

SECOND REGULAR SESSION

# HOUSE BILL NO. 1652

100TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE SOMMER.

3708H.011

DANA RADEMAN MILLER, Chief Clerk

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## AN ACT

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

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

Section A. Section 214.270, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 214.270, to read as follows:

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

(1) "Agent" or "authorized agent", any person empowered by the cemetery operator to represent the operator in dealing with the general public, including owners of the burial space in the cemetery;

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

(3) "Burial space", one or more than one plot, grave, mausoleum, crypt, lawn, surface lawn crypt, niche or space used or intended for the interment of the human dead;

(4) "Cemetery", property restricted in use for the interment of the human dead by formal dedication or reservation by deed but shall not include any of the foregoing held or operated by the state or federal government or any political subdivision thereof, any incorporated city or town, any county or any religious organization, cemetery association or fraternal society holding the same for sale solely to members and their immediate families;

(5) "Cemetery association", any number of persons who shall have associated themselves by articles of agreement in writing as a not-for-profit association or organization, whether incorporated or unincorporated, formed for the purpose of ownership, preservation, care,

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

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

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

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

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

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

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

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

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

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

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

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

44 (16) "Endowed care cemetery", a cemetery, or a section of a cemetery, which represents  
45 itself as offering endowed care and which complies with the provisions of sections 214.270 to  
46 214.410;

47 (17) "Endowed care fund", "endowed care trust", or "trust", any cash or cash equivalent,  
48 to include any income therefrom, impressed with a trust by the terms of any gift, grant,  
49 contribution, payment, devise or bequest to an endowed care cemetery, or its endowed care trust,  
50 or funds to be delivered to an endowed care cemetery's trust received pursuant to a contract and  
51 accepted by any endowed care cemetery operator or his agent. This definition includes the terms  
52 endowed care funds, maintenance funds, memorial care funds, perpetual care funds, or any like  
53 term;

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

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

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

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

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

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

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

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

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

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

84 [~~27~~] (28) "Inurnment", placing an urn containing cremated remains in a burial space;

85 [~~28~~] (29) "Lawn crypt", a burial vault or other permanent container for a casket which  
86 is permanently installed below ground prior to the time of the actual interment. A lawn crypt  
87 may permit single or multiple interments in a grave space;

88 [~~29~~] (30) "Mausoleum", a structure or building for the entombment of human remains  
89 in crypts;

90           ~~[(30)]~~ **(31)** "Niche", a space in a columbarium used or intended to be used for inurnment  
91 of cremated remains;

92           ~~[(31)]~~ **(32)** "Nonendowed care cemetery", or "nonendowed cemetery", a cemetery or a  
93 section of a cemetery for which no endowed care trust fund has been established in accordance  
94 with sections 214.270 to 214.410;

95           ~~[(32)]~~ **(33)** "Office", the office of endowed care cemeteries within the division of  
96 professional registration;

97           ~~[(33)]~~ **(34)** "Owner of burial space", a person to whom the cemetery operator or his  
98 authorized agent has transferred the right of use of burial space;

99           ~~[(34)]~~ **(35)** "Person", an individual, corporation, partnership, joint venture, association,  
100 trust or any other legal entity;

101           ~~[(35)]~~ **(36)** "Registry", the list of cemeteries maintained in the division office for public  
102 review. The division may charge a fee for copies of the registry;

103           ~~[(36)]~~ **(37)** "Religious cemetery", a cemetery owned, operated, controlled or managed  
104 by any church, convention of churches, religious order or affiliated auxiliary thereof in which the  
105 sale of burial space is restricted solely to its members and their immediate families;

106           ~~[(37)]~~ **(38)** "Surface lawn crypt", a sealed burial chamber whose lid protrudes above the  
107 land surface;

108           ~~[(38)]~~ **(39)** "Total acreage", the entire tract which is dedicated to or reserved for cemetery  
109 purposes;

110           ~~[(39)]~~ **(40)** "Trustee of an endowed care fund", the separate legal entity qualified under  
111 section 214.330 appointed as trustee of an endowed care fund.

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