]~~ (8) This section shall not apply to any lot in any cemetery where a perpetual care
71 contract has been entered into between such cemetery, the ~~[county, city, town or village]~~ **political**
72 **subdivision** and the owner of such lot;

73 ~~[(10)]~~ (9) Compliance with the terms of this section shall fully revest the ~~[county, city,~~
74 ~~town or village]~~ **political subdivision** with, and divest the lot owner of record of, the title to such
75 portions of such cemetery lot unused for burial purposes as though the lot had never been
76 conveyed to any person, and such county, city, town or village shall have, hold and enjoy such
77 unclaimed portions of such lots for its own uses and purposes, subject to the laws of this state,
78 and to the charter, ordinances and rules of such cemetery and the county, city, town or village.

214.040. 1. Every person or ~~[association which]~~ **entity that** owns any cemetery in which
2 dead human remains are or may be buried or otherwise interred, except a private or family
3 cemetery, shall cause to be maintained in an office in the cemetery, or in an office within a
4 reasonable distance of the cemetery, a plat of such cemetery showing the entire area and location
5 of the cemetery, the portion thereof which is formally dedicated for the burial of dead human
6 remains, all burial lots or interment spaces, and all walks, roads, improvements and features.
7 The cemetery ~~[operator]~~ shall cause the plat to be updated from time to time as is necessary to
8 cause the plat to remain current.

9 2. The cemetery [~~operator~~] shall also cause to be maintained at such office a record of
10 the owner of each burial lot or interment space described in the current plat of the cemetery and
11 a record of all dead human remains buried or interred at the cemetery, which record shall include
12 the name of each deceased person buried or interred at the cemetery, the date of burial or
13 interment, the location of burial or interment and, if known, the name and address of the funeral
14 director who provided the memorial service or other final arrangements for the deceased person.
15 The cemetery [~~operator~~] shall cause reasonable assistance to be provided to burial lot or
16 interment space owners in locating their lots or spaces and to the family or other interested
17 persons in locating the place of burial or interment of deceased persons whose remains are buried
18 or interred in the cemetery.

214.131. Every person who shall knowingly destroy, mutilate, disfigure, deface, injure
2 or remove any tomb, monument or gravestone, or other structure placed in any [~~abandoned~~
3 ~~family~~] cemetery or private burying ground, or any fence, railing, or other work for the protection
4 or ornamentation of any such cemetery or place of burial of any human being, or tomb,
5 monument or gravestone, memento, or memorial, or other structure aforesaid, or of any lot
6 within such cemetery is guilty of a class A misdemeanor. For the purposes of this section and
7 subsection 1 of section 214.132, [~~an "abandoned family cemetery"~~] a "cemetery" or "private
8 burying ground" shall include those cemeteries or burying grounds which have not been deeded
9 to the public as provided in chapter 214, and in which no body has been interred for at least
10 twenty-five years.

214.132. 1. Any person who wishes to visit [~~an abandoned family~~] a cemetery or private
2 burying ground which is completely surrounded by privately owned land, for which no public
3 ingress or egress is available, shall have the right to reasonable ingress or egress for the purpose
4 of visiting such cemetery. This right of access to such cemeteries extends only to visitation
5 during reasonable hours and only for purposes usually associated with cemetery visits.

6 2. The sheriff or chief law enforcement officer of the county in which the [~~abandoned~~
7 ~~family~~] cemetery or private burying ground is located shall enforce the provisions of subsection
8 1 of this section.

9 3. Nothing in section 214.131 and this section shall be construed to limit or modify the
10 power or authority of a court in any action of law or equity to order the disinterment and removal
11 of the remains from a cemetery and interment in a suitable location.

12 **4. Any person denied access to a cemetery or private burying ground shall have**
13 **standing to seek court orders as appropriate to obtain reasonable ingress and egress for**
14 **the purpose of visiting the cemetery. If the court determines a violation of this section, the**
15 **court shall assess costs and fees incurred in such an action against the persons who denied**
16 **access to the cemetery.**

17 **5. Any person who denies access under this section shall be guilty of a class A**
18 **misdemeanor.**

214.160. 1. Under sections 214.140 to 214.180, and as otherwise not prohibited under
2 Article VI, Section 23 of the Constitution of Missouri, the ~~[county commission]~~ **governing body**
3 **of a political subdivision** may invest or loan said trust fund or funds in United States
4 government, state, county or municipal bonds, certificates of deposit, first real estate mortgages,
5 or deeds of trust and may utilize investment managers to invest, reinvest, and manage assets,
6 subject to the terms, conditions, and limitations provided in this section and Article IV, Section
7 15 of the Constitution of Missouri. They shall use the net income from said trust fund or funds
8 or such investments or so much thereof as is necessary to support and maintain and beautify any
9 public or private cemetery or any particular part thereof which may be designated by the person,
10 persons or firm or association making said gift or bequest. In maintaining or supporting the
11 cemetery or any particular part or portion thereof the commission shall as nearly as possible
12 follow the expressed wishes of the creator of said trust fund.

13 2. An investment manager shall discharge his or her duties in the interest of the public
14 or private cemetery and the interest of the person, persons, or firm making the gift or bequest and
15 shall:

16 (1) Act with the same care, skill, prudence, and diligence under the circumstances then
17 prevailing that a prudent person acting in a similar capacity and familiar with those matters
18 would use in the conduct of a similar enterprise with similar aims;

19 (2) Act with due regard for the management, reputation, and stability of the issuer and
20 the character of the particular investments being considered;

21 (3) Make investments for the purpose of supporting, maintaining, and beautifying any
22 public or private cemetery or any particular part thereof, which may be designated by the person,
23 persons, or firm or association making said gift or bequest, and of defraying reasonable expenses
24 of investing the assets;

25 (4) Give appropriate consideration to those facts and circumstances that the investment
26 fiduciary knows or should know are relevant to the particular investment or investment course
27 of action involved, including the role the investment or investment course of action plays in that
28 portion of the investments for which the investment fiduciary has responsibility. For purposes
29 of this subdivision, "appropriate consideration" shall include, but is not limited to, a
30 determination by the investment fiduciary that a particular investment or investment course of
31 action is reasonably designed to further the purposes of supporting, maintaining, and beautifying
32 any public or private cemetery or any particular part thereof, which may be designated by the
33 person, persons, or firm or association making said gift or bequest, while considering the risk of
34 loss and the opportunity for gain or other return associated with the investment or investment

35 course of action and considering the following factors as they relate to the investment or
36 investment course of action:

37 (a) The diversification of the investments;

38 (b) The liquidity and current return of the investments relative to the anticipated cash
39 flow requirements; and

40 (c) The projected return of the investments relative to the funding objectives; and

41 (5) Give appropriate consideration to investments that would enhance the general welfare
42 of this state and its citizens if those investments offer the safety and rate of return comparable
43 to other investments available to the investment fiduciary at the time the investment decision is
44 made.

45 3. As used in this section, “invest” or “investment” means utilization of moneys in the
46 expectation of future returns in the form of income or capital gain.

214.170. Any responsible organization or individual, who is directly interested in a
2 particular cemetery~~[-who]~~ **and** is willing to undertake the administration of the income from all
3 trusts and gifts to this particular cemetery ~~[shall]~~ **may** be designated by the ~~[commission]~~
4 **governing body** to administer the said income and shall make an annual report to the
5 commission. Any time the organization or individual so appointed fails to maintain and beautify
6 said cemetery in keeping with the income, the ~~[commission]~~ **governing body** shall appoint some
7 other organization or individual to administer the aforesaid income. Where there is no
8 responsible organization or individual, that is willing to undertake the administration of the said
9 income from the trusts or gifts to any particular cemetery, the commission shall administer same,
10 or appoint some organization or individual, who is responsible to administer the same, making
11 the said annual report to the commission. The commission shall retain five percent of the
12 incomes from all trusts and gifts to create a fund to reimburse any trust or gift which has a loss.
13 The commission shall have authority to increase or decrease the said five percent as may be
14 necessary to keep all trusts and gifts intact.

214.205. 1. If any cemetery not described in section 214.090 is found to be in violation
2 of a ~~[city, town, village or county]~~ nuisance ordinance for failure to cut grass or weeds, or care
3 for graves, grave markers, walls, fences, driveways or buildings, the governing body of such
4 ~~[city, town, village or county]~~ **political subdivision** shall be authorized to take those actions
5 necessary to restore and maintain the cemetery, and the governing body shall be authorized to
6 charge the expenses of such actions against the cemetery. If actions are taken by a ~~[city, town,~~
7 ~~village or county]~~ **political subdivision** pursuant to this subsection, the ~~[city, town, village or~~
8 ~~county]~~ **political subdivision** may assess all true costs of restoration, maintenance and operation
9 against any responsible person, partnership or corporation whether such person, partnership or
10 corporation is a lessee, lessor, equitable title holder or legal title holder to the unmaintained

11 cemetery. Any ~~[city, town, village or county]~~ **political subdivision** which assesses costs
12 pursuant to this section reserves the right to pursue any and all legal, equitable or criminal
13 remedies to collect such assessed costs. Any ~~[city, town, village or county]~~ **political subdivision**
14 which pursues a civil remedy pursuant to this section may employ independent attorneys and law
15 firms to collect the costs of restoration, maintenance and operation of any unmaintained
16 cemetery. **In addition, the political subdivision that has assessed costs under this section**
17 **and those costs remain unpaid by the cemetery may make a written claim, with a copy**
18 **mailed to the cemetery owner and operator, to the trustee of any endowed care cemetery**
19 **fund for that cemetery and the trustee is authorized to distribute to the assessing authority**
20 **any funds available that would otherwise be distributed to the cemetery owner or operator**
21 **for the care and maintenance of the cemetery. Any such claim by an assessing authority**
22 **shall have priority over any distribution to the cemetery.**

23 2. As used in this section, the term "~~[abandoned]~~ **neglected cemetery**" means any
24 cemetery, except one described in section 214.090, in which:

25 (1) For a period of at least one year, ~~[there has been a substantial failure to cut grass or~~
26 ~~weeds or care for graves, grave markers, walls, fences, driveways and buildings or for which~~
27 ~~proper records have not been maintained pursuant to section 214.340. Whenever the attorney~~
28 ~~general determines the existence of an abandoned]~~ **no owner has demonstrated responsibility**
29 **for the operation of the cemetery;**

30 (2) **For a period of at least one year, there has been a substantial failure to cut grass**
31 **or weeds or to care for graves, grave markers, walls, fences, driveways, or buildings.**
32 **Citations for code violations by any state or local authority related to the lack of such care**
33 **that have not been resolved shall be prima facia evidence of the existence of this condition;**

34 (3) **As shown by an investigation by a licensing authority or by any political**
35 **subdivision or agency thereof, or the attorney general, that proper records have not been**
36 **maintained under sections 214.010 to 214.550;**

37 (4) **There has been a substantial failure of the cemetery to honor its contractual,**
38 **financial, or fiduciary duties related to the cemetery operations; or**

39 (5) **Any cemetery license held by the cemetery has been revoked under sections**
40 **214.010 to 214.550 or other state or local law.**

41 3. **If a neglected cemetery exists** in this state, the attorney general **or any political**
42 **subdivision in which the cemetery is located** ~~[shall immediately proceed to]~~ **may:**

43 (1) **File a court action to dissolve the** ~~[cemetery]~~ **corporation owning or operating the**
44 ~~[same. Upon the dissolution of such corporation,]~~ **cemetery;**

45 (2) **Take action to quiet title;**

46 **(3) Appoint a receiver with appropriate authority to protect the cemetery property**
47 **and assets;**

48 **(4) Transfer** title to ~~[all property owned by]~~ the cemetery ~~[corporation shall vest in the~~
49 ~~municipality or county]~~ **to any political subdivision** in which the cemetery is located~~[, and] ;~~

50 **(5) Transfer** the endowed care fund **or other funds**, together with all investments then
51 outstanding, and all books, records, and papers, of ~~[such corporation shall be transferred]~~ **the**
52 **cemetery** to the treasurer of such ~~[municipality or county and shall become the property thereof]~~
53 **political subdivision**. Upon the transfer of such property and funds, the governing body of ~~[such~~
54 ~~municipality or county]~~ **the political subdivision** shall care for and maintain such cemetery with
55 any moneys of the cemetery ~~[corporation]~~, including the principal of and income from the
56 endowed care funds~~];~~ and, if such moneys are insufficient to properly maintain such cemetery,
57 ~~[then it may use]~~ funds of the ~~[municipality or county]~~ **political subdivision; and**

58 **(6) Take any other authorized action to ensure the protection of the cemetery.**

59 ~~[3-]~~ **4.** In addition to those powers granted the attorney general in subsection 2 of this
60 section, ~~[every municipality or county]~~ **any political subdivision** in which any ~~[abandoned]~~
61 **neglected** cemetery is located may acquire through its power of eminent domain such cemetery,
62 together with all endowed care funds, maintenance equipment, books and records, accounts
63 receivable and other personal property used or created in the operation of the cemetery and
64 owned or controlled by the person or association which owns the cemetery. The ~~[municipality~~
65 ~~or county]~~ **political subdivision** shall acquire the cemetery and related property subject to the
66 rights of owners of burial lots or other interment spaces. Upon so acquiring the cemetery and
67 related property, the acquiring ~~[municipality or county]~~ **political subdivision** shall operate and
68 maintain the cemetery as a public cemetery. The ~~[municipality or county which so]~~ **political**
69 **subdivision that** acquires ~~[an abandoned]~~ **a neglected** cemetery shall not be liable for any act
70 or transaction which occurred prior to such acquisition, including, without limitation, any
71 obligation to third parties or incorrect lot ownership or burial records.

72 **5. Any owner of a cemetery who no longer is willing and able to care for and**
73 **maintain the cemetery may enter into an agreement to transfer the cemetery, including all**
74 **real and personal property of the cemetery and any trust funds or bank accounts**
75 **maintained for or on behalf of the cemetery, to a political subdivision, nonprofit, or**
76 **religious corporation or association. Such transfer shall be governed by the provisions of**
77 **this section related to the transfer of a neglected cemetery.**

78 **6. Any political subdivision obtaining a cemetery under this section may, at its**
79 **discretion, continue to operate the cemetery, transfer the cemetery via sale to any person**
80 **or entity, or may designate the cemetery as historic property or a park for rest and**
81 **contemplation as may be reasonably consistent with reverent respect for the final resting**

82 places of the dead. The political subdivision may, by ordinance, provide and enforce rules,
83 regulations, and reasonable restrictions on the uses of the cemetery for park purposes.

84 7. The attorney general shall be deemed the guardian of all cemetery property in
85 this state and shall have the authority to exercise all powers available to the attorney
86 general to ensure the protection, care, and maintenance of cemetery properties and assets.

214.208. 1. Every person or ~~[association which]~~ **entity that** owns any cemetery in which
2 dead human remains are buried or otherwise interred is authorized, at the ~~[cemetery owner's]~~
3 **cemetery's** expense, to disinter individual remains and reinter or rebury the remains at another
4 location within the cemetery in order to correct an error made in the original burial or interment
5 of the remains. **Written notice shall be provided to the person who exercised the right of**
6 **sepulcher, as defined under section 194.119, at the time of final disposition or, if such**
7 **person is deceased, to the person who would have the right of sepulcher at the time of the**
8 **change of interment. All other provisions of law related to the disinterment and reburial**
9 **of human remains, including chapter 194, shall apply.**

10 2. ~~[Every] If any person [or association which owns any] , other than the cemetery [in~~
11 ~~which dead human remains are buried or otherwise interred is authorized] , requests a cemetery~~
12 ~~to disinter individual remains [and] , either to reinter or rebury the remains [at another location]~~
13 ~~within the cemetery or to deliver the remains to a carrier for transportation out of the cemetery,~~
14 ~~[all pursuant to written instructions signed and acknowledged by the next-of-kin at the time of~~
15 ~~death of the deceased person as set out in section 194.119. If the next-of-kin at the time of death~~
16 ~~as set out in section 194.119 is no longer living, then a majority of the following adult members~~
17 ~~of the deceased person's family who are then known and living: surviving spouse, children, and~~
18 ~~parents may authorize the disinterment. If none of the above family members survive the~~
19 ~~deceased, then the majority of the grandchildren, brothers and sisters of whole and half blood~~
20 ~~may authorize the disinterment, relocation or delivery of the remains of the deceased. The costs~~
21 ~~of such disinterment, relocation or delivery shall be paid by the deceased person's family] the~~
22 **cemetery shall follow all laws related to the disinterment and reinternment of dead human**
23 **remains, including those under chapter 194, and shall obtain the written consent of the**
24 **person who was authorized to exercise the right of sepulcher at the time of the original**
25 **burial or interment or, if that person is deceased, the person who would be authorized to**
26 **exercise the right of sepulcher as if it was for the initial burial. If more than one person**
27 **would be authorized to exercise the right of sepulcher, the cemetery shall only act upon**
28 **written consent from a majority of the living members of that class. The person requesting**
29 **the disinterment shall be responsible for the costs of such disinterment, relocation, or**
30 **delivery.**

31 3. ~~[Every person or association which owns any cemetery in which dead human remains~~
32 ~~are buried or otherwise interred is authorized to disinter individual remains and either to reinter~~
33 ~~or rebury the remains at another location within the cemetery or to deliver the remains to a carrier~~
34 ~~for transportation out of the cemetery, all pursuant to a final order issued by the circuit court for~~
35 ~~the county in which the cemetery is located.] **If written consent cannot be obtained or notice**~~
36 **cannot be given under subsection 2 of this section, any interested person or the cemetery**
37 **may file an action in circuit court seeking a court order to disinter individual remains and**
38 **to either reinter or rebury the remains at a different location or to deliver the remains to**
39 **a carrier for transportation to a different location.** The court may issue the order, in the
40 court's discretion and upon such notice and hearing as the court shall deem appropriate, for good
41 cause shown, including without limitation, the best interests of public health or safety, the best
42 interests of the deceased person's family, or the reasonable requirements of the cemetery to
43 facilitate the operation, maintenance, improvement or enlargement of the cemetery. The costs
44 of such disinterment, relocation and delivery, and the related court proceedings, shall be paid by
45 the persons so ordered by the court.

46 4. The cemetery owner, cemetery operator, funeral director, funeral establishment, or any
47 other person or entity involved in the process shall not be liable to the deceased person's family
48 or to any third party for a disinterment, relocation or delivery of deceased human remains made
49 pursuant to this section.

214.209. 1. After a period of ~~[seventy-five]~~ **fifty** years since the last recorded activity
2 on a burial site and after a reasonable search for heirs and beneficiaries, the burial site shall be
3 abandoned and the right of ownership in the burial site shall revert to the private or public
4 cemetery, after the cemetery has met the requirements of this section.

5 2. A reasonable search for heirs and beneficiaries pursuant to this section shall include
6 sending a letter of notice to the last known address of the record property owner; and publishing
7 a copy of the description of the abandoned burial site in a newspaper qualified to publish public
8 notices as provided in chapter 493, published in the county of the record property owner's last
9 known address, for three weeks; and if no person proves ownership of the burial site within one
10 year after such publication, the burial site shall be deemed abandoned.

11 3. If persons with a legitimate claim to the abandoned burial site present themselves after
12 the abandoned burial site has been used or sold by the private or public cemetery, the person's
13 claim shall be settled by providing an equal burial site in an equivalent location to the burial site
14 that reverted to the private or public cemetery.

214.260. Any person, persons, association or corporation who shall violate the
2 provisions of section 214.250 shall be deemed guilty of a **class A** misdemeanor and upon
3 conviction shall be fined not less than fifty dollars or more than five hundred dollars and each

4 day said burial ground, cemetery or graveyard shall remain open in violation of section 214.250,
 5 shall constitute a distinct and separate offense, and upon conviction shall be subject to a separate
 6 fine for each day he, she or they continue to operate and maintain said burial ground, cemetery
 7 or graveyard.

214.504. Any ~~[cemetery operator]~~ **person or entity** who purchases a cemetery from a
 2 ~~[city pursuant to sections 214.500 to 214.516]~~ **political subdivision** shall not be liable for any
 3 wrongful interments or errors made in the sale of plots prior to the cemetery operator's purchase
 4 of the cemetery, nor shall such ~~[cemetery operator]~~ **person or entity** be liable for multiple
 5 ownership of plots sold by ~~[such]~~ **any prior** cemetery operator ~~[due to]~~ **if there is** a lack of
 6 adequate records ~~[in such cemetery operator's possession]~~ at the time of ~~[such cemetery~~
 7 ~~operator's]~~ purchase of such cemetery from the ~~[city, provided the cemetery operator offers]~~
 8 **political subdivision. However, any purchaser shall provide, at no additional cost,** a plot
 9 of equal value for the interment~~;~~ if such party can prove ownership of the right to bury a person
 10 by presenting a **paid-in-full** contract for the right to burial.

214.508. Any ~~[cemetery operator]~~ **person or entity** who purchases a cemetery from a
 2 ~~[city]~~ **political subdivision** shall not be held liable or responsible for any conditions existing or
 3 actions taken which occurred prior to the ~~[cemetery operator's]~~ **person or entity's** purchase from
 4 such ~~[city;]~~ **political subdivision**, except that~~;~~ the exemption provided in this section shall not
 5 relieve any previous owner or wrongdoer for their actions related to such cemetery.

214.516. Any cemetery owner subsequent to a city, regardless of whether such cemetery
 2 was previously registered as an endowed care cemetery, held itself out to be an endowed care
 3 cemetery or was a nonendowed care cemetery, shall ~~[comply with section 214.310 and]~~ register
 4 such cemetery as an endowed care cemetery as if it were a newly created cemetery with no
 5 interments at the time of such registration. ~~[Any contracts for the right of burial sold after~~
 6 ~~compliance with section 214.310 and all subsequent action of a subsequent cemetery owner shall~~
 7 ~~comply fully with the provisions of sections 214.270 to 214.410.]~~

324.010. All governmental entities issuing professional licenses, certificates,
 2 registrations, or permits pursuant to sections 209.319 to 209.339, sections ~~[214.270]~~ **214.450** to
 3 214.516, sections 256.010 to 256.453, section 375.014, sections 436.005 to 436.071, and chapter
 4 317 and chapters 324 to 346 shall provide the director of revenue with the name and Social
 5 Security number of each applicant for licensure with or licensee of such entities within one
 6 month of the date the application is filed or at least one month prior to the anticipated renewal
 7 of a licensee's license. If such licensee is delinquent on any state taxes or has failed to file state
 8 income tax returns in the last three years, the director shall then send notice to each such entity
 9 and licensee. In the case of such delinquency or failure to file, the licensee's license shall be
 10 suspended within ninety days after notice of such delinquency or failure to file, unless the

11 director of revenue verifies that such delinquency or failure has been remedied or arrangements
 12 have been made to achieve such remedy. The director of revenue shall, within ten business days
 13 of notification to the governmental entity issuing the professional license that the delinquency
 14 has been remedied or arrangements have been made to remedy such delinquency, send written
 15 notification to the licensee that the delinquency has been remedied. Tax liability paid in protest
 16 or reasonably founded disputes with such liability shall be considered paid for the purposes of
 17 this section.

324.022. No rule or portion of a rule promulgated under the authority of sections
 2 209.285 to 209.339, sections ~~[214.270]~~ **214.450** to 214.516, sections 256.010 to 256.453, this
 3 chapter, and chapters 317, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339,
 4 340, 345, and 346 shall become effective unless it has been promulgated pursuant to the
 5 provisions of section 536.024.

6

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

2

~~(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;~~

3

~~(2) "Burial merchandise", a monument, marker, memorial, tombstone, headstone, urn, outer burial container, or similar article which may contain specific lettering, shape, color, or design as specified by the purchaser;~~

4

~~(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;~~

5

~~(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;~~

6

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

7

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

8

~~(7) "Cemetery prearranged contract", any contract with a cemetery or cemetery operator for burial merchandise or burial services covered by sections~~

9

~~(8) "Cemetery prearranged contract", any contract with a cemetery or cemetery operator for burial merchandise or burial services covered by sections~~

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~~(9) "Cemetery prearranged contract", any contract with a cemetery or cemetery operator for burial merchandise or burial services covered by sections~~

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~~(15) "Cemetery prearranged contract", any contract with a cemetery or cemetery operator for burial merchandise or burial services covered by sections~~

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~~(16) "Cemetery prearranged contract", any contract with a cemetery or cemetery operator for burial merchandise or burial services covered by sections~~

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~~(23) "Cemetery prearranged contract", any contract with a cemetery or cemetery operator for burial merchandise or burial services covered by sections~~

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~~(24) "Cemetery prearranged contract", any contract with a cemetery or cemetery operator for burial merchandise or burial services covered by sections~~

26

~~(25) "Cemetery prearranged contract", any contract with a cemetery or cemetery operator for burial merchandise or burial services covered by sections~~

27

- 28 214.270 to 214.410 which is entered into before the death of the individual for
29 whom the burial merchandise or burial services are intended;
- 30 ~~(8) "Cemetery service" or "burial service", those services performed by~~
31 ~~a cemetery owner or operator licensed as an endowed care or nonendowed~~
32 ~~cemetery including setting a monument or marker, setting a tent, excavating a~~
33 ~~grave, interment, entombment, inurnment, setting a vault, or other related~~
34 ~~services within the cemetery;~~
- 35 ~~(9) "Columbarium", a building or structure for the inurnment of cremated~~
36 ~~human remains;~~
- 37 ~~(10) "Community mausoleum", a mausoleum containing a substantial~~
38 ~~area of enclosed space and having either a heating, ventilating or air conditioning~~
39 ~~system;~~
- 40 ~~(11) "Department", department of insurance, financial institutions and~~
41 ~~professional registration;~~
- 42 ~~(12) "Developed acreage", the area which has been platted into grave~~
43 ~~spaces and has been developed with roads, paths, features, or ornamentations and~~
44 ~~in which burials can be made;~~
- 45 ~~(13) "Director", director of the division of professional registration;~~
- 46 ~~(14) "Division", division of professional registration;~~
- 47 ~~(15) "Endowed care", the maintenance, repair and care of all burial space~~
48 ~~subject to the endowment within a cemetery, including any improvements made~~
49 ~~for the benefit of such burial space. Endowed care shall include the general~~
50 ~~overhead expenses needed to accomplish such maintenance, repair, care and~~
51 ~~improvements. Endowed care shall include the terms perpetual care, permanent~~
52 ~~care, continual care, eternal care, care of duration, or any like term;~~
- 53 ~~(16) "Endowed care cemetery", a cemetery, or a section of a cemetery,~~
54 ~~which represents itself as offering endowed care and which complies with the~~
55 ~~provisions of sections 214.270 to 214.410;~~
- 56 ~~(17) "Endowed care fund", "endowed care trust", or "trust", any cash or~~
57 ~~cash equivalent, to include any income therefrom, impressed with a trust by the~~
58 ~~terms of any gift, grant, contribution, payment, devise or bequest to an endowed~~
59 ~~care cemetery, or its endowed care trust, or funds to be delivered to an endowed~~
60 ~~care cemetery's trust received pursuant to a contract and accepted by any~~
61 ~~endowed care cemetery operator or his agent. This definition includes the terms~~
62 ~~endowed care funds, maintenance funds, memorial care funds, perpetual care~~
63 ~~funds, or any like term;~~
- 64 ~~(18) "Escrow account", an account established in lieu of an endowed care~~
65 ~~fund as provided under section 214.330 or an account used to hold deposits under~~
66 ~~section 214.387;~~
- 67 ~~(19) "Escrow agent", an attorney, title company, certified public~~
68 ~~accountant or other person authorized by the division to exercise escrow powers~~
69 ~~under the laws of this state;~~

- 70 ~~————— (20) "Escrow agreement", an agreement subject to approval by the office~~
71 ~~between an escrow agent and a cemetery operator or its agent or related party~~
72 ~~with common ownership, to receive and administer payments under cemetery~~
73 ~~prearranged contracts sold by the cemetery operator;~~
- 74 ~~————— (21) "Family burial ground", a cemetery in which no burial space is sold~~
75 ~~to the public and in which interments are restricted to persons related by blood~~
76 ~~or marriage;~~
- 77 ~~————— (22) "Fraternal cemetery", a cemetery owned, operated, controlled or~~
78 ~~managed by any fraternal organization or auxiliary organizations thereof, in~~
79 ~~which the sale of burial space is restricted solely to its members and their~~
80 ~~immediate families;~~
- 81 ~~————— (23) "Garden mausoleum", a mausoleum without a substantial area of~~
82 ~~enclosed space and having its crypt and niche fronts open to the atmosphere.~~
83 ~~Ventilation of the crypts by forced air or otherwise does not constitute a garden~~
84 ~~mausoleum as a community mausoleum;~~
- 85 ~~————— (24) "Government cemetery", or "municipal cemetery", a cemetery~~
86 ~~owned, operated, controlled or managed by the federal government, the state or~~
87 ~~a political subdivision of the state, including a county or municipality or~~
88 ~~instrumentality thereof;~~
- 89 ~~————— (25) "Grave" or "plot", a place of ground in a cemetery, used or intended~~
90 ~~to be used for burial of human remains;~~
- 91 ~~————— (26) "Human remains", the body of a deceased person in any state of~~
92 ~~decomposition, as well as cremated remains;~~
- 93 ~~————— (27) "Inurnment", placing an urn containing cremated remains in a burial~~
94 ~~space;~~
- 95 ~~————— (28) "Lawn crypt", a burial vault or other permanent container for a~~
96 ~~casket which is permanently installed below ground prior to the time of the actual~~
97 ~~interment. A lawn crypt may permit single or multiple interments in a grave~~
98 ~~space;~~
- 99 ~~————— (29) "Mausoleum", a structure or building for the entombment of human~~
100 ~~remains in crypts;~~
- 101 ~~————— (30) "Niche", a space in a columbarium used or intended to be used for~~
102 ~~inurnment of cremated remains;~~
- 103 ~~————— (31) "Nonendowed care cemetery", or "nonendowed cemetery", a~~
104 ~~cemetery or a section of a cemetery for which no endowed care trust fund has~~
105 ~~been established in accordance with sections 214.270 to 214.410;~~
- 106 ~~————— (32) "Office", the office of endowed care cemeteries within the division~~
107 ~~of professional registration;~~
- 108 ~~————— (33) "Owner of burial space", a person to whom the cemetery operator~~
109 ~~or his authorized agent has transferred the right of use of burial space;~~
- 110 ~~————— (34) "Person", an individual, corporation, partnership, joint venture,~~
111 ~~association, trust or any other legal entity;~~

- 112 ~~_____ (35) "Registry", the list of cemeteries maintained in the division office~~
- 113 ~~for public review. The division may charge a fee for copies of the registry;~~
- 114 ~~_____ (36) "Religious cemetery", a cemetery owned, operated, controlled or~~
- 115 ~~managed by any church, convention of churches, religious order or affiliated~~
- 116 ~~auxiliary thereof in which the sale of burial space is restricted solely to its~~
- 117 ~~members and their immediate families;~~
- 118 ~~_____ (37) "Surface lawn crypt", a sealed burial chamber whose lid protrudes~~
- 119 ~~above the land surface;~~
- 120 ~~_____ (38) "Total acreage", the entire tract which is dedicated to or reserved for~~
- 121 ~~cemetery purposes;~~
- 122 ~~_____ (39) "Trustee of an endowed care fund", the separate legal entity~~
- 123 ~~qualified under section 214.330 appointed as trustee of an endowed care fund.]~~
- 124

~~[214.275. 1. No endowed care or nonendowed care cemetery shall be operated in this state unless the owner or operator thereof has a license issued by the division and complies with all applicable state, county or municipal ordinances and regulations.~~

~~2. It shall not be unlawful for a person who does not have a license to care for or maintain the cemetery premises, or to fulfill prior contractual obligations for the interment of human remains in burial spaces.~~

~~3. Applications for a license shall be in writing, submitted to the division on forms prescribed by the division. The application shall contain such information as the division deems necessary and be accompanied by the required fee.~~

~~4. Each license issued pursuant to sections 214.270 to 214.516 shall be renewed prior to the license renewal date established by the division. The division shall issue a new license upon receipt of a proper renewal application, trust fund report as required by section 214.340, and the required renewal fee. The required renewal fee shall be fifty dollars, plus an assessment for each interment, inurnment or other disposition of human remains at a cemetery for which a charge is made, as the division shall by rule determine, not to exceed ten dollars per such disposition in the case of an endowed care cemetery, and six dollars for such disposition in the case of a nonendowed care cemetery. The division shall mail a renewal notice to the last known address of the holder of the license prior to the renewal date. The holder of a license shall keep the division advised of the holder's current address. The license issued to the owner or operator of a cemetery which is not renewed within three months after the license renewal date shall be suspended automatically, subject to the right of the holder to have the suspended license reinstated within nine months of the date of suspension if the person pays the required reinstatement fee. Any license suspended and not reinstated within nine months of the suspension shall expire and be void and the holder of such license shall have no rights or privileges provided to holders of valid licenses. Any person whose license has expired may,~~

31 upon demonstration of current qualifications and payment of required fees, be
 32 reregistered or reauthorized under the person's original license number.

33 ~~5. The division shall grant or deny each application for a license pursuant
 34 to this section within ninety days after it is filed, and no prosecution of any
 35 person who has filed an application for such license shall be initiated unless it is
 36 shown that such application was denied by the division and the owner was
 37 notified thereof.~~

38 ~~6. Upon the filing of a completed application, as defined by rule, the
 39 applicant may operate the business until the application is acted upon by the
 40 division.~~

41 ~~7. Within thirty days after the sale or transfer of ownership or control of
 42 a cemetery, the transferor shall return his or her license to the division. A
 43 prospective purchaser or transferee of a cemetery shall file an application for a
 44 license at least thirty days prior to the sale or transfer of ownership or control of
 45 a cemetery and shall be in compliance with sections 214.270 to 214.516.]~~

46
 2 ~~[214.276. 1. The division may refuse to issue or renew any license,
 3 required pursuant to sections 214.270 to 214.516 for one or any combination of
 4 causes stated in subsection 2 of this section. The division shall notify the
 5 applicant in writing of the reasons for the refusal and shall advise the applicant
 6 of his or her right to file a complaint with the administrative hearing commission
 7 as provided by chapter 621.~~

8 ~~2. The division may cause a complaint to be filed with the administrative
 9 hearing commission as provided in chapter 621 against any holder of any license,
 10 required by sections 214.270 to 214.516 or any person who has failed to
 11 surrender his or her license, for any one or any combination of the following
 12 causes:~~

13 ~~(1) Use of any controlled substance, as defined in chapter 195, or
 14 alcoholic beverage to an extent that such use impairs a person's ability to perform
 15 the work of any profession licensed or regulated by sections 214.270 to 214.516;~~

16 ~~(2) The person has been finally adjudicated and found guilty, or entered
 17 a plea of guilty or nolo contendere, in a criminal prosecution pursuant to the laws
 18 of any state or of the United States, for any offense reasonably related to the
 19 qualifications, functions or duties of any profession licensed or regulated
 20 pursuant to sections 214.270 to 214.516, for any offense an essential element of
 21 which is fraud, dishonesty or an act of violence, or for any offense involving
 22 moral turpitude, whether or not sentence is imposed;~~

23 ~~(3) Use of fraud, deception, misrepresentation or bribery in securing any
 24 license, issued pursuant to sections 214.270 to 214.516 or in obtaining
 25 permission to take any examination given or required pursuant to sections
 26 214.270 to 214.516;~~

27 ~~(4) Obtaining or attempting to obtain any fee, charge or other
 compensation by fraud, deception or misrepresentation;~~

- 28 ~~_____ (5) Incompetence, misconduct, gross negligence, fraud, misrepresentation~~
29 ~~or dishonesty in the performance of the functions or duties of any profession~~
30 ~~regulated by sections 214.270 to 214.516;~~
- 31 ~~_____ (6) Violation of, or assisting or enabling any person to violate, any~~
32 ~~provision of sections 214.270 to 214.516, or any lawful rule or regulation adopted~~
33 ~~pursuant to sections 214.270 to 214.516;~~
- 34 ~~_____ (7) Impersonation of any person holding a license or allowing any person~~
35 ~~to use his or her license;~~
- 36 ~~_____ (8) Disciplinary action against the holder of a license or other right to~~
37 ~~practice any profession regulated by sections 214.270 to 214.516 granted by~~
38 ~~another state, territory, federal agency or country upon grounds for which~~
39 ~~revocation or suspension is authorized in this state;~~
- 40 ~~_____ (9) A person is finally adjudged insane or incompetent by a court of~~
41 ~~competent jurisdiction;~~
- 42 ~~_____ (10) Assisting or enabling any person to practice or offer to practice any~~
43 ~~profession licensed or regulated by sections 214.270 to 214.516 who is not~~
44 ~~registered and currently eligible to practice pursuant to sections 214.270 to~~
45 ~~214.516;~~
- 46 ~~_____ (11) Issuance of a license based upon a material mistake of fact;~~
- 47 ~~_____ (12) Failure to display a valid license;~~
- 48 ~~_____ (13) Violation of any professional trust or confidence;~~
- 49 ~~_____ (14) Use of any advertisement or solicitation which is false, misleading~~
50 ~~or deceptive to the general public or persons to whom the advertisement or~~
51 ~~solicitation is primarily directed;~~
- 52 ~~_____ (15) Willfully and through undue influence selling a burial space,~~
53 ~~cemetery services or merchandise.~~
- 54 ~~_____ 3. After the filing of such complaint, the proceedings shall be conducted~~
55 ~~in accordance with the provisions of chapter 621. Upon a finding by the~~
56 ~~administrative hearing commission that the grounds, provided in subsection 2 of~~
57 ~~this section, for disciplinary action are met, the division may singly or in~~
58 ~~combination, censure or place the person named in the complaint on probation~~
59 ~~on such terms and conditions as the division deems appropriate for a period not~~
60 ~~to exceed five years, or may suspend, or revoke the license or permit or may~~
61 ~~impose a penalty allowed by subsection 4 of section 214.410. No new license~~
62 ~~shall be issued to the owner or operator of a cemetery or to any corporation~~
63 ~~controlled by such owner for three years after the revocation of the certificate of~~
64 ~~the owner or of a corporation controlled by the owner.~~
- 65 ~~_____ 4. The division may settle disputes arising under subsections 2 and 3 of~~
66 ~~this section by consent agreement or settlement agreement between the division~~
67 ~~and the holder of a license. Within such a settlement agreement, the division may~~
68 ~~singly or in combination impose any discipline or penalties allowed by this~~
69 ~~section or subsection 4 of section 214.410. Settlement of such disputes shall be~~
70 ~~entered into pursuant to the procedures set forth in section 621.045.~~

71 ~~5. Use of the procedures set out in this section shall not preclude the~~
72 ~~application of any other remedy provided by this chapter.]~~

73

~~[214.277. 1. Upon application by the division, and the necessary burden~~
2 ~~having been met, a court of general jurisdiction may grant an injunction,~~
3 ~~restraining order or other order as may be appropriate to enjoin a person from:~~

4 ~~(1) Offering to engage or engaging in the performance of any acts or~~
5 ~~practices for which a certificate of registration or authority, permit or license is~~
6 ~~required upon a showing that such acts or practices were performed or offered to~~
7 ~~be performed without a certificate of registration or authority, permit or license;~~
8 ~~or~~

9 ~~(2) Engaging in any practice or business authorized by a certificate of~~
10 ~~registration or authority, permit or license issued pursuant to this chapter upon~~
11 ~~a showing that the holder presents a substantial probability of serious danger to~~
12 ~~the health, safety or welfare of any resident of this state or client or patient of the~~
13 ~~licensee.~~

14 ~~2. Any action brought pursuant to this section shall be in addition to and~~
15 ~~not in lieu of any penalty provided by this chapter and may be brought~~
16 ~~concurrently with other actions to enforce this chapter.]~~

17

~~[214.280. 1. Operators of all existing cemeteries shall, prior to August~~
2 ~~twenty-eighth following August 28, 1994, elect to operate each cemetery as an~~
3 ~~endowed care cemetery as defined in subdivision (16) of section 214.270 and~~
4 ~~shall register such intention with the division and remit the required registration~~
5 ~~fee or, failing such election, shall operate each cemetery for which such election~~
6 ~~is not made as a nonendowed cemetery without regard to registration fees or~~
7 ~~penalties. Operators of all cemeteries hereafter established shall, within ninety~~
8 ~~days from the establishment thereof, elect to operate each cemetery as an~~
9 ~~endowed care cemetery, or as a nonendowed cemetery. Such election for newly~~
10 ~~established cemeteries shall be filed with the division, on a form provided by the~~
11 ~~division. Any such election made subsequent to August 28, 1994, shall be~~
12 ~~accompanied by a filing fee set by the division, and such fee shall be deposited~~
13 ~~in the endowed care cemetery audit fund as defined in section 193.265. The fee~~
14 ~~authorized in this subsection shall not be required from an existing nonendowed~~
15 ~~cemetery.~~

16 ~~2. The division may adopt rules establishing the conditions and~~
17 ~~procedures governing the circumstances where an endowed care cemetery elects~~
18 ~~to operate as a nonendowed care cemetery. In the event an endowed care~~
19 ~~cemetery elects to operate as a nonendowed care cemetery, the division shall~~
20 ~~make every effort to require such cemetery to meet all contractual obligations for~~
21 ~~the delivery of services entered into prior to it reverting to the status of a~~
22 ~~nonendowed cemetery.]~~

23

~~[214.282. 1. Each contract sold by a cemetery operator for cemetery services or for grave lots, grave spaces, markers, monuments, memorials, tombstones, crypts, niches, mausoleums, or other receptacles shall be voidable by the purchaser and deemed unenforceable unless:~~

- ~~(1) It is in writing;~~
- ~~(2) It is executed by a cemetery operator who is in compliance with the licensing provisions of this chapter;~~
- ~~(3) It identifies the contract purchaser and identifies the cemetery services or other items to be provided;~~
- ~~(4) It identifies the name and address of any trustee or escrow agent that will receive payments made pursuant to the contract under the provisions of section 214.320, 214.330, or 214.387, if applicable;~~
- ~~(5) It contains the name and address of the cemetery operator; and~~
- ~~(6) It identifies any grounds for cancellation by the purchaser or by the cemetery operator on default of payment.~~

~~2. If a cemetery prearranged contract does not substantially comply with the provisions of this section, all payments made under such contract shall be recoverable by the purchaser, or the purchaser's legal representative, from the contract seller or other payee thereof, together with interest at the rate of ten percent per annum and all reasonable costs of collection, including attorneys' fees.]~~

~~[214.283. 1. Any person, entity, association, city, town, village, county or political subdivision that purchases, receives or holds any real estate used for the burial of dead human bodies, excluding a family burial ground, shall notify the office of the endowed care cemeteries of the name, location and address of such real estate on a form approved by the office, before October 1, 2010, or within thirty days of purchasing, receiving or holding such land or of being notified by the office of the requirements of this provision. No fee shall be charged for such notification nor shall any penalty be assessed for failure to register. This section shall not be deemed to exempt any operator of an endowed care cemetery or nonendowed care cemetery from being duly licensed as required by this chapter.~~

~~2. The division shall establish and maintain a registry of cemeteries and the registry shall be available to the public for review at the division office or copied upon request. The division may charge a fee for copies of the register.~~

- ~~(1) If, in the course of a land survey of property located in this state, a surveyor licensed pursuant to chapter 327 locates any cemetery which has not been previously registered, the surveyor shall file a statement with the division regarding the location of the cemetery. The statement shall be filed on a form as defined by division rule. No fee shall be charged to the surveyor for such filing.~~
- ~~(2) Any person, family, group, association, society or county surveyor may submit to the division, on forms provided by the division, the names and~~

22 ~~locations of any cemetery located in this state for inclusion in the registry. No fee~~
 23 ~~shall be charged for such submissions.]~~

24

~~[214.300. Any cemetery operator may, after October 13, 1961, qualify to
 2 operate a cemetery which has been operated as a nonendowed cemetery for a
 3 minimum of two years, as an endowed care cemetery by:~~

- ~~4 (1) So electing in compliance with section 214.280;~~
- ~~5 (2) Establishing an endowed care trust fund in cash of one thousand
 6 dollars for each acre in said cemetery with a minimum of five thousand dollars
 7 and a maximum of twenty-five thousand dollars;~~
- ~~8 (3) Filing the report required by section 214.340.]~~

9

~~[214.310. 1. Any cemetery operator who elects to operate a new
 2 cemetery as an endowed care cemetery or who represents to the public that
 3 perpetual, permanent, endowed, continual, eternal care, care of duration or
 4 similar care will be furnished cemetery property sold shall create an endowed
 5 care trust fund and shall deposit a minimum of twenty-five thousand dollars for
 6 cemeteries that have in excess of one hundred burials annually or a minimum of
 7 five thousand dollars for cemeteries that have one hundred or less burials
 8 annually in such fund before selling or disposing of any burial space in said
 9 cemetery, or in lieu thereof such cemetery owner may furnish a surety bond
 10 issued by a bonding company or insurance company authorized to do business in
 11 this state in the face amount of thirty thousand dollars, and such bond shall run
 12 to the office of endowed care cemeteries for the benefit of the care trust funds
 13 held by such cemetery. This bond shall be for the purpose of guaranteeing an
 14 accumulation of twenty-five thousand dollars in such care trust fund and also for
 15 the further purpose of assuring that the cemetery owner shall provide annual
 16 perpetual or endowment care in an amount equal to the annual reasonable return
 17 on a secured cash investment of twenty-five thousand dollars until twenty-five
 18 thousand dollars is accumulated in said endowed care trust funds, and these shall
 19 be the conditions of such surety bond; provided, however, the liability of the
 20 principal and surety on the bond shall in no event exceed thirty thousand dollars.
 21 Provided further, that whenever a cemetery owner which has made an initial
 22 deposit to the endowed care trust fund demonstrates to the satisfaction of the
 23 administrator of the office of endowed care cemeteries that more than twenty-five
 24 thousand dollars has been accumulated in the endowed care trust fund, the
 25 cemetery owner may petition the administrator of the office of endowed care
 26 cemeteries for an order to dissolve the surety bond requirement, so long as at
 27 least twenty-five thousand dollars always remains in the endowed care trust fund.~~

28

~~2. Construction of a mausoleum, lawn crypt, columbarium or
 29 crematorium as part of a cemetery then operated as an endowed care cemetery
 30 shall not be considered the establishment of a new cemetery for purposes of this
 31 section.~~

32 ~~3. Any endowed care cemetery which does not maintain an adequately~~
33 ~~staffed office in the county in which the cemetery is located shall have~~
34 ~~prominently displayed on the premises a sign clearly stating the operator's name,~~
35 ~~address and telephone number. If the operator does not reside in the county in~~
36 ~~which the cemetery is located, the sign shall also state the name, address and~~
37 ~~telephone number of a resident of the county who is the authorized agent of the~~
38 ~~operator or the location of an office of the cemetery which is within ten miles of~~
39 ~~such cemetery. In jurisdictions where ordinances require signs to meet certain~~
40 ~~specifications, a weatherproof notice containing the information required by this~~
41 ~~subsection shall be sufficient.]~~
42

2 ~~[214.320. 1. An operator of an endowed care cemetery shall establish~~
3 ~~and deposit in an endowed care trust fund not less than the following amounts for~~
4 ~~burial space sold or disposed of, with such deposits to the endowed care trust~~
5 ~~fund to be made monthly on all burial space that has been fully paid for to the~~
6 ~~date of deposit:~~

7 ~~(1) A minimum of fifteen percent of the gross sales price, or twenty~~
8 ~~dollars, whichever is greater, for each grave space sold;~~

9 ~~(2) A minimum of ten percent of the gross sales price of each crypt or~~
10 ~~niche sold in a community mausoleum, or a minimum of one hundred dollars for~~
11 ~~each crypt or fifty dollars for each niche sold in a community mausoleum;~~
12 ~~whichever is greater;~~

13 ~~(3) A minimum of ten percent of the gross sales price of each crypt or~~
14 ~~niche sold in a garden mausoleum, or a minimum of one hundred dollars for each~~
15 ~~crypt or twenty-five dollars for each niche sold in a garden mausoleum;~~
16 ~~whichever is greater;~~

17 ~~(4) A minimum of ten percent of the gross sales price of each lawn crypt~~
18 ~~sold or a minimum of seventy-five dollars, whichever is greater.~~

19 ~~2. Notwithstanding the provisions of subdivision (2) of subsection 1 of~~
20 ~~this section, a cemetery operator who has made the initial deposit in trust as~~
21 ~~required by sections 214.270 to 214.410 from his own funds, and not from funds~~
22 ~~deposited with respect to sales of burial space, may deposit only one-half the~~
23 ~~minimum amounts set forth in subdivisions (1) and (2) of subsection 1 of this~~
24 ~~section, until he shall have recouped his entire initial deposit. Thereafter, he shall~~
25 ~~make the minimum deposits required under subdivisions (1), (2), (3), and (4) of~~
26 ~~subsection 1 of this section.~~

27 ~~3. As required by section 214.340, each operator of an endowed care~~
28 ~~cemetery shall file with the division of professional registration, on a form~~
29 ~~provided by the division, an annual endowed care trust fund report. The operator~~
30 ~~of any cemetery representing the cemetery, or any portion of the cemetery, as an~~
31 ~~endowed care cemetery shall make available to the division for inspection or~~
32 ~~audit at any reasonable time only those cemetery records and trust fund records~~
33 ~~necessary to determine whether the cemetery's endowed care trust fund is in~~

33 ~~compliance with sections 214.270 to 214.410. Each cemetery operator who has~~
 34 ~~established an escrow account pursuant to section 214.387 shall make available~~
 35 ~~to the division for inspection or audit at any reasonable time those cemetery~~
 36 ~~records and financial institution records necessary to determine whether the~~
 37 ~~cemetery operator is in compliance with the provisions of section 214.387.~~

38 ~~4. No cemetery operator shall operate or represent to the public by any~~
 39 ~~title, description, or similar terms that a cemetery provides endowed care unless~~
 40 ~~the cemetery is in compliance with the provisions of sections 214.270 to 214.410.~~

41 ~~5. A cemetery operator shall be exempt from the provisions of chapter~~
 42 ~~436 for the sale of cemetery services or for grave lots, grave spaces, markers,~~
 43 ~~monuments, memorials, tombstones, crypts, niches or mausoleums, outer burial~~
 44 ~~containers or other receptacle. A cemetery operator shall be prohibited from~~
 45 ~~adjusting or establishing the sales price of items with the intent of evading the~~
 46 ~~trusting or escrow provisions of this chapter.]~~

47

2 ~~[214.325. If the deposits to any endowed care trust fund are less than the~~
 3 ~~total sum required to be set aside and deposited since the effective date of such~~
 4 ~~sections, the cemetery operator shall correct such deficiency by depositing not~~
 5 ~~less than twenty percent of such deficiency each year for five years and shall file,~~
 6 ~~on the form provided by the division, a statement outlining the date and amount~~
 7 ~~such deposits were made. If the cemetery operator fails to correct the deficiency~~
 8 ~~with respect to funds maintained under section 214.330, the cemetery operator~~
 9 ~~shall thereafter not represent the cemetery as an endowed care cemetery. Any~~
 10 ~~funds held in the cemetery's endowed care trust shall continue to be used for~~
 11 ~~endowed care for that cemetery. The cemetery operator shall remain subject to~~
 12 ~~the provisions of sections 214.270 to 214.410 for any cemetery or any section of~~
 13 ~~the cemetery for which endowed care payments have been collected, subject to~~
 14 ~~the penalties contained in section 214.410, and civil actions as well as subject to~~
 15 ~~any regulations promulgated by the division. For purposes of this section, the~~
 16 ~~term "deficiency" shall mean a deficiency in the amount required to be deposited~~
 17 ~~pursuant to section 214.320, or a deficiency created by disbursements in excess~~
 18 ~~of what is permitted under section 214.330 and shall not include or be affected~~
 19 ~~by deficiencies or shortages caused by the fluctuating value of investments.]~~

19

2 ~~[214.330. 1. (1) The endowed care trust fund required by sections~~
 3 ~~214.270 to 214.410 shall be permanently set aside in trust or in accordance with~~
 4 ~~the provisions of subsection 2 of this section. The trustee of the endowed care~~
 5 ~~trust shall be a state or federally chartered financial institution authorized to~~
 6 ~~exercise trust powers in Missouri. The contact information for a trust officer or~~
 7 ~~duly appointed representative of the trustee with knowledge and access to the~~
 8 ~~trust fund accounting and trust fund records must be disclosed to the office or its~~
 9 ~~duly authorized representative upon request.~~

9 ~~_____ (2) The trust fund records, including all trust fund accounting records;~~
10 ~~shall be maintained in the state of Missouri at all times or shall be electronically~~
11 ~~stored so that the records may be made available in the state of Missouri within~~
12 ~~fifteen business days of receipt of a written request. The operator of an endowed~~
13 ~~care cemetery shall maintain a current name and address of the trustee and the~~
14 ~~records custodian for the endowed care trust fund and shall supply such~~
15 ~~information to the office, or its representative, upon request.~~

16 ~~_____ (3) Missouri law shall control all endowed care trust funds and the~~
17 ~~Missouri courts shall have jurisdiction over endowed care trusts regardless of~~
18 ~~where records may be kept or various administrative tasks may be performed.~~

19 ~~_____ 2. An endowed care trust fund shall be administered in accordance with~~
20 ~~Missouri law governing trusts, including but not limited to the applicable~~
21 ~~provisions of chapters 456 and 469, except as specifically provided in this~~
22 ~~subsection or where the provisions of sections 214.270 to 214.410 provide~~
23 ~~differently, provided that a cemetery operator shall not in any circumstances be~~
24 ~~authorized to restrict, enlarge, change, or modify the requirements of this section~~
25 ~~or the provisions of chapters 456 and 469 by agreement or otherwise.~~

26 ~~_____ (1) Income and principal of an endowed care trust fund shall be~~
27 ~~determined under the provisions of law applicable to trusts, except that the~~
28 ~~provisions of section 469.405 shall not apply.~~

29 ~~_____ (2) No principal shall be distributed from an endowed care trust fund~~
30 ~~except to the extent that a unitrust election is in effect with respect to such trust~~
31 ~~under the provisions of section 469.411.~~

32 ~~_____ (3) No right to transfer jurisdiction from Missouri under section~~
33 ~~456.1-108 shall exist for endowed care trusts.~~

34 ~~_____ (4) All endowed care trusts shall be irrevocable.~~

35 ~~_____ (5) No trustee shall have the power to terminate an endowed care trust~~
36 ~~fund under the provisions of section 456.4-414.~~

37 ~~_____ (6) A unitrust election made in accordance with the provisions of chapter~~
38 ~~469 shall be made by the cemetery operator in the terms of the endowed care trust~~
39 ~~fund agreement itself, not by the trustee.~~

40 ~~_____ (7) No contract of insurance shall be deemed a suitable investment for~~
41 ~~an endowed care trust fund.~~

42 ~~_____ (8) The income from the endowed care fund may be distributed to the~~
43 ~~cemetery operator at least annually on a date designated by the cemetery operator;~~
44 ~~but no later than sixty days following the end of the trust fund year. Any income~~
45 ~~not distributed within sixty days following the end of the trust's fiscal year shall~~
46 ~~be added to and held as part of the principal of the trust fund.~~

47 ~~_____ 3. The cemetery operator shall have the duty and responsibility to apply~~
48 ~~the income distributed to provide care and maintenance only for that part of the~~
49 ~~cemetery designated as an endowed care section and not for any other purpose.~~

50 ~~_____ 4. In addition to any other duty, obligation, or requirement imposed by~~
51 ~~sections 214.270 to 214.410 or the endowed care trust agreement, the trustee's~~

52 ~~duties shall be the maintenance of records related to the trust and the accounting~~
53 ~~for and investment of moneys deposited by the operator to the endowed care trust~~
54 ~~fund.~~

55 ~~(1) For the purposes of sections 214.270 to 214.410, the trustee shall not~~
56 ~~be deemed responsible for the care, the maintenance, or the operation of the~~
57 ~~cemetery, or for any other matter relating to the cemetery, or the proper~~
58 ~~expenditure of funds distributed by the trustee to the cemetery operator;~~
59 ~~including, but not limited to, compliance with environmental laws and~~
60 ~~regulations.~~

61 ~~(2) With respect to cemetery property maintained by endowed care funds,~~
62 ~~the cemetery operator shall be responsible for the performance of the care and~~
63 ~~maintenance of the cemetery property.~~

64 ~~5. If the endowed care cemetery fund is not permanently set aside in a~~
65 ~~trust fund as required by subsection 1 of this section, then the funds shall be~~
66 ~~permanently set aside in an escrow account in the state of Missouri. Funds in an~~
67 ~~escrow account shall be placed in an endowed care trust fund under subsection~~
68 ~~1 if the funds in the escrow account exceed three hundred fifty thousand dollars;~~
69 ~~unless otherwise approved by the division for good cause. The account shall be~~
70 ~~insured by the Federal Deposit Insurance Corporation or comparable deposit~~
71 ~~insurance and held in a state or federally chartered financial institution authorized~~
72 ~~to do business in Missouri and located in this state.~~

73 ~~(1) The interest from the escrow account may be distributed to the~~
74 ~~cemetery operator at least in annual or semiannual installments, but not later than~~
75 ~~six months following the calendar year. Any interest not distributed within six~~
76 ~~months following the end of the calendar year shall be added to and held as part~~
77 ~~of the principal of the account.~~

78 ~~(2) The cemetery operator shall have the duty and responsibility to apply~~
79 ~~the interest to provide care and maintenance only for that part of the cemetery in~~
80 ~~which burial space shall have been sold and with respect to which sales the~~
81 ~~escrow account shall have been established and not for any other purpose. The~~
82 ~~principal of such funds shall be kept intact. The cemetery operator's duties shall~~
83 ~~be the maintenance of records and the accounting for an investment of moneys~~
84 ~~deposited by the operator to the escrow account. For purposes of sections~~
85 ~~214.270 to 214.410, the administrator of the office of endowed care cemeteries~~
86 ~~shall not be deemed to be responsible for the care, maintenance, or operation of~~
87 ~~the cemetery. With respect to cemetery property maintained by cemetery care~~
88 ~~funds, the cemetery operator shall be responsible for the performance of the care~~
89 ~~and maintenance of the cemetery property owned by the cemetery operator.~~

90 ~~(3) The division may approve an escrow agent if the escrow agent~~
91 ~~demonstrates the knowledge, skill, and ability to handle escrow funds and~~
92 ~~financial transactions and is of good moral character.~~

93 ~~6. The cemetery operator shall be accountable to the owners of burial~~
94 ~~space in the cemetery for compliance with sections 214.270 to 214.410.~~

95 ~~7. Excluding funds held in an escrow account, all endowed care trust~~
96 ~~funds shall be administered in accordance with an endowed care trust fund~~
97 ~~agreement, which shall be submitted to the office by the cemetery operator for~~
98 ~~review and approval. The endowed care cemetery shall be notified in writing by~~
99 ~~the office of endowed care cemeteries regarding the approval or disapproval of~~
100 ~~the endowed care trust fund agreement and regarding any changes required to be~~
101 ~~made for compliance with sections 214.270 to 214.410 and the rules and~~
102 ~~regulations promulgated thereunder.~~

103 ~~8. All endowed care cemeteries shall be under a continuing duty to file~~
104 ~~with the office of endowed care cemeteries and to submit for prior approval any~~
105 ~~and all changes, amendments, or revisions of the endowed care trust fund~~
106 ~~agreement at least thirty days before the effective date of such change,~~
107 ~~amendment, or revision.~~

108 ~~9. If the endowed care trust fund agreement, or any changes,~~
109 ~~amendments, or revisions filed with the office, are not disapproved by the office~~
110 ~~within thirty days after submission by the cemetery operator, the endowed care~~
111 ~~trust fund agreement, or the related change, amendment, or revision, shall be~~
112 ~~deemed approved and may be used by the cemetery operator and the trustee.~~
113 ~~Notwithstanding any other provision of this section, the office may review and~~
114 ~~disapprove an endowed care trust fund agreement, or any submitted change,~~
115 ~~amendment, or revision, after the thirty days provided herein or at any other time~~
116 ~~if the agreement is not in compliance with sections 214.270 to 214.410 or the~~
117 ~~rules promulgated thereunder. Notice of disapproval by the office shall be in~~
118 ~~writing and delivered to the cemetery operator and the trustee within ten days of~~
119 ~~disapproval.~~

120 ~~10. Funds in an endowed care trust fund or escrow account may be~~
121 ~~commingled with endowed care funds for other endowed care cemeteries,~~
122 ~~provided that the cemetery operator and the trustee shall maintain adequate~~
123 ~~accounting records of the disbursements, contributions, and income allocated for~~
124 ~~each cemetery.~~

125 ~~11. By accepting the trusteeship of an endowed care trust or accepting~~
126 ~~funds as an escrow agent pursuant to sections 214.270 to 214.410, the trustee or~~
127 ~~escrow agent submits personally to the jurisdiction of the courts of this state and~~
128 ~~the office of endowed care cemeteries regarding the administration of the trust~~
129 ~~or escrow account. A trustee or escrow agent shall consent in writing to the~~
130 ~~jurisdiction of the state of Missouri and the office in regards to the trusteeship or~~
131 ~~the operation of the escrow account and to the appointment of the office of~~
132 ~~secretary of state as its agent for service of process regarding any administrative~~
133 ~~or legal actions relating to the trust or the escrow account, if it has no designated~~
134 ~~agent for service of process located in this state. Such consent shall be filed with~~
135 ~~the office prior to accepting funds pursuant to sections 214.270 to 214.410 as~~
136 ~~trustee or as an escrow agent on a form provided by the office by rule.]~~

137

2 ~~[214.335. 1. Any endowed care cemetery may require a contribution to~~
 3 ~~the endowed care fund or to a separate memorial care fund for each memorial or~~
 4 ~~monument installed on a grave in the cemetery. Such contribution, if required by~~
 5 ~~a cemetery, shall not exceed twenty cents per square inch of base area, and shall~~
 6 ~~be charged on every installation regardless of the person performing the~~
 7 ~~installation. Each contribution made pursuant to a contract or agreement entered~~
 8 ~~into after August 28, 1990, shall be entrusted and administered pursuant to~~
 9 ~~sections 214.270 to 214.410 for the endowed care fund. Each contribution made~~
 10 ~~pursuant to a contract or agreement entered into before August 28, 1990, shall be~~
 11 ~~governed by the law in effect at the time the contract or agreement was entered~~
 12 ~~into.~~

13 ~~2. If the deposits to any endowed care trust fund are less than the total~~
 14 ~~sum required to be set aside and deposited since the effective date of such~~
 15 ~~sections, the cemetery operator shall correct such deficiency by depositing not~~
 16 ~~less than twenty percent of such deficiency each year for five years and shall file,~~
 17 ~~on the form provided by the division, a statement outlining the date and amount~~
 18 ~~such deposits were made. If the cemetery operator fails to correct the deficiency~~
 19 ~~with respect to funds maintained under section 214.330, the cemetery operator~~
 20 ~~shall thereafter not represent the cemetery as an endowed care cemetery. Any~~
 21 ~~funds held in the cemetery's endowed care trust shall continue to be used for~~
 22 ~~endowed care for that cemetery. The cemetery operator shall remain subject to~~
 23 ~~the provisions of sections 214.270 to 214.410 for any cemetery or any section of~~
 24 ~~the cemetery for which endowed care payments have been collected, subject to~~
 25 ~~the penalties contained in section 214.410, and civil actions, as well as subject~~
 26 ~~to any regulations promulgated by the division. For purposes of this section, the~~
 27 ~~term "deficiency" shall mean a deficiency in the amount required to be deposited~~
 28 ~~pursuant to subsection 1 of this section, or a deficiency created by disbursements~~
 29 ~~in excess of what is permitted under section 214.330 and shall not include or be~~
 30 ~~affected by deficiencies or shortages caused by the fluctuating value of~~
 31 ~~investments.]~~

2 ~~[214.340. 1. Each operator of an endowed care cemetery shall maintain~~
 3 ~~an office in the cemetery or, if the cemetery has no office in the cemetery, at~~
 4 ~~an office within a reasonable distance of the cemetery, the reports of the endowed~~
 5 ~~care trust fund's operation for the preceding seven years. Each report shall~~
 6 ~~contain, at least, the following information:~~

- 7 ~~(1) Name and address of the trustee of the endowed care trust fund and~~
 8 ~~the depository, if different from the trustee;~~
- 9 ~~(2) Balance per previous year's report;~~
- 10 ~~(3) Principal contributions received since previous report;~~
- 11 ~~(4) Total earnings since previous report;~~
- 12 ~~(5) Total distribution to the cemetery operator since the previous report;~~
- 13 ~~(6) Current balance;~~

13 ~~_____ (7) A statement of all assets listing cash, real or personal property, stocks,~~
 14 ~~bonds, and other assets, showing cost, acquisition date and current market value~~
 15 ~~of each asset;~~

16 ~~_____ (8) Total expenses, excluding distributions to cemetery operator, since~~
 17 ~~previous report; and~~

18 ~~_____ (9) A statement of the cemetery's total acreage and of its developed~~
 19 ~~acreage.~~

20 ~~_____ 2. Subdivisions (1) through (7) of the report described in subsection 1~~
 21 ~~above shall be certified to under oath as complete and correct by a corporate~~
 22 ~~officer of the trustee. Subdivision (8) of such report shall be certified under oath~~
 23 ~~as complete and correct by an officer of the cemetery operator. Both the trustee~~
 24 ~~and cemetery operator or officer shall be subject to the penalty of making a false~~
 25 ~~affidavit or declaration.~~

26 ~~_____ 3. The report shall be placed in the cemetery's office within ninety days~~
 27 ~~of the close of the trust's fiscal year. A copy of this report shall be filed by the~~
 28 ~~cemetery operator with the division of professional registration as condition of~~
 29 ~~license renewal as required by subsection 4 of section 214.275.~~

30 ~~_____ 4. Each cemetery operator who establishes an escrow or trust account~~
 31 ~~pursuant to section 214.387 shall file with the report required under subsection~~
 32 ~~1 of this section an escrow or trust account report that shall provide the following~~
 33 ~~information:~~

34 ~~_____ (1) The total face value of all contracts for burial merchandise and~~
 35 ~~services that have been deferred for delivery by purchase designation; and~~

36 ~~_____ (2) The amount on deposit in the escrow or trust account established~~
 37 ~~pursuant to section 214.387, and the account number in the case of an escrow~~
 38 ~~account.]~~

39

2 ~~[214.345. 1. Any cemetery operator who negotiates the sale of burial~~
 3 ~~space in any cemetery located in this state shall provide each prospective owner~~
 4 ~~of burial space a written statement, which may be a separate form or a part of the~~
 5 ~~sales contract, which states and explains in plain language that the burial space~~
 6 ~~is part of an endowed care cemetery; that the cemetery has established and~~
 7 ~~maintains the endowed care trust fund required by law; and that the information~~
 8 ~~regarding the fund described in section 214.340 is available to the prospective~~
 9 ~~purchaser. If the burial space is in a nonendowed cemetery, or in a nonendowed~~
 10 ~~section of an endowed care cemetery, the cemetery operator shall state he has~~
 11 ~~elected not to establish an endowed care trust fund.~~

12 ~~_____ 2. The operator of each endowed care cemetery shall, upon request, give~~
 13 ~~to the public for retention a copy of the endowed care trust fund annual report~~
 14 ~~prepared pursuant to the provisions of subsection 1 of section 214.340.]~~

14

2 ~~[214.360. No cemetery operator, nor any director, officer or shareholder~~
 of any cemetery may borrow or in any other way make use of the endowed care

3 ~~trust funds for his own use, directly or indirectly, or for furthering or developing~~
4 ~~his or any other cemetery, nor may any trustee lend or make such funds available~~
5 ~~for said purpose or for the use of any operator or any director, officer or~~
6 ~~shareholder of any cemetery.]~~
7

2 ~~[214.363. In the event of a cemetery's bankruptcy, insolvency, or~~
3 ~~assignment for the benefit of creditors, the endowed care trust funds shall not be~~
4 ~~available to any creditor as assets of the cemetery's owner or to pay any expenses~~
5 ~~of any bankruptcy or similar proceeding, but shall be retained intact to provide~~
6 ~~for the future maintenance of the cemetery.]~~

2 ~~[214.365. Prior to any action as provided in subsection 2 of section~~
3 ~~214.205, and when the division has information that a cemetery is not providing~~
4 ~~maintenance and care, has been abandoned, or has ceased operation, the division~~
5 ~~may investigate the cemetery to determine the cemetery's current status. If the~~
6 ~~division finds evidence that the cemetery is abandoned, is not conducting~~
7 ~~business, or is not providing maintenance and care, the division may apply to the~~
8 ~~circuit court for appointment as receiver, trustee, or successor in trust.]~~

2 ~~[214.367. 1. Prior to selling or otherwise disposing of a majority of the~~
3 ~~business assets of a cemetery, or a majority of its stock or other ownership~~
4 ~~interest, if a corporation or other organized business entity, the cemetery operator~~
5 ~~shall provide written notification to the division of its intent at least thirty days~~
6 ~~prior to the date set for the transfer, or the closing of the sale, or the date set for~~
7 ~~termination of its business. Such notice is confidential and shall not be~~
8 ~~considered a public record subject to the provisions of chapter 610 until the sale~~
9 ~~of the cemetery has been effectuated. Upon receipt of the written notification, the~~
10 ~~division may take reasonable and necessary action to determine that the cemetery~~
11 ~~operator has made proper plans to assure that trust funds or funds held in an~~
12 ~~escrow account for or on behalf of the cemetery will be set aside and used as~~
13 ~~provided in sections 214.270 to 214.410, including, but not limited to, an audit~~
14 ~~or examination of books and records. The division may waive the requirements~~
15 ~~of this subsection or may shorten the period of notification for good cause or if~~
16 ~~the division determines in its discretion that compliance with its provisions are~~
17 ~~not necessary.~~

18 ~~2. A cemetery operator may complete the sale, transfer, or cessation if the~~
19 ~~division does not disapprove the transaction within thirty days after receiving~~
20 ~~notice. Nothing in this section shall be construed to restrict any other right or~~
21 ~~remedy vested in the division or the attorney general.~~

22 ~~3. A prospective purchaser or transferee of endowed or unendowed~~
23 ~~cemetery, with the written consent of the cemetery operator, may obtain a copy~~
~~of the cemetery's most recent audit or inspection report from the division. The~~

24 ~~division shall inform the prospective purchaser or transferee, within thirty days;~~
25 ~~whether the cemetery may continue to operate and be represented as a cemetery.]~~
26

~~[214.370. 1. Every operator of a nonendowed cemetery shall comply
2 with the provisions of this section.~~

~~3 2. Every person subject to this section shall post in a conspicuous place
4 in every office where sales of burial space in a nonendowed cemetery are
5 conducted, a legible sign stating, "This is a nonendowed cemetery." The lettering
6 of this sign shall be of suitable size so it is easily read at a distance of fifty feet.~~

~~7 3. Every person subject to this section shall also have printed or stamped
8 at the head of all contracts, deeds, statements, letterheads, and advertising
9 material, used in any connection with the sale of burial space in a nonendowed
10 cemetery, the statement: "This is a nonendowed cemetery." in lettering equivalent
11 to a minimum of ten point number two black type, and shall not sell any lot or
12 interment space therein unless and until the purchaser thereof is informed that the
13 cemetery is a nonendowed cemetery.]~~
14

~~[214.380. An endowed care cemetery may have within its confines a
2 section which may be sold without endowed care; provided, that such section
3 shall be separately set off from the remainder of the cemetery and provided that
4 signs are kept prominently placed around such section stating, "This is a
5 nonendowed section." in lettering of suitable size so it is easily read at a distance
6 of fifty feet. There shall be printed or stamped at the head of all contracts, deeds,
7 statements, letterheads and advertising material used in any connection with the
8 sale of burial space in said section, the statement, "This is a nonendowed
9 section." in lettering equivalent to a minimum of ten point number two black
10 type. No operator shall sell any lot or interment space in a nonendowed section
11 unless and until he shall have informed the purchaser thereof that the section is
12 not endowed.]~~
13

~~[214.385. 1. If the operator of any cemetery or another authorized person
2 moves a grave marker, memorial or monument in the cemetery for any reason,
3 the operator or other authorized person shall replace the grave marker, memorial
4 or monument to its original position within a reasonable time.~~

~~5 2. When the purchase price of an item of burial merchandise sold by a
6 cemetery operator or its agent is paid in full, the cemetery operator shall make
7 delivery of such property within a reasonable time. A cemetery operator may
8 comply with this section by delivering to the purchaser of such property a valid
9 warehouse receipt which may be presented to the cemetery operator at a later date
10 for actual delivery.]~~
11

~~[214.387. 1. With the exception of sales made pursuant to section 214.385, all sales of prearranged burial merchandise and services shall be made pursuant to this section.~~

~~2. Upon written instructions from the purchaser of burial merchandise or burial services set forth in a cemetery prearranged contract, a cemetery may defer delivery of such burial merchandise or a warehouse receipt for the same under section 214.385, or performance of services, to a date designated by the purchaser, provided the cemetery operator, after deducting sales and administrative costs associated with the sale, not to exceed twenty percent of the purchase price, deposits the remaining portion of the purchase price into an escrow or trust account as herein provided, within sixty days following receipt of payment from the purchaser. Funds so deposited pursuant to this section shall be maintained in such account until delivery of the property or the performance of services is made or the contract for the purchase of such property or services is cancelled, and fees and costs associated with the maintenance of the trust or escrow arrangement shall be charged to these funds. The account is subject to inspection, examination or audit by the division. No withdrawals may be made from the escrow or trust account established pursuant to this section except as herein provided.~~

~~3. Each escrow arrangement must comply with the following:~~

~~(1) The escrow agent shall be located in Missouri, authorized to exercise escrow powers, and shall maintain the escrow records so that they may be accessed and produced for inspection within five business days of the agent's receipt of a written request made by the office or its duly authorized representative. A cemetery operator shall not serve as an escrow agent for the cemetery operator's account nor shall the escrow agent be employed by or under common ownership with the cemetery operator. The cemetery operator shall maintain a current name and address for the escrow agent with the office, and shall obtain written approval from the office before making any change in the name or address of the escrow agent. Notwithstanding any other provision of law, information regarding the escrow agent shall be deemed an open record;~~

~~(2) The escrow account funds shall be maintained in depository accounts at a Missouri financial institution that provides Federal Deposit Insurance Corporation or comparable deposit insurance;~~

~~(3) The escrow arrangement shall be administered by the escrow agent pursuant to an agreement approved by the office under the same filing and approval procedure as that set forth for endowed care trust fund agreements in section 214.330;~~

~~(4) The operator shall establish a separate depository account for each cemetery prearranged contract administered pursuant to this subsection;~~

~~(5) The division may promulgate by rule a form escrow agreement to be used by a cemetery operator operating pursuant to this section.~~

~~4. Each trust must comply with the following:~~

44 ~~_____ (1) The trustee shall be a state or federally chartered financial institution~~
45 ~~authorized to exercise trust powers in Missouri, provided that a foreign financial~~
46 ~~institution must be approved by the office;~~

47 ~~_____ (2) The trust fund records, including all trust fund accounting records,~~
48 ~~shall either be maintained in the state of Missouri or shall be electronically stored~~
49 ~~so that the records may be made available within fifteen business days of the~~
50 ~~trustee's receipt of a written request made by the office or its duly authorized~~
51 ~~representative. The cemetery operator shall maintain a current name and address~~
52 ~~of the trustee and the records custodian and shall supply such information to the~~
53 ~~office or its representative upon request;~~

54 ~~_____ (3) The principal of such funds shall be appropriately invested pursuant~~
55 ~~to the prudent investor rule under chapter 469, provided that no trust funds shall~~
56 ~~be invested in any term insurance product;~~

57 ~~_____ (4) Payments regarding two or more cemetery prearranged contracts may~~
58 ~~be deposited into and commingled in the same trust, so long as adequate records~~
59 ~~are made available to the trustee to account for cemetery prearranged contracts~~
60 ~~on an individual basis with regard to deposits, earnings, distributions, and any~~
61 ~~taxes;~~

62 ~~_____ (5) Trust instruments shall be subject to the same filing and approval~~
63 ~~procedure as that set forth for endowed care trust fund agreements under section~~
64 ~~214.330;~~

65 ~~_____ (6) A trustee may commingle the funds from trusts of unrelated cemetery~~
66 ~~operators for investment purposes if the trustee has adequate accounting for the~~
67 ~~allocations, disbursements, payments, and income among the participating trusts.~~

68 ~~_____ 5. The income from escrow accounts, after payment of expenses~~
69 ~~associated with the arrangement, shall be distributed to the cemetery operator.~~
70 ~~All other distributions from trusts and escrow accounts shall be made pursuant~~
71 ~~to forms approved by the office. For performance of a cemetery prearranged~~
72 ~~contract, a certificate of performance form signed by the cemetery operator shall~~
73 ~~be required for distribution. For cancellation of a cemetery prearranged contract,~~
74 ~~a certificate of cancellation form signed by the cemetery operator and the~~
75 ~~purchaser shall be required for distribution.~~

76 ~~_____ 6. A cemetery prearranged contract is subject to cancellation as follows:~~

77 ~~_____ (1) At any time before the final disposition of the deceased, or before the~~
78 ~~services or merchandise described in this section are provided, the purchaser may~~
79 ~~cancel the contract without cause by delivering written notice thereof to the~~
80 ~~operator. Within fifteen days after its receipt of such notice, the cemetery~~
81 ~~operator shall pay to the purchaser a net amount equal to eighty percent of all~~
82 ~~payments made under the contract. The cemetery operator shall be entitled to~~
83 ~~keep one-half of the interest earned on trust funds. Upon delivery of the~~
84 ~~purchaser's receipt for such payment to the escrow agent or trustee, the escrow~~
85 ~~agent or trustee shall distribute to the cemetery operator from the escrow account~~

86 or trust an amount equal to all deposits made into the escrow account or trust for
 87 the contract;

88 ~~(2) Notwithstanding the provisions of subdivision (1) of this subsection,~~
 89 ~~if a purchaser is eligible, becomes eligible, or desires to become eligible, to~~
 90 ~~receive public assistance under chapter 208 or any other applicable state or~~
 91 ~~federal law, the purchaser may irrevocably waive and renounce his right to cancel~~
 92 ~~the contract pursuant to the provisions of subdivision (1) of this section, which~~
 93 ~~waiver and renunciation shall be made in writing and delivered to the cemetery~~
 94 ~~operator;~~

95 ~~(3) Notwithstanding the provisions of subdivision (1) of this subsection,~~
 96 ~~any purchaser, within thirty days of receipt of the executed contract, may cancel~~
 97 ~~the contract without cause by delivering written notice thereof to the cemetery~~
 98 ~~operator, and receive a full refund of all payments made on the contract;~~

99 ~~(4) Notwithstanding the provisions of subdivision (1) of this subsection,~~
 100 ~~once any purchase order is entered for the production or manufacture of burial~~
 101 ~~merchandise, per the purchaser's written request, the purchaser's obligation to pay~~
 102 ~~for said burial merchandise shall be noncancellable;~~

103 ~~(5) No funds subject to a purchaser's right of cancellation hereunder shall~~
 104 ~~be subject to the claims of the cemetery operator's creditors.~~

105 ~~7. Burial merchandise sold through a contract with a cemetery or~~
 106 ~~cemetery operator which is entered into after the death of the individual for~~
 107 ~~whom the burial merchandise is intended shall not be subject to any trusting or~~
 108 ~~escrow requirement of this section.~~

109 ~~8. This section shall apply to all agreements entered into after August 28,~~
 110 ~~2010.]~~

111

~~[214.389. 1. The division may direct a trustee, financial institution, or~~
 2 ~~escrow agent to suspend distribution from an endowed care trust fund or escrow~~
 3 ~~account if the cemetery operator does not have a current and active cemetery~~
 4 ~~operator license, has failed to file an annual report, or if, after an audit or~~
 5 ~~examination, the division determines there is a deficiency in an endowed care~~
 6 ~~trust fund or escrow account maintained under section 214.330 and the cemetery~~
 7 ~~operator has failed to file a corrective action plan detailing how the deficiency~~
 8 ~~shall be remedied. For purposes of this section, a deficiency shall only be~~
 9 ~~deemed to exist if, after an audit or examination, the division determines a~~
 10 ~~cemetery operator has failed to deposit the total aggregate of funds required to be~~
 11 ~~deposited in trust or an escrow account pursuant to section 214.320 or subsection~~
 12 ~~1 of section 214.335, or has received disbursements from the trust or escrow~~
 13 ~~account in excess of what is permitted under section 214.330. No deficiency~~
 14 ~~shall be deemed to be created by fluctuations in the value of investments held in~~
 15 ~~trust or escrow.~~

16 ~~2. The division shall provide written notification to the cemetery operator~~
 17 ~~and the trustee, financial institution, or escrow agent within fourteen days of~~

18 ~~discovering a potential violation as described in this section. Upon receipt of~~
19 ~~written notification from the division, the cemetery operator shall have sixty days~~
20 ~~to cure any alleged violations or deficiencies cited in the notification without a~~
21 ~~suspension of distribution. If, after the sixty-day time period, the division feels~~
22 ~~the cemetery has not cured the alleged violations or deficiencies cited in the~~
23 ~~notification, the division may send a notice of suspension to the cemetery~~
24 ~~operator that the division is ordering a suspension of distribution as described in~~
25 ~~this section. In the event of a suspension of distribution, the amount of any~~
26 ~~distribution suspended shall become principal, with credit against the deficiency;~~
27 ~~unless the cemetery operator files an appeal with a court of competent~~
28 ~~jurisdiction or with the administrative hearing commission, as provided herein.~~
29 ~~In the event of an appeal, a cemetery operator may request the court or~~
30 ~~administrative hearing commission stay the suspension of distribution after a~~
31 ~~showing of necessity and good cause or authorize payment from the endowed~~
32 ~~care trust fund or escrow account for necessary expenses from any amount~~
33 ~~subject to distribution.~~

34 ~~3. Upon receipt of an order from the division suspending distribution~~
35 ~~pursuant to this section, a trustee, financial institution, or escrow agent shall~~
36 ~~immediately suspend distribution as required by the order. A trustee, financial~~
37 ~~institution, or escrow agent shall be exempt from liability for failure to distribute~~
38 ~~funds as ordered by the division.~~

39 ~~4. A cemetery operator may appeal an order suspending distribution~~
40 ~~pursuant to this section to the administrative hearing commission. The~~
41 ~~administrative hearing commission shall receive notice of such appeal within~~
42 ~~thirty days from the date the notice of suspension was mailed by certified mail.~~
43 ~~Failure of a person whose license was suspended to notify the administrative~~
44 ~~hearing commission of his or her intent to appeal waives all rights to appeal the~~
45 ~~suspension. Upon notice of such person's intent to appeal, a hearing shall be held~~
46 ~~before the administrative hearing commission pursuant to chapter 621.~~

47 ~~5. A cemetery operator may apply for reinstatement of distributions upon~~
48 ~~demonstration that the deficiencies or other problems have been cured or that the~~
49 ~~operator has otherwise come into compliance.~~

50 ~~6. The division may promulgate rules to implement the provisions of this~~
51 ~~section. Any rule or portion of a rule, as that term is defined in section 536.010;~~
52 ~~that is created under the authority delegated in this section shall become effective~~
53 ~~only if it complies with and is subject to all of the provisions of chapter 536 and,~~
54 ~~if applicable, section 536.028. This section and chapter 536 are nonseverable and~~
55 ~~if any of the powers vested with the general assembly pursuant to chapter 536 to~~
56 ~~review, to delay the effective date, or to disapprove and annul a rule are~~
57 ~~subsequently held unconstitutional, then the grant of rulemaking authority and~~
58 ~~any rule proposed or adopted after August 28, 2010, shall be invalid and void.]~~
59

2 ~~[214.390. Cemeteries existing at the time of the adoption of sections~~
 3 ~~214.270 to 214.410 shall hereafter be operated subject to the provisions of~~
 4 ~~sections 214.270 to 214.410. Where an ordinance or order is established by a~~
 5 ~~county, city, town or village which relates to the maintenance of cemetery~~
 6 ~~property, including the control of weeds and other debris, all cemeteries,~~
 7 ~~including nonperpetual cemeteries, shall be maintained consistent with the~~
 8 ~~provisions of the ordinance or order.]~~

2 ~~[214.392. 1. The division shall:~~
 3 ~~(1) Recommend prosecution for violations of the provisions of sections~~
 4 ~~214.270 to 214.410 to the appropriate prosecuting, circuit attorney or to the~~
 5 ~~attorney general;~~
 6 ~~(2) Employ, within limits of the funds appropriated, such employees as~~
 7 ~~are necessary to carry out the provisions of sections 214.270 to 214.410;~~
 8 ~~(3) Be allowed to convey full authority to each city or county governing~~
 9 ~~body the use of inmates controlled by the department of corrections and the board~~
 10 ~~of probation and parole to care for abandoned cemeteries located within the~~
 11 ~~boundaries of each city or county;~~
 12 ~~(4) Exercise all budgeting, purchasing, reporting and other related~~
 13 ~~management functions;~~
 14 ~~(5) Be authorized, within the limits of the funds appropriated, to conduct~~
 15 ~~investigations, examinations, or audits to determine compliance with sections~~
 16 ~~214.270 to 214.410;~~
 17 ~~(6) The division may promulgate rules necessary to implement the~~
 18 ~~provisions of sections 214.270 to 214.516, including but not limited to:~~
 19 ~~(a) Rules setting the amount of fees authorized pursuant to sections~~
 20 ~~214.270 to 214.516. The fees shall be set at a level to produce revenue that shall~~
 21 ~~not substantially exceed the cost and expense of administering sections 214.270~~
 22 ~~to 214.516. All moneys received by the division pursuant to sections 214.270 to~~
 23 ~~214.516 shall be collected by the director who shall transmit such moneys to the~~
 24 ~~department of revenue for deposit in the state treasury to the credit of the~~
 25 ~~endowed care cemetery audit fund created in section 193.265;~~
 26 ~~(b) Rules to administer the inspection and audit provisions of the~~
 27 ~~endowed care cemetery law;~~
 28 ~~(c) Rules for the establishment and maintenance of the cemetery registry~~
 29 ~~pursuant to section 214.283.~~

30 ~~2. Any rule or portion of a rule, as that term is defined in section 536.010,~~
 31 ~~that is created under the authority delegated in this section shall become effective~~
 32 ~~only if it complies with and is subject to all of the provisions of chapter 536 and,~~
 33 ~~if applicable, section 536.028. This section and chapter 536 are nonseverable and~~
 34 ~~if any of the powers vested with the general assembly pursuant to chapter 536 to~~
~~review, to delay the effective date or to disapprove and annul a rule are~~

35 ~~subsequently held unconstitutional, then the grant of rulemaking authority and~~
 36 ~~any rule proposed or adopted after August 28, 2001, shall be invalid and void.]~~
 37

2 ~~[214.400. Sections 214.270 to 214.410 shall be known as the "Cemetery~~
 3 ~~Endowed Care Trust Fund Law".]~~

2 ~~[214.410. 1. Any cemetery operator who shall willfully violate any~~
 3 ~~provisions of sections 214.270 to 214.410 for which no penalty is otherwise~~
 4 ~~prescribed shall be deemed guilty of a misdemeanor and upon conviction thereof~~
 5 ~~shall be fined a sum not to exceed five hundred dollars or shall be confined not~~
 6 ~~more than six months or both:~~

7 ~~2. Any cemetery operator who shall willfully violate any provision of~~
 8 ~~section 214.320, 214.330, 214.335, 214.340, 214.360, 214.385, or 214.387 shall~~
 9 ~~be deemed guilty of a class E felony and upon conviction thereof shall be fined~~
 10 ~~a sum not to exceed ten thousand dollars or shall be confined not more than five~~
 11 ~~years or both. This section shall not apply to cemeteries or cemetery associations~~
 12 ~~which do not sell lots in the cemetery:~~

13 ~~3. Any trustee who shall willfully violate any applicable provisions of~~
 14 ~~sections 214.270 to 214.410 shall have committed an unsafe and unsound~~
 15 ~~banking practice and shall be penalized as authorized by chapters 361 and 362.~~
 16 ~~This subsection shall be enforced exclusively by the Missouri division of finance~~
 17 ~~for state chartered institutions and the Missouri attorney general for federally~~
 18 ~~chartered institutions:~~

19 ~~4. Any person who shall willfully violate any provision of section~~
 20 ~~214.320, 214.330, 214.335, 214.340, 214.360 or 214.385 or violates any rule,~~
 21 ~~regulation or order of the division may, in accordance with the regulations issued~~
 22 ~~by the division, be assessed an administrative penalty by the division. The~~
 23 ~~penalty shall not exceed five thousand dollars for each violation and each day of~~
 24 ~~the continuing violation shall be deemed a separate violation for purposes of~~
 25 ~~administrative penalty assessment. However, no administrative penalty may be~~
 26 ~~assessed until the person charged with the violation has been given the~~
 27 ~~opportunity for a hearing on the violation. Penalty assessments received shall be~~
 28 ~~deposited in the endowed care cemetery audit fund created in section 193.265.]~~

2 ~~[214.512. Any subsequent cemetery owner after a city shall be exempt~~
 3 ~~from the provisions of section 214.325 and section 214.410 for any deficiency~~
 4 ~~existing prior to such city's ownership; except that, such exemption shall not~~
 5 ~~relieve any previous cemetery owners or wrongdoers from the provisions of such~~
 6 ~~sections.]~~

2 ~~[436.410. The provisions of sections 436.400 to 436.520 shall not apply~~
 3 ~~to any contract or other arrangement sold by a cemetery operator for which~~
 4 ~~payments received by or on behalf of the purchaser are required to be placed in~~

4 ~~an endowed care fund or for which a deposit into a segregated account is required~~
5 ~~under chapter 214; provided that a cemetery operator shall comply with sections~~
6 ~~436.400 to 436.520 if the contract or arrangement sold by the operator includes~~
7 ~~services that may only be provided by a licensed funeral director or embalmer.]~~

✓