

The Law Relating to Cemeteries, Morgues, and Human Remains

Title 68 RCW

Title 98 WAC

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Title 68

CEMETERIES, MORGUES, AND HUMAN REMAINS

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Chapter 68.04 RCW

DEFINITIONS

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68.04.020 "Human remains," "remains." "Human remains" or "remains" means the body of a deceased person, includes the body in any stage of decomposition, and includes cremated human remains. [2005 c 365 § 27; 1977 c 47 § 1; 1943 c 247 § 2; Rem. Supp. 1943 § 3778-2.]

The annotations apply to 1943 c 247, the general cemetery act, which was codified as RCW 68.04.020 through 68.04.240, 68.08.010 through 68.08.030, 68.08.120 through 68.08.220, 68.08.240, 68.20.010 through 68.20.100, 68.24.010 through 68.24.180, 68.28.010 through 68.28.070, 68.32.010 through 68.32.170, 68.36.010 through 68.36.100, 68.40.010 through 68.40.090, 68.44.010 through 68.44.170, and 68.48.040 through 68.48.090.

Additional notes found at www.leg.wa.gov

68.04.030 "Cremated human remains." "Cremated human remains" means the end products of cremation. [2005 c 365 § 28; 1977 c 47 § 2; 1943 c 247 § 3; Rem. Supp. 1943 § 3778-3.]

68.04.040 "Cemetery." "Cemetery" means: (1) Any one, or a combination of more than one, of the following, in a place used, or intended to be used for the placement of human remains and dedicated, for cemetery purposes:

- (a) A burial park, for earth interments.
 - (b) A mausoleum, for crypt interments.
 - (c) A columbarium, for permanent niche interments; or
- (2) For the purposes of chapter 68.60 RCW only, "cemetery" means any burial site, burial grounds, or place where five or more human remains are buried. Unless a cemetery is designated as a parcel of land identifiable and unique as a cemetery within the records of the county assessor, a cemetery's boundaries shall be a minimum of ten feet in any direc-

tion from any burials therein. [2005 c 365 § 29; 1990 c 92 § 7; 1979 c 21 § 1; 1943 c 247 § 4; Rem. Supp. § 3778-4.]

68.04.050 "Burial park." "Burial park" means a tract of land for the burial of human remains in the ground, used or intended to be used, and dedicated, for cemetery purposes. [1943 c 247 § 5; Rem. Supp. 1943 § 3778-5.]

68.04.060 "Mausoleum." "Mausoleum" means a structure or building for the entombment of human remains in crypts in a place used, or intended to be used, and dedicated, for cemetery purposes. [1979 c 21 § 2; 1943 c 247 § 6; Rem. Supp. 1943 § 3778-6.]

68.04.070 "Crematory." "Crematory" means a building or area of a building that houses one or more cremation chambers, to be used for the cremation of human remains. [2005 c 365 § 30; 1943 c 247 § 7; Rem. Supp. 1943 § 3778-7.]

68.04.080 "Columbarium." "Columbarium" means a structure, room, or other space in a building or structure containing niches for permanent placement of cremated human remains in a place used, or intended to be used, and dedicated, for cemetery purposes. [2005 c 365 § 31; 1943 c 247 § 8; Rem. Supp. 1943 § 3778-8.]

68.04.100 "Interment." "Interment" means the placement of human remains in a cemetery. [2005 c 365 § 32; 1943 c 247 § 10; Rem. Supp. 1943 § 3778-10.]

68.04.110 "Cremation." "Cremation" means the reduction of human remains to bone fragments in a crematory by means of incineration. [2005 c 365 § 33; 1987 c 331 § 1; 1977 c 47 § 3; 1943 c 247 § 11; Rem. Supp. 1943 § 3778-11.]

Additional notes found at www.leg.wa.gov

68.04.120 "Inurnment." "Inurnment" means placing cremated human remains in a cemetery. [2005 c 365 § 34; 1943 c 247 § 12; Rem. Supp. 1943 § 3778-12.]

68.04.130 "Entombment." "Entombment" means the placement of human remains in a crypt. [2005 c 365 § 35; 1943 c 247 § 13; Rem. Supp. 1943 § 3778-13.]

68.04.140 "Burial." "Burial" means the placement of human remains in a grave. [1943 c 247 § 14; Rem. Supp. 1943 § 3778-14.]

68.04.150 "Grave." "Grave" means a space of ground in a burial park, used or intended to be used, for burial. [1943 c 247 § 15; Rem. Supp. 1943 § 3778-15.]

68.04.160 "Crypt." "Crypt" means a space in a mausoleum for the placement of human remains. [2005 c 365 § 36; 1979 c 21 § 3; 1943 c 247 § 16; Rem. Supp. 1943 § 3778-16.]

68.04.165 "Outer burial container." "Outer burial container" means any container which is buried in the ground for the placement of human remains in the burial process. Outer burial containers include, but are not limited to vaults, lawn crypts, and liners. [2005 c 365 § 37; 1979 c 21 § 4.]

68.04.170 "Niche." "Niche" means a space in a columbarium for placement of cremated human remains. [2005 c 365 § 38; 1943 c 247 § 17; Rem. Supp. 1943 § 3778-17.]

68.04.190 "Cemetery authority." "Cemetery authority" means an entity that has obtained a certificate of authority to operate a cemetery from the funeral and cemetery board, or any other entity that operates a cemetery that is not under the jurisdiction of the funeral and cemetery board. [2009 c 102 § 6; 2005 c 365 § 39; 1943 c 247 § 19; Rem. Supp. 1943 § 3778-19.]

Funeral directors and embalmers account and cemetery account abolished, moneys transferred to funeral and cemetery account—2009 c 102: See note following RCW 18.39.810.

68.04.210 "Cemetery business." "Cemetery business" includes establishing, maintaining, operating, and improving a cemetery for the placement of human remains, and the care and preservation of the cemetery property. [2005 c 365 § 40; 1943 c 247 § 21; Rem. Supp. 1943 § 3778-21.]

68.04.230 "Lot" or "plot." "Lot" or "plot" means space in a cemetery, used or intended to be used for the interment of human remains. [2005 c 365 § 41; 1943 c 247 § 23; Rem. Supp. 1943 § 3778-23.]

68.04.240 "Owner of interment rights." "Owner of interment rights" means any person who is listed as the owner of record of a right or rights of interment in the office of a cemetery authority. [2005 c 365 § 45; 1943 c 247 § 24; Rem. Supp. 1943 § 3778-24.]

68.04.250 "Interment right." "Interment right" means the right to inter human remains in a particular space in a cemetery. [2005 c 365 § 42.]

68.04.260 "Scattering garden." "Scattering garden" means a designated area in a cemetery for the scattering of cremated human remains. [2005 c 365 § 43.]

68.04.270 "Scattering." "Scattering" means the removal of cremated human remains from their container for the purpose of scattering the cremated human remains in any lawful manner. [2005 c 365 § 44.]

68.04.280 "Multiple interment." "Multiple interment" means two or more human remains are buried in the ground, in outer burial enclosures or chambers, placed one on top of another, with a ground level surface the same size as a single grave or right of interment. [2005 c 359 § 1.]

68.04.900 Construction—Title applicable to state registered domestic partnerships—2009 c 521. For the purposes of this title, the terms spouse, marriage, marital, husband, wife, widow, widower, next of kin, and family shall be interpreted as applying equally to state registered domestic partnerships or individuals in state registered domestic partnerships as well as to marital relationships and married persons, and references to dissolution of marriage shall apply equally to state registered domestic partnerships that have been terminated, dissolved, or invalidated, to the extent that such interpretation does not conflict with federal law. Where necessary to implement chapter 521, Laws of 2009, gender-specific terms such as husband and wife used in any statute, rule, or other law shall be construed to be gender neutral, and applicable to individuals in state registered domestic partnerships. [2009 c 521 § 148.]

Chapter 68.05 RCW

FUNERAL AND CEMETERY BOARD

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68.05.010 Definitions. The definitions in chapter 68.04 RCW are applicable to this chapter and govern the meaning of terms used in this chapter, except as otherwise provided. [2005 c 365 § 46; 1953 c 290 § 26.]

Additional notes found at www.leg.wa.gov

68.05.020 "Board" defined. The term "board" used in this chapter means the funeral and cemetery board. [2009 c 102 § 7; 1953 c 290 § 27.]

Funeral directors and embalmers account and cemetery account abolished, moneys transferred to funeral and cemetery account—2009 c 102: See note following RCW 18.39.810.

68.05.024 "Department" defined. "Department" used in this chapter means the department of licensing. [1987 c 331 § 2.]

68.05.028 "Director" defined. "Director" used in this chapter means the director of licensing. [1987 c 331 § 3.]

68.05.030 "Endowment care," "endowed care" defined. The terms "endowment care" or "endowed care" used in this chapter shall include special care funds and all funds held for or represented as maintenance funds. [2005 c 365 § 47; 1987 c 331 § 4; 1953 c 290 § 28.]

68.05.090 Administration and enforcement of title. The board shall enforce and administer the provisions of chapters 68.04 through 68.50 RCW, subject to provisions of RCW 68.05.400. The board may adopt and amend bylaws establishing its organization and method of operation. The board may refer such evidence as may be available concerning violations of chapters 68.04 through 68.50 RCW to the attorney general or the proper prosecuting attorney, who may in his or her discretion, with or without such a reference, in addition to any other action the board might commence, bring an action against any person to restrain or prevent the doing of any act or practice prohibited or declared unlawful in chapters 68.04 through 68.50 RCW and shall have standing to seek enforcement of said provisions in the superior court of the state of Washington for the county in which the principal office of the cemetery authority is located. [2005 c 365 § 51; 1987 c 331 § 7; 1979 c 21 § 6; 1953 c 290 § 39.]

68.05.095 Program administrator or manager. The director, in consultation with the board, may employ and prescribe the duties of the program administrator or manager. The program administrator or manager must have a minimum of five years' experience in either cemetery or funeral management, or both, unless this requirement is waived by the board. [2009 c 102 § 8; 1987 c 331 § 8; 1953 c 290 § 34. Formerly RCW 68.05.070.]

Funeral directors and embalmers account and cemetery account abolished, moneys transferred to funeral and cemetery account—2009 c 102: See note following RCW 18.39.810.

68.05.100 Rules. The board may establish necessary rules for the enforcement of this title and the laws subject to its jurisdiction. The board shall prescribe the application forms and reports provided for in this title. [2009 c 102 § 9; 2005 c 365 § 52; 1993 c 43 § 3; 1987 c 331 § 9; 1985 c 402 § 8; 1953 c 290 § 36.]

Funeral directors and embalmers account and cemetery account abolished, moneys transferred to funeral and cemetery account—2009 c 102: See note following RCW 18.39.810.

Legislative finding—1985 c 402: See note following RCW 68.50.185.

Additional notes found at www.leg.wa.gov

68.05.105 Authority of the board. In addition to the authority in RCW 18.235.030, the board has the following authority under this chapter:

(1) To adopt, amend, and rescind rules necessary to carry out this title; and

(2) To adopt standards of professional conduct or practice. [2009 c 102 § 10; 2005 c 365 § 53; 2002 c 86 § 316; 1987 c 331 § 10.]

Funeral directors and embalmers account and cemetery account abolished, moneys transferred to funeral and cemetery account—2009 c 102: See note following RCW 18.39.810.

Additional notes found at www.leg.wa.gov

68.05.115 Sale or transfer of cemetery authority or creation of a new cemetery—Penalty for noncompliance.

Prior to the sale or transfer of ownership or control of any cemetery authority or the creation of a new cemetery, any person or entity desiring to acquire such ownership or control or to create a new cemetery shall apply in writing to the board for a new certificate of authority to operate a cemetery. The board shall enter any order deemed necessary for the protection of all endowment care funds and/or prearrangement trust fund during such transfer. As a condition of applying for a new certificate of authority, the entity desiring to acquire such ownership or control must agree to be bound by all then existing prearrangement contracts. Persons and business entities selling and persons and business entities purchasing ownership or control of a cemetery authority shall each verify and attest to an endowment care fund report and/or a prearrangement trust fund report showing the status of such funds on the date of the sale on a written report form prescribed by the board. Such reports shall be considered part of the application for authority to operate. Failure to comply with this section shall be a gross misdemeanor and any sale or transfer in violation of this section shall be void. [2005 c 365 § 54; 1987 c 331 § 11; 1979 c 21 § 11; 1973 1st ex.s. c 68 § 17; 1969 ex.s. c 99 § 5. Formerly RCW 68.05.255.]

68.05.120 Actions to enforce law—Attorney general.

The board is authorized to bring actions to enforce the provisions of the law subject to its jurisdiction, in which actions it shall be represented by the attorney general. [1953 c 290 § 38.]

68.05.150 Examination of funds—Powers, duties. In making such examination the board:

(1) Shall have free access to the books and records relating to the endowment care funds and prearrangement trust funds;

(2) Shall inspect and examine the endowment care funds and prearrangement trust funds to determine their condition and the status of the investments; and

(3) Shall verify that the cemetery authority has complied with all the laws applicable to endowment care funds and prearrangement trust funds. [2005 c 365 § 55; 1979 c 21 § 8; 1973 1st ex.s. c 68 § 14; 1953 c 290 § 44.]

68.05.155 Prearrangement sales license. To enter into prearrangement contracts as defined in RCW 68.46.010, a cemetery authority shall have a valid prearrangement sales license. To apply for a prearrangement sales license, a cemetery authority shall:

(1) File with the board its request showing:

(a) Its name, location, and organization date;

(b) The kinds of cemetery business or merchandise it proposes to transact;

(c) A statement of its current financial condition, management, and affairs on a form satisfactory to or furnished by the board; and

(d) Such other documents, stipulations, or information as the board may reasonably require to evidence compliance with the provisions of this chapter; and

(2) Deposit with the department the fees required by this chapter to be paid for filing the accompanying documents, and for the prearrangement sales license, if granted. [1987 c 331 § 12; 1979 c 21 § 28. Formerly RCW 68.46.140.]

68.05.160 Action required when authority fails to deposit minimum endowment amount or comply with prearrangement contract provisions.

If any examination made by the board, or any report filed with it, shows that there has not been collected and deposited in the endowment care funds the minimum amounts required by this title, or if the board finds that the cemetery authority has failed to comply with the requirements of this chapter and chapter 68.46 RCW with respect to prearrangement contracts, merchandise, or services, unconstructed crypts or niches or undeveloped graves, or prearrangement trust funds, the board shall require such cemetery authority to comply with this chapter or with chapter 68.40 or 68.46 RCW, as the case may be. [1979 c 21 § 9; 1973 1st ex.s. c 68 § 15; 1953 c 290 § 45.]

68.05.170 Order requiring reinvestment in compliance with title—Actions for preservation and protection.

(1) Whenever the board finds, after notice and hearing, that any endowment care funds have been invested in violation of this title, it may by written order mailed to the person or body in charge of the fund require the reinvestment of the funds in conformity with this title within the period specified by it which shall be not more than six months. Such period may be extended by the board in its discretion.

(2) The board may bring actions for the preservation and protection of endowment care funds in the superior court of the county in which the cemetery is located. The court shall appoint substitute trustees and make any other order which may be necessary for the preservation, protection, and recovery of endowment care funds, whenever a cemetery authority or the trustees of its fund have:

(a) Transferred or attempted to transfer any property to, or made any loan from, the endowment care funds for the benefit of the cemetery authority or any director, officer, agent or employee of the cemetery authority or trustee of any endowment care funds; or,

(b) Failed to reinvest endowment care funds in accordance with a board order issued under subsection (1) of this section; or,

(c) Invested endowment care funds in violation of this title; or,

(d) Taken action or failed to take action to preserve and protect the endowment care funds; or,

(e) Become financially irresponsible or transferred control of the cemetery authority to any person who, or business entity which, is financially irresponsible; or,

(f) Is in danger of becoming insolvent or has gone into bankruptcy or receivership; or,

(g) Taken any action in violation of Title 68 RCW or failed to take action required by Title 68 RCW or has failed to comply with lawful rules and orders of the board.

(3) Whenever the board or its representative has reason to believe that endowment care funds or prearrangement trust funds are in danger of being lost or diminished during the time required for notice and hearing, it may immediately impound or seize documents, financial instruments, or other trust fund assets, or take other actions deemed necessary under the circumstances for the preservation and protection of endowment care funds or prearrangement trust funds, including, but not limited to, immediate substitutions of trustees. [2005 c 365 § 56; 2002 c 86 § 317; 1987 c 331 § 23; 1969 ex.s. c 99 § 1; 1953 c 290 § 46.]

Additional notes found at www.leg.wa.gov

68.05.173 Revocation, suspension of certificate or license. Upon violation of any of the provisions of this title, the board may revoke or suspend the certificate of authority or any other license issued by the board. [2005 c 365 § 57; 1987 c 331 § 24; 1953 c 290 § 49. Formerly RCW 68.05.250.]

68.05.175 Permit or endorsement required for cremation. A permit or endorsement issued by the board or under chapter 18.39 RCW is required in order to operate a crematory or conduct a cremation. [2009 c 102 § 11; 1987 c 331 § 13; 1985 c 402 § 4. Formerly RCW 68.05.257.]

Funeral directors and embalmers account and cemetery account abolished, moneys transferred to funeral and cemetery account—2009 c 102: See note following RCW 18.39.810.

Legislative finding—1985 c 402: See note following RCW 68.50.185.

68.05.180 Annual report of authority—Contents—Verification. Each cemetery authority in charge of cemetery endowment care funds shall annually, and within ninety days after the end of the calendar or fiscal year of the cemetery authority, file with the board a written report in form and content prescribed by the board.

These reports shall be verified by the president or vice president, one other officer of the cemetery authority, the accountant or auditor preparing the same, and, if required by the board for good cause, a certified public accountant in accordance with generally accepted auditing standards. [1979 c 21 § 10; 1977 ex.s. c 351 § 3; 1973 1st ex.s. c 68 § 16; 1953 c 290 § 40.]

Additional notes found at www.leg.wa.gov

68.05.190 Examination of reports. The board shall examine the reports filed with it as to their compliance with the requirements of the law. [1953 c 290 § 41.]

68.05.195 Burial or scatter of cremated remains—Permit. Any person other than persons defined in RCW 68.50.160 who buries or scatters cremated remains by land, air, or sea or performs any other disposition of cremated human remains outside of a cemetery shall have a permit issued in accordance with RCW 68.05.100 and shall be subject to that section. [2005 c 365 § 58; 1987 c 331 § 15.]

68.05.205 Fees. The director with the consent of the board shall set all fees for chapters 68.05, 68.20, 68.24, 68.28, 68.32, 68.36, 68.40, 68.44, and 68.46 RCW in accordance with RCW 43.24.086, including fees for licenses, certificates, regulatory charges, permits, or endorsements, and the department shall collect the fees. [2009 c 102 § 12; 1993 c 43 § 4; 1987 c 331 § 16; 1983 1st ex.s. c 5 § 1; 1977 ex.s. c 351 § 4; 1969 ex.s. c 99 § 4; 1953 c 290 § 51. Formerly RCW 68.05.230.]

Funeral directors and embalmers account and cemetery account abolished, moneys transferred to funeral and cemetery account—2009 c 102: See note following RCW 18.39.810.

Additional notes found at www.leg.wa.gov

68.05.210 Proof of applicant's compliance with laws and financial responsibility. The board may require such proof as it deems advisable concerning the compliance by such applicant to all the laws, rules, regulations, ordinances and orders applicable to it. The board shall also require proof that the applicant and its officers and directors are financially responsible, in order that only cemeteries of permanent benefit to the community in which they are located will be established in this state. [2005 c 365 § 59; 1969 ex.s. c 99 § 2; 1953 c 290 § 48.]

68.05.215 Certificates—Regulatory charges—Expiration. The regulatory charges for cemetery certificates at all periods of the year are the same as provided in this chapter. All regulatory charges are payable at the time of the filing of the application and in advance of the issuance of the certificates. All certificates shall be issued for the year and shall expire at midnight, the thirty-first day of January of each year, or at whatever time during any year that ownership or control of any cemetery authority is transferred or sold. Cemetery certificates shall not be transferable. [2005 c 365 § 60; 1987 c 331 § 17; 1969 ex.s. c 99 § 3; 1953 c 290 § 50. Formerly RCW 68.05.220.]

68.05.225 Sales licenses—Terms—Fees. All prearrangement sales licenses issued under this chapter shall be issued for the year and shall expire at midnight, the thirty-first day of January of each year, or at whatever time during any year that ownership or control of any cemetery authority is transferred or sold.

The director, in accordance with RCW 43.24.086, shall set and the department shall collect in advance the fees required for licensing. [2005 c 365 § 61; 1987 c 331 § 18; 1979 c 21 § 29. Formerly RCW 68.46.180.]

68.05.235 Reports—Failure to file. (1) Each authorized cemetery authority shall, within ninety days after the close of its accounting year, file with the board an endowment care trust fund report and a prearrangement trust fund report for the preceding year. The reports shall be on such forms and shall contain such information as required by this chapter and by the board.

(2) The failure to file a report as required under subsection (1) of this section constitutes unprofessional conduct for which the board may take disciplinary action against the prearrangement sales license of the cemetery authority. In addition, the board may take disciplinary action against any other

license held by the cemetery authority. [2005 c 365 § 62; 2002 c 86 § 318; 1987 c 331 § 19; 1979 c 21 § 37. Formerly RCW 68.46.095.]

Additional notes found at www.leg.wa.gov

68.05.240 Interment, certificate of authority required—Penalty. It shall be a misdemeanor for any cemetery authority to make any interment without a valid, unsuspended certificate of authority. Each interment shall be a separate violation. [2005 c 365 § 63; 1953 c 290 § 52.]

68.05.245 Crematory permits or endorsements—Terms—Fees. All crematory permits or endorsements issued under this chapter shall be issued for the year and shall expire at midnight, the thirty-first day of January of each year, or at whatever time during any year that ownership or control of any cemetery authority which operates such crematory is transferred or sold.

The director shall set and the department shall collect in advance the fees required for licensing. [2005 c 365 § 64; 1987 c 331 § 20.]

68.05.254 Examination of endowment funds and prearrangement trust funds. (1) The board shall examine the endowment care and prearrangement trust fund or funds of a cemetery authority:

(a) Whenever it deems necessary, but at least once every three years after the original examination except where the cemetery authority is either required by the board to, or voluntarily files an annual financial report for the fund certified by a certified public accountant or a licensed public accountant in accordance with generally accepted auditing standards;

(b) One year following the issuance of a new certificate of authority;

(c) Whenever the cemetery authority in charge of endowment care or prearrangement trust fund or funds fails after reasonable notice from the board to file the reports required by this chapter; or

(d) Whenever it is requested by verified petition signed by twenty-five lot owners alleging that the endowment care funds are not in compliance with this title, or whenever it is requested by verified petition signed by twenty-five purchasers or beneficiaries of prearrangement merchandise or services alleging that the prearrangement trust funds are not in compliance with this title, in either of which cases, the examination shall be at the expense of the petitioners.

(2) The expense of the endowment care and prearrangement trust fund examination as provided in subsection (1)(a) and (b) of this section shall be paid by the cemetery authority. Such examination shall be privately conducted in the principal office of the cemetery authority.

(3) The requirements that examinations be conducted once every three years and that they be conducted in the principal office of the cemetery authority do not apply to any endowment care or prearrangement fund that is less than twenty-five thousand dollars. The board shall, at its discretion, decide when and where the examinations shall take place.

(4) Examination expenses incurred in conjunction with a transfer of ownership of a cemetery must be paid by the selling entity.

(5) All examination expense moneys collected by the department must be paid to the cemetery account created in *RCW 68.05.285. [2005 c 365 § 65; 1987 c 331 § 21; 1979 c 21 § 7; 1973 1st ex.s. c 68 § 12; 1953 c 290 § 42. Formerly RCW 68.05.130.]

*Reviser's note: RCW 68.05.285 was repealed by 2009 c 102 § 26.

68.05.259 Payment of examination expenses. If any cemetery authority refuses to pay any examination expenses within thirty days of completion of the examination or refuses to pay certain examination expenses in advance as required by the department for cause, the board may take disciplinary action against any existing certificate of authority. [2005 c 365 § 66; 2002 c 86 § 319; 1987 c 331 § 22; 1973 1st ex.s. c 68 § 13; 1953 c 290 § 43. Formerly RCW 68.05.140.]

Additional notes found at www.leg.wa.gov

68.05.290 Board members' immunity from suits. Members of the board shall be immune from suit in any action, civil or criminal, based upon any official acts performed in good faith as members of the board. The state shall defend, indemnify, and hold the members of the board harmless from all claims or suits arising in any manner from such acts. Expenses incurred by the state under this section shall be paid from the general fund. [2005 c 365 § 68; 1979 c 21 § 12.]

68.05.300 Unprofessional conduct—Disciplinary action. In addition to the unprofessional conduct described in RCW 18.235.130, the board may take disciplinary action if the cemetery authority:

(1) Fails to comply with any provision of this chapter or any proper order or regulation of the board;

(2) Is found by the board to be in such condition that further execution of prearrangement contracts would be hazardous to purchasers or beneficiaries and the people of this state; or

(3) Is found by the board after investigation or receipt of reliable information to be managed by persons who are incompetent or untrustworthy or so lacking in managerial experience as to make the proposed or continued operation hazardous to purchasers, beneficiaries, or the public. [2002 c 86 § 320; 1987 c 331 § 25; 1979 c 21 § 30. Formerly RCW 68.46.190.]

Additional notes found at www.leg.wa.gov

68.05.310 Prearrangement sales—Disciplinary action. No cemetery authority whose prearrangement sales license has been the subject of disciplinary action shall be authorized to enter into prearrangement contracts unless specifically authorized by the board and only upon full compliance with the conditions required by the board. Any prearrangement sale by an unlicensed cemetery authority shall be voidable by the purchaser who shall be entitled to a full refund. [2002 c 86 § 321; 1989 c 175 § 124; 1987 c 331 § 26; 1979 c 21 § 31. Formerly RCW 68.46.200.]

Additional notes found at www.leg.wa.gov

68.05.320 Board action against authorities—Administrative procedures. (1) The board or its authorized representative may issue and serve upon a cemetery authority a notice of charges if in the opinion of the board or its authorized representative the cemetery authority:

(a) Is engaging in or has engaged in practices likely to endanger the future delivery of cemetery merchandise or services, unconstructed crypts or niches, or undeveloped graves;

(b) Is violating or has violated any statute of the state of Washington or any rule of the board; or

(c) Is about to do an act prohibited in (a) or (b) of this subsection when the opinion is based upon reasonable cause.

(2) The notice shall contain a statement of the facts constituting the alleged violation or practice and shall fix a time and place at which a hearing will be held to determine whether an order to cease and desist should issue against the cemetery authority. The hearing shall be set not earlier than ten nor later than thirty days after service of the notice unless a later date is set by the board or its authorized representative at the request of the cemetery authority.

Unless the cemetery authority appears at the hearing by a duly authorized representative it shall be deemed to have consented to the issuance of a cease and desist order. In the event of this consent or if upon the record made at the hearing the board finds that any violation or practice specified in the notice of charges has been established, the board may issue and serve upon the cemetery authority an order to cease and desist from the violation or practice. The order may require the cemetery authority and its directors, officers, employees, and agents to cease and desist from the violation or practice and may require the cemetery authority to take affirmative action to correct the conditions resulting from the violation or practice.

(3) A cease and desist order shall become effective at the expiration of ten days after service of the order upon the cemetery authority except that a cease and desist order issued upon consent shall become effective as provided in the order unless it is stayed, modified, terminated, or set aside by action of the board or a reviewing court.

(4) The powers of the board under this section are in addition to the power of the board to take disciplinary action against a cemetery authority's prearrangement sales license. [2002 c 86 § 322; 1979 c 21 § 32. Formerly RCW 68.46.220.]

Additional notes found at www.leg.wa.gov

68.05.330 Violation—Penalty—Unfair practice—Other laws applicable. Unless specified otherwise in this title, any person who violates or aids or abets any person in the violation of any of the provisions of this title shall be guilty of a class C felony punishable under chapter 9A.20 RCW. A violation shall constitute an unfair practice under chapter 19.86 RCW and shall be grounds for disciplinary action against the certificate of authority or any other license issued by the board under this chapter and chapter 18.235 RCW. Retail installment transactions under this chapter shall be governed by chapter 63.14 RCW. The provisions of this chapter shall not affect any other remedy available at law. [2005 c 365 § 69; 2002 c 86 § 323; 1987 c 331 § 27; 1984 c 53 § 6; 1979 c 21 § 39. Formerly RCW 68.46.210.]

Additional notes found at www.leg.wa.gov

68.05.340 Board action against authorities—Cease and desist orders. Whenever the board or its authorized representative determines that a cemetery authority is in violation of this title or that the continuation of acts or practices of the cemetery authority is likely to cause insolvency or substantial loss of assets or earnings of the cemetery authority's endowment care or prearrangement trust fund, the board, or its authorized representative, may issue a temporary order requiring the cemetery authority to cease and desist from the violation or practice. The order shall become effective upon service on the cemetery authority. The order shall remain effective unless set aside, limited, or suspended by a court in proceedings under RCW 68.05.350, until the board dismisses the charges specified in the notice, or until the effective date of a cease and desist order issued against the cemetery authority under RCW 68.05.320. Actions for unlicensed activity must be conducted under RCW 18.235.150. [2005 c 365 § 70; 2002 c 86 § 324; 1987 c 331 § 28; 1979 c 21 § 33. Formerly RCW 68.46.230.]

Additional notes found at www.leg.wa.gov

68.05.350 Delaying board action pending administrative proceedings. Within ten days after a cemetery authority has been served with a temporary cease and desist order issued under RCW 68.05.320, the cemetery authority may apply to the superior court in the county of its principal place of business for an injunction setting aside, limiting, or suspending the order pending completion of the administrative proceedings under RCW 68.05.320. [2002 c 86 § 325; 1987 c 331 § 29; 1979 c 21 § 34. Formerly RCW 68.46.240.]

Additional notes found at www.leg.wa.gov

68.05.360 Board action against authorities—Hearing location—Decision—Review. Any administrative hearing under RCW 68.05.320 may be held at such place as is designated by the board and shall be conducted in accordance with chapter 34.05 RCW.

Within sixty days after the hearing the board shall render a decision which shall include findings of fact upon which the decision is based and shall issue and serve upon each party to the proceeding an order or orders consistent with RCW 68.05.320.

Review of the decision shall be as provided in chapter 34.05 RCW. [1987 c 331 § 30; 1979 c 21 § 35. Formerly RCW 68.46.250.]

68.05.370 Board action against authorities—Enforcement of orders. The board may apply to the superior court of the county of the principal place of business of the cemetery authority affected for enforcement of any effective and outstanding order issued under RCW 68.05.320 or 68.05.340, and the court shall have jurisdiction to order compliance with the order. [1987 c 331 § 31; 1979 c 21 § 36. Formerly RCW 68.46.260.]

68.05.390 Permit or endorsement required for cremation—Penalty. Conducting a cremation without a permit or endorsement is a misdemeanor. Each such cremation is a violation. [1987 c 331 § 32.]

68.05.400 Exemptions from chapter. The provisions of this chapter do not apply to any of the following:

(1) Nonprofit cemeteries which are owned or operated by any recognized religious denomination which qualifies for an exemption from real estate taxation under RCW 84.36.020 on any of its churches or the ground upon which any of its churches are or will be built; or

(2) Any cemetery controlled and operated by a coroner, county, city, town, or cemetery district. [1979 c 21 § 13; 1961 c 133 § 1; 1953 c 290 § 30. Formerly RCW 68.05.280.]

68.05.430 Uniform regulation of business and professions act. The uniform regulation of business and professions act, chapter 18.235 RCW, governs unlicensed practice, the issuance and denial of licenses, and the discipline of licensees under this chapter. [2002 c 86 § 326.]

Additional notes found at www.leg.wa.gov

68.05.900 Effective date—1987 c 331. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect July 1, 1987. [1987 c 331 § 91.]

Chapter 68.20 RCW

PRIVATE CEMETERIES

Sections

68.20.010	Incorporation required.
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68.20.040	Prior corporations not affected.
68.20.050	General powers of cemetery corporations.
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68.20.061	Specific powers—Control of property.
68.20.062	Specific powers—Regulation as to type of markers, monuments, etc.
68.20.063	Specific powers—Regulation or prohibition as to the erection of monuments, effigies, etc.
68.20.064	Specific powers—Regulation of plants and shrubs.
68.20.065	Specific powers—Prevention of interment.
68.20.066	Specific powers—Prevention of improper assemblages.
68.20.067	Specific powers—Rules and regulations for general purposes.
68.20.070	Rules and regulations—Posting.
68.20.080	Cities and counties may regulate cemeteries.
68.20.110	Nonprofit cemetery association—Tax exempt land.
68.20.120	Sold lots exempt from taxes, etc.—Nonprofit associations.
68.20.140	Certain cemeteries exempt from chapter.

68.20.010 Incorporation required. It is unlawful for any corporation, copartnership, firm, trust, association, or individual to engage in or transact any of the businesses of a cemetery within this state except by means of a corporation duly organized for that purpose. [1943 c 247 § 42; Rem. Supp. 1943 § 3778-42.]

68.20.020 Corporations, how organized. Any private corporation authorized by its articles so to do, may establish, maintain, manage, improve, or operate a cemetery, and conduct any or all of the businesses of a cemetery, either for or without profit to its members or stockholders. A nonprofit cemetery corporation may be organized in the manner provided in chapter 24.03 RCW. A profit corporation may be organized in the manner provided in the general corporation laws of the state of Washington. [1983 c 3 § 167; 1943 c 247 § 43; Rem. Supp. 1943 § 3778-43. Prior: 1899 c 33 § 1; 1856-7 p 28 § 1.]

68.20.030 Powers of existing corporations enlarged. The powers, privileges and duties conferred and imposed upon any corporation, firm, copartnership, association, trust, or individual, existing and doing business under the laws of this state, are hereby enlarged as each particular case may require to conform to the provisions of *this act. [1943 c 247 § 45; Rem. Supp. 1943 § 3778-45.]

*Reviser's note: For "this act," see note following RCW 68.04.020.

68.20.040 Prior corporations not affected. The provisions of *this act do not affect the corporate existence or rights or powers of any cemetery organized under any law then existing prior to June 9, 1943, and as to such cemeteries and their rights, powers specified in their charters or articles of incorporation, the laws under which the corporation was organized and existed and under which such rights and powers become fixed or vested are applicable. [1943 c 247 § 44; Rem. Supp. 1943 § 3778-44.]

*Reviser's note: For "this act," see note following RCW 68.04.020.

68.20.050 General powers of cemetery corporations. Unless otherwise limited by the law under which created[,] cemetery authorities shall in the conduct of their business have the same powers granted by law to corporations in general, including the right to contract such pecuniary obligations within the limitation of general law as may be required, and may secure them by mortgage, deed of trust, or otherwise upon their property. [1943 c 247 § 59; Rem. Supp. 1943 § 3778-59.]

68.20.060 Specific powers—Rule making and enforcement. A cemetery authority may make, adopt, amend, add to, revise, or modify, and enforce rules and regulations for the use, care, control, management, restriction and protection of all or any part of its cemetery and for the other purposes specified in RCW 68.20.061 through 68.20.067, 68.20.070 and *68.48.080. [1943 c 247 § 46; Rem. Supp. 1943 § 3778-46. Formerly RCW 68.20.070, part. FORMER PART OF SECTION: 1943 c 247 §§ 47 through 52 now codified as RCW 68.20.061 through 68.20.066.]

*Reviser's note: RCW 68.48.080 was recodified as RCW 68.56.050 pursuant to 1987 c 331 § 89.

68.20.061 Specific powers—Control of property. It may restrict and limit the use of all property within its cemetery, including interment rights. [2005 c 365 § 71; 1943 c 247 § 47; Rem. Supp. 1943 § 3778-47. Formerly RCW 68.20.060, part.]

68.20.062 Specific powers—Regulation as to type of markers, monuments, etc. It may regulate the uniformity, class, and kind of all markers, monuments, and other structures within the cemetery and its subdivisions. [1943 c 247 § 48; Rem. Supp. 1943 § 3778-48. Formerly RCW 68.20.060, part.]

68.20.063 Specific powers—Regulation or prohibition as to the erection of monuments, effigies, etc. It may regulate or prohibit the erection of monuments, markers, effigies, and structures within any portion of the cemetery. [1943 c 247 § 49; Rem. Supp. 1943 § 3778-49. Formerly RCW 68.20.060, part.]

68.20.064 Specific powers—Regulation of plants and shrubs. It may regulate or prevent the introduction or care of plants or shrubs within the cemetery. [1943 c 247 § 50; Rem. Supp. 1943 § 3778-50. Formerly RCW 68.20.060, part.]

68.20.065 Specific powers—Prevention of interment. It may prevent interment in any part of the cemetery of human remains not entitled to interment and prevent the use of interment plots for purposes violative of its restrictions or

rules and regulations. [1943 c 247 § 51; Rem. Supp. 1943 § 3778-51. Formerly RCW 68.20.060, part.]

68.20.066 Specific powers—Prevention of improper assemblages. It may regulate the conduct of persons and prevent improper assemblages in the cemetery. [1943 c 247 § 52; Rem. Supp. 1943 § 3778-52. Formerly RCW 68.20.060, part.]

68.20.067 Specific powers—Rules and regulations for general purposes. It may make and enforce rules and regulations for all other purposes deemed necessary by the cemetery authority for the proper conduct of the business of the cemetery, for the transfer of any plot or the right of interment, and the protection and safeguarding of the premises, and the principles, plans, and ideals on which the cemetery is conducted. [1943 c 247 § 53; Rem. Supp. 1943 § 3778-53. Formerly RCW 68.20.070, part.]

68.20.070 Rules and regulations—Posting. The rules and regulations made pursuant to RCW 68.20.060 shall be plainly printed or typewritten and maintained subject to inspection in the office of the cemetery authority or in such place or places within the cemetery as the cemetery authority may prescribe. [1943 c 247 § 54; Rem. Supp. 1943 § 3778-54. FORMER PART OF SECTION: 1943 c 247 §§ 46 and 53 now codified as RCW 68.20.060 and 68.20.067.]

68.20.080 Cities and counties may regulate cemeteries. Cities and counties are authorized to enact ordinances regulating or prohibiting the establishment of new cemeteries or the extension of existing ones and to give power to local planning commissions to pass upon and make recommendations to local legislative bodies concerning the establishment or extension of cemeteries. [1943 c 247 § 143; Rem. Supp. 1943 § 3778-143.]

Section applies to certain mausoleums, columbariums, etc.: RCW 68.28.010.

68.20.110 Nonprofit cemetery association—Tax exempt land. Nonprofit cemetery associations shall be authorized to purchase or take by gift or devise, and hold land exempt from execution and from any appropriation to public purposes for the sole purpose of a cemetery not exceeding eighty acres, which shall be exempt from taxation if intended to be used exclusively for burial purposes without discrimination as to race, color, national origin or ancestry, and in nowise with a view to profit of the members of such association: PROVIDED, That when the land already held by the association is all practically used then the amount thereof may be increased by adding thereto not exceeding twenty acres at a time. [2005 c 365 § 72; 1961 c 103 § 2; 1899 c 33 § 3; RRS § 3766. Formerly RCW 68.20.110 and 68.24.200.]

Property taxes, exemptions: RCW 84.36.020.

Additional notes found at www.leg.wa.gov

68.20.120 Sold lots exempt from taxes, etc.—Non-profit associations. Burial lots, sold by *such association shall be for the sole purpose of interment, and shall be exempt from taxation, execution, attachment or other claims, lien or process whatsoever, if used as intended, exclusively for

burial purposes and in nowise with a view to profit. [1899 c 33 § 5; RRS § 3768. Formerly RCW 68.24.210.]

***Reviser's note:** For "such association," see note following RCW 68.20.110.

*Cemetery property exempt from execution: RCW 68.24.220.
taxation: RCW 84.36.020.*

68.20.140 Certain cemeteries exempt from chapter. This chapter does not apply to any cemetery controlled and operated by a coroner, county, city, town, or cemetery district. [1987 c 331 § 33.]

Additional notes found at www.leg.wa.gov

Chapter 68.24 RCW

CEMETERY PROPERTY

Sections

68.24.010	Right to acquire property.
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68.24.160	Liens subordinate to dedication.
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68.24.220	Burying place exempt from execution.
68.24.240	Certain cemetery lands exempt from taxes, etc.—1901 c 147.
68.24.250	Cemetery arrangements, notice requirements—Disclosure of multiple interment.

68.24.010 Right to acquire property. Cemetery authorities may take by purchase, donation, or devise, property consisting of lands, mausoleums, crematories, and columbariums, or other property within which the placement of human remains may be authorized by law. [2005 c 365 § 73; 1943 c 247 § 61; Rem. Supp. 1943 § 3778-61.]

68.24.020 Surveys and maps. Every cemetery authority, from time to time as its property may be required for cemetery purposes, shall:

(1) In case of land, survey and subdivide it into sections, blocks, plots, avenues, walks, or other subdivisions; make a good and substantial map or plat showing the sections, plots, avenues, walks or other subdivisions, with descriptive names or numbers.

(2) In case of a mausoleum, or columbarium, it shall make a good and substantial map or plat on which shall be delineated the sections, halls, rooms, corridors, elevation, and other divisions, with descriptive names or numbers. [1943 c 247 § 62; Rem. Supp. 1943 § 3778-62.]

68.24.030 Declaration of dedication and maps—Filing. The cemetery authority shall file the map or plat in the office of the recorder of the county in which all or a portion of the property is situated. The cemetery authority shall also file for record in the county recorder's office a written declaration of dedication of the property delineated on the plat or map, dedicating the property exclusively to cemetery purposes. [1943 c 247 § 63; Rem. Supp. 1943 § 3778-63.]

County auditor: Chapter 36.22 RCW.

County auditor fees, generally: RCW 36.18.010.

68.24.040 Dedication, when complete. Upon the filing of the map or plat and the filing of the declaration for record, the dedication is complete for all purposes and thereafter the property shall be held, occupied, and used exclusively for a cemetery and for cemetery purposes. [1943 c 247 § 64; Rem. Supp. 1943 § 3778-64.]

68.24.050 Constructive notice. The filed map or plat and the recorded declaration are constructive notice to all persons of the dedication of the property to cemetery purposes. [1943 c 247 § 66; Rem. Supp. 1943 § 3778-66.]

68.24.060 Maps and plats—Amendment. Any part or subdivision of the property so mapped and plotted may, by order of the directors, be resurveyed and altered in shape and size and an amended map or plat filed, so long as such change does not disturb the interred remains of any deceased person. [1943 c 247 § 65; Rem. Supp. 1943 § 3778-65.]

68.24.070 Permanency of dedication. After property is dedicated to cemetery purposes pursuant to RCW 68.24.010 through 68.24.060, neither the dedication, nor the title of a plot owner, shall be affected by the dissolution of the cemetery authority, by nonuser on its part, by alienation of the property, by any incumbrances, by sale under execution, or otherwise except as provided in *this act. [1943 c 247 § 67; Rem. Supp. 1943 § 3778-67.]

**Reviser's note:* For "this act," see note following RCW 68.04.020.

68.24.080 Rule against perpetuities, etc., inapplicable. Dedication to cemetery purposes pursuant to *this act is not invalid as violating any laws against perpetuities or the suspension of the power of alienation of title to or use of property, but is expressly permitted and shall be deemed to be in respect for the dead, a provision for the placement of human remains, and a duty to, and for the benefit of, the general public. [2005 c 365 § 74; 1943 c 247 § 68; Rem. Supp. 1943 § 3778-68.]

**Reviser's note:* For "this act," see note following RCW 68.04.020.

68.24.090 Removal of dedication—Procedure. Property dedicated to cemetery purposes shall be held and used exclusively for cemetery purposes, unless and until the dedication is removed from all or any part of it by an order and decree of the superior court of the county in which the property is situated, in a proceeding brought by the cemetery authority for that purpose and upon notice of hearing and proof satisfactory to the court:

(1) That no placements of human remains were made in or that all placements of human remains have been removed from that portion of the property from which dedication is sought to be removed.

(2) That the portion of the property from which dedication is sought to be removed is not being used for placement of human remains.

(3) That notice of the proposed removal of dedication has been given in writing to both the funeral and cemetery board and the department of archaeology and historic preservation. This notice must be given at least sixty days before filing the proceedings in superior court. The notice of the proposed removal of dedication shall be recorded with the auditor or recording officer of the county where the cemetery is located at least sixty days before filing the proceedings in superior court. [2009 c 102 § 13; 2005 c 365 § 75; 1999 c 367 § 2; 1987 c 331 § 34; 1943 c 247 § 76; Rem. Supp. 1943 § 3778-76.]

Funeral directors and embalmers account and cemetery account abolished, moneys transferred to funeral and cemetery account—2009 c 102: See note following RCW 18.39.810.

Additional notes found at www.leg.wa.gov

68.24.100 Notice of hearing. The notice of hearing provided in RCW 68.24.090 shall be given by publication once a week for at least three consecutive weeks in a newspaper of general circulation in the county where said cemetery is located, and the posting of copies of the notice in three conspicuous places on that portion of the property from which the dedication is to be removed. The notice shall:

(1) Describe the portion of the cemetery property sought to be removed from dedication.

(2) State that all human remains have been removed or that no interments have been made in the portion of the cemetery property sought to be removed from dedication.

(3) Specify the time and place of the hearing. [2005 c 365 § 76; 1943 c 247 § 77; Rem. Supp. 1943 § 3778-77.]

68.24.110 Sale of plots or rights of interment. After filing the map or plat and recording the declaration of dedication, a cemetery authority may sell and convey plots or rights of interment subject to the rules in effect or thereafter adopted by the cemetery authority. Plots or rights of interment may be subject to other limitations, conditions, and restrictions as may be part of the declaration of dedication by reference, or included in the instrument of conveyance of the plot or rights of interment. [2005 c 365 § 77; 1943 c 247 § 70; Rem. Supp. 1943 § 3778-70. FORMER PART OF SECTION: 1943 c 247 § 72 now codified as RCW 68.24.115.]

68.24.115 Execution of conveyances. All conveyances made by a cemetery authority shall be signed by such officer or officers as are authorized by the cemetery authority. [1943 c 247 § 72; Rem. Supp. 1943 § 3778-72. Formerly RCW 68.24.110, part.]

68.24.120 Plots or rights of interment indivisible. All plots or rights of interment, the use of which has been conveyed by deed or certificate of ownership as a separate plot or right of interment, are indivisible except with the consent of the cemetery authority, or as provided by law. [2005 c 365 § 78; 1943 c 247 § 71; Rem. Supp. 1943 § 3778-71.]

68.24.130 Sale for resale prohibited—Penalty. It shall be unlawful for any person, firm, or corporation to sell

or offer to sell a cemetery plot or right of interment upon the promise, representation, or inducement of resale at a financial profit. Each person violating this section shall be guilty of a misdemeanor and each violation shall constitute a separate offense. [2005 c 365 § 79; 1943 c 247 § 73; Rem. Supp. 1943 § 3778-73.]

68.24.140 Commission on sales prohibited—Penalty. It shall be unlawful for a cemetery authority to pay or offer to pay to any person, firm, or corporation, directly or indirectly, a commission or bonus or rebate or other thing of value for the sale of a plot, right of interment, or services. This shall not apply to an owner or a person regularly employed by the cemetery authority for such purpose. Each person violating this section shall be guilty of a misdemeanor and each violation shall constitute a separate offense. [2005 c 365 § 80; 1943 c 247 § 74; Rem. Supp. 1943 § 3778-74.]

68.24.150 Unlawful employment of others to dispose of human remains. Every person who pays, causes to be paid, or offers to pay to any other person, firm, or corporation, directly or indirectly, except as provided in RCW 68.24.140, any commission, bonus, or rebate, or other thing of value in consideration of recommending or causing the disposition of human remains in any crematory or cemetery, is guilty of a misdemeanor. Each violation shall constitute a separate offense. [2005 c 365 § 81; 1943 c 247 § 75; Rem. Supp. 1943 § 3778-75.]

68.24.160 Liens subordinate to dedication. All mortgages, deeds of trust, and other liens placed upon property which has been dedicated as a cemetery, or which is afterwards dedicated to cemetery purposes pursuant to this section, shall not affect or defeat the dedication. The mortgage, deed of trust, or other lien is subject and subordinate to the dedication. Any and all sales made upon foreclosure are subject and subordinate to the dedication for cemetery purposes. [2005 c 365 § 82; 1943 c 247 § 60; Rem. Supp. 1943 § 3778-60.]

Additional notes found at www.leg.wa.gov

68.24.170 Record of ownership and transfers. A record shall be kept of the ownership of all plots or rights of interment in the cemetery, which have been conveyed by the cemetery authority and of all transfers of plots and rights of interment in the cemetery. No transfer of any plot or right of interment, shall be complete or effective until recorded on the books of the cemetery authority. [2005 c 365 § 83; 1943 c 247 § 40; Rem. Supp. 1943 § 3778-40. FORMER PART OF SECTION: 1943 c 247 § 41 now codified as RCW 68.24.175.]

68.24.180 Opening of roads, railroads through cemetery—Consent required. After dedication under this title, and as long as the property remains dedicated to cemetery purposes, a railroad, street, road, alley, pipe line, pole line, or other public thoroughfare or utility shall not be laid out, through, over, or across any part of it without the consent of the cemetery authority or of not less than two-thirds of the owners of plots or rights of interment. [2005 c 365 § 84; 1994

c 273 § 20; 1984 c 7 § 369; 1959 c 217 § 1; 1947 c 69 § 1; 1943 c 247 § 69; Rem. Supp. 1947 § 3778-69.]

another, with a ground level surface the same size as a single grave or right of interment." [2005 c 359 § 2.]

Additional notes found at www.leg.wa.gov

68.24.190 Opening road through cemetery—Penalty.

Every person who shall make or open any road, or construct any railway, turnpike, canal, or other public easement over, through, in, or upon any property used for the burial of human remains, without authority of law or the consent of the owner, shall be guilty of a misdemeanor. [2005 c 365 § 85; 1909 c 249 § 241; RRS § 2493.]

68.24.220 Burying place exempt from execution.

Whenever any part of such burying ground shall have been designated and appropriated by the owners as the burying place of any particular person or family, the same shall not be liable to be taken or disposed of by any warrant, execution, tax, or debt whatever; nor shall the same be liable to be sold to satisfy the demands of creditors whenever the estate of the owner shall be insolvent. [2005 c 365 § 86; 1857 p 28 § 2; RRS § 3760.]

Cemetery property exempt from taxation: RCW 84.36.020.

68.24.240 Certain cemetery lands exempt from taxes, etc.—1901 c 147. Upon compliance with the requirements of *this act said lands shall forever be exempt from taxation, judgment and other liens and executions. [1901 c 147 § 4; RRS § 3763.]

***Reviser's note:** "this act" appears in 1901 c 147, the remaining sections of which were repealed by 1943 c 247 § 148. These sections read as follows:

"Section 1. Any person owning any land, exclusive of encumbrances of any kind, situate two miles outside of the corporate limits of any incorporated city or town, may have the same reserved exclusively for burial and cemetery purposes by complying with the terms of this act, provided said lands so sought to be reserved shall not exceed in area one acre.

Sec. 2. Such person or persons shall cause such land to be surveyed and platted.

Sec. 3. A deed of dedication of said tract for burial and cemetery purposes with a copy of said plat shall be filed with the county auditor of the county in which said lands are situated and the title thereto shall be and remain in the owner, his heirs and assigns, subject to the trust aforesaid."

Property taxes, exemptions: RCW 84.36.020.

68.24.250 Cemetery arrangements, notice requirements—Disclosure of multiple interment. (1) Every cemetery shall disclose and give to the person making cemetery arrangements a written statement, contract, or other document that indicates all the items of property, merchandise, and service that the customer is purchasing, and the price of those items.

(2) Any cemetery offering single burial use of multiple interment space must include the following disclosure on the written statement, contract, or other document in conspicuous bold face type no smaller than other text provisions in the written statement, contract, or other document, to be initialed by the person making the cemetery arrangements in immediate proximity to the space reserved for the signature lines:

"DISCLOSURE OF MULTIPLE INTERMENT

State law provides that "multiple interment" means two or more noncremated human remains are buried in the ground, in outer burial enclosures or chambers, placed one on top of

Chapter 68.28 RCW

MAUSOLEUMS AND COLUMBARIUMS

Sections

68.28.010	Sections applicable to mausoleums, columbariums, etc.
68.28.020	Building converted to use for human remains placement.
68.28.030	Standards of construction.
68.28.040	Fireproof construction.
68.28.050	Ordinances and specifications to be complied with.
68.28.060	Improper construction a nuisance—Penalty.
68.28.065	Court to fix costs.
68.28.070	Construction in compliance with existing laws.

68.28.010 Sections applicable to mausoleums, columbariums, etc. RCW 68.28.020 through 68.28.070, 68.20.080, *68.20.090, 68.56.040, and 68.56.050, apply to all buildings, mausoleums, and columbariums used or intended to be used for the placement of the human remains of fifteen or more persons, whether erected under or above the surface of the earth, where any portion of the building is exposed to view or, when interment is completed, is less than three feet below the surface of the earth and covered by earth. [2005 c 365 § 87; 1943 c 247 § 134; Rem. Supp. 1943 § 3778-134.]

***Reviser's note:** RCW 68.20.090 was repealed by 2005 c 365 § 161.

68.28.020 Building converted to use for human remains placement. A building not erected for, or which is not used as, a place for placement of human remains which is converted or altered for such use is subject to *this act. [2005 c 365 § 88; 1943 c 247 § 135; Rem. Supp. 1943 § 3778-135.]

***Reviser's note:** For "this act," see note following RCW 68.04.020.

68.28.030 Standards of construction. No building or structure intended to be used for the placement of human remains shall be constructed, and a building not used for the placement of human remains shall not be altered for use or used for interment purposes, unless constructed of such material and workmanship as will ensure its durability and permanence as dictated and determined at the time by modern mausoleum construction and engineering science. [2005 c 365 § 89; 1943 c 247 § 136; Rem. Supp. 1943 § 3778-136.]

68.28.040 Fireproof construction. All mausoleums or columbariums hereafter constructed shall be of class A fireproof construction. [1943 c 247 § 137; Rem. Supp. 1943 § 3778-137.]

Additional notes found at www.leg.wa.gov

68.28.050 Ordinances and specifications to be complied with. If the proposed site is within the jurisdiction of a city having ordinances and specifications governing class A construction, the provisions of the local ordinances and specifications shall not be violated. [1943 c 247 § 138; Rem. Supp. 1943 § 3778-138.]

68.28.060 Improper construction a nuisance—Penalty. Every owner or operator of a mausoleum or columbarium erected in violation of *this act is guilty of maintaining a

public nuisance. A violation of this section is a gross misdemeanor. [2005 c 365 § 90; 2003 c 53 § 306; 1943 c 247 § 140; Rem. Supp. 1943 § 3778-140.]

***Reviser's note:** For "this act," see note following RCW 68.04.020.

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

68.28.065 Court to fix costs. The costs, expenses and disbursements shall be fixed by the court having jurisdiction of the case. [1943 c 247 § 141; Rem. Supp. 1943 § 3778-141.]

68.28.070 Construction in compliance with existing laws. The penalties of *this act shall not apply as to any building which, at the time of construction was constructed in compliance with the laws then existing, if its use is not in violation of the laws for the protection of public health. [1943 c 247 § 142; Rem. Supp. 1943 § 3778-142.]

***Reviser's note:** For "this act," see note following RCW 68.04.020.

Chapter 68.32 RCW

TITLE AND RIGHTS TO CEMETERY PLOTS

Sections

68.32.010	Presumption as to title.
68.32.020	Vested right of spouse or state registered domestic partner.
68.32.030	Vested right—Termination.
68.32.040	Descent of title to plot or right of interment.
68.32.050	Affidavit as authorization.
68.32.060	Family plot—Sale.
68.32.070	Joint tenants—Vested rights.
68.32.080	Joint tenants—Survivorship.
68.32.090	Joint tenants—Identification.
68.32.100	Co-owners may designate representative.
68.32.110	Order of interment—General.
68.32.130	Waiver of right of placement.
68.32.140	Termination of vested right by waiver.
68.32.150	Limitations on vested rights.
68.32.160	Conveyance of plot or right of interment to cemetery authority, effect.
68.32.170	Exemption from inheritance tax.

68.32.010 Presumption as to title. All plots or rights of interment conveyed to individuals are presumed to be the sole and separate property rights of the owner named in the instrument of conveyance. [2005 c 365 § 91; 1943 c 247 § 88; Rem. Supp. 1943 § 3778-88.]

68.32.020 Vested right of spouse or state registered domestic partner. The spouse or state registered domestic partner, of an owner of any plot or right of interment containing more than one placement space has a vested right of placement in the plot and any person thereafter becoming the spouse or state registered domestic partner, of the owner has a vested right of placement in the plot if more than one space is unoccupied at the time the person becomes the spouse or state registered domestic partner, of the owner. [2007 c 156 § 15; 2005 c 365 § 92; 1943 c 247 § 89; Rem. Supp. 1943 § 3778-89.]

68.32.030 Vested right—Termination. No conveyance or other action of the owner without the written consent of the spouse or state registered domestic partner, of the owner divests the spouse or state registered domestic partner, of a vested right of placement. A final decree of divorce between them or certification of termination of the state registered domestic partnership terminates the vested right of placement unless otherwise provided in the decree. [2007 c 156 § 16; 2005 c 365 § 93; 1943 c 247 § 90; Rem. Supp. 1943 § 3778-90.]

68.32.040 Descent of title to plot or right of interment. If no placement is made in a plot or right of interment, which has been transferred by deed or certificate of ownership to an individual owner, the title descends to the surviving spouse or state registered domestic partner. If there is no surviving spouse or state registered domestic partner, the title descends to the heirs at law of the owner. Following death of the owner, if all remains previously placed are lawfully removed and the owner did not dispose of the plot or right of interment by specific devise or by a written declaration filed

and recorded in the office of the cemetery authority, the title descends to the surviving spouse or state registered domestic partner. If there is no surviving spouse or state registered domestic partner, the title descends to the heirs at law of the owner. [2007 c 156 § 17; 2005 c 365 § 94; 1979 c 21 § 15; 1943 c 247 § 91; Rem. Supp. 1943 § 3778-91.]

68.32.050 Affidavit as authorization. An affidavit by a person having knowledge of the facts setting forth the fact of the death of the owner and the name of the person or persons entitled to the use of the plot or right of interment pursuant to RCW 68.32.010 through 68.32.040, is complete authorization to the cemetery authority to permit the use of the unoccupied portions of the plot or interment right by the person entitled to the use of it. [2005 c 365 § 95; 1943 c 247 § 93; Rem. Supp. 1943 § 3778-93.]

68.32.060 Family plot—Sale. Whenever an interment of the human remains of a member or of a relative of a member of the family of the record owner or of the remains of the record owner is made in a plot transferred by deed or certificate of ownership to an individual owner and both the owner and the surviving spouse or state registered domestic partner, if any, die with children then living without making disposition of the plot either by a specific devise, or by a written declaration filed and recorded in the office of the cemetery authority, the plot shall thereafter be held as a family plot and shall be subject to sale only upon agreement of the children of the owner living at the time of sale. [2007 c 156 § 18; 2005 c 365 § 96; 1979 c 21 § 16; 1943 c 247 § 98; Rem. Supp. 1943 § 3778-98.]

68.32.070 Joint tenants—Vested rights. In a conveyance to two or more persons as joint tenants each joint tenant has a vested right of placement in the plot or right of interment conveyed. [2005 c 365 § 97; 1943 c 247 § 94; Rem. Supp. 1943 § 3778-94.]

68.32.080 Joint tenants—Survivorship. Upon the death of a joint tenant, the title to the plot or right of interment held in joint tenancy immediately vests in the survivors, subject to the vested right of interment of the deceased joint tenant. [2005 c 365 § 98; 1943 c 247 § 95; Rem. Supp. 1943 § 3778-95.]

Co-owners, simultaneous death: RCW 11.05A.040.

68.32.090 Joint tenants—Identification. An affidavit by any person having knowledge of the fact of the death of one joint tenant and establishing the identity of the surviving joint tenants named in the deed to any plot or right of interment, when filed with the cemetery authority, is complete authorization to the cemetery authority to permit the use of the unoccupied portion of the plot or right of interment in accordance with the directions of the surviving joint tenants.

[2005 c 365 § 99; 1943 c 247 § 96; Rem. Supp. 1943 § 3778-96.]

68.32.100 Co-owners may designate representative.

When there are several owners of a plot or right of interment, they may designate one or more persons to represent the plot or interment right and file written notice of designation with the cemetery authority. In the absence of such notice or of written objection to its so doing, the cemetery authority is not liable to any owner for permitting the placement in the plot or right of interment upon the request or direction of any co-owner of the plot or right of interment. [2005 c 365 § 100; 1943 c 247 § 97; Rem. Supp. 1943 § 3778-97.]

68.32.110 Order of interment—General. In a family plot one right of interment may be used for the owner's interment and one for the owner's surviving spouse or state registered domestic partner, if any. Any unoccupied spaces may then be used by the remaining parents and children of the deceased owner, if any, then to the spouse or state registered domestic partner of any child of the owner, then to the heirs at law of the owner, in the order of death. [2007 c 156 § 19; 2005 c 365 § 101; 1943 c 247 § 99; Rem. Supp. 1943 § 3778-99.]

68.32.130 Waiver of right of placement. Any surviving spouse, state registered domestic partner, parent, child, or heir having a right of placement in a family plot may waive such right in favor of any other relative, spouse, or state registered domestic partner of a relative of the deceased owner. Upon such a waiver, the remains of the person in whose favor the waiver is made may be placed in the plot. [2007 c 156 § 20; 2005 c 365 § 102; 1943 c 247 § 101; Rem. Supp. 1943 § 3778-101.]

68.32.140 Termination of vested right by waiver. A vested right of placement may be waived and is terminated upon the placement elsewhere of the remains of the person in whom vested. [2005 c 365 § 103; 1943 c 247 § 102; Rem. Supp. 1943 § 3778-102.]

68.32.150 Limitations on vested rights. No vested right of interment gives any person the right to have his or her remains interred in any interment space in which the remains of any deceased person having a prior vested right of interment have been interred. No vested right of interment gives any person the right to have the remains of more than one deceased person placed in a single space in violation of the rules and regulations of the cemetery in which the space is located. [2005 c 365 § 104; 1943 c 247 § 103; Rem. Supp. 1943 § 3778-103.]

68.32.160 Conveyance of plot or right of interment to cemetery authority, effect. A cemetery authority may take and hold any plot or right of interment conveyed to it by the plot owner so that it will be nontransferable. Placements shall be restricted to the persons designated in the conveyance. [2005 c 365 § 105; 1943 c 247 § 104; Rem. Supp. 1943 § 3778-104.]

68.32.170 Exemption from inheritance tax. Cemetery property passing to an individual by reason of the death of the owner is exempt from all inheritance taxes. [1943 c 247 § 92; Rem. Supp. 1943 § 3778-92.]

Reviser's note: The inheritance tax was repealed by 1981 2nd ex.s. c 7 § 83.100.160 (Initiative Measure No. 402). See RCW 83.100.900. For later enactment, see chapter 83.100 RCW.

Chapter 68.36 RCW

ABANDONED LOTS

Sections

68.36.010	Sale of abandoned space—Presumption of abandonment.
68.36.020	Notice—Requirements—Limitation on placing.
68.36.030	Petition for order of abandonment—Notice and hearing.
68.36.040	Service of notice.
68.36.050	Hearing—Order—Attorneys' fees.
68.36.060	Contract for care before adjudication.
68.36.070	Contract for care within one year after adjudication.
68.36.080	Sale after one year.
68.36.100	Petition may cover several lots.

68.36.010 Sale of abandoned space—Presumption of abandonment. The ownership or right to unoccupied cemetery space in this state shall, upon abandonment, be subject to forfeiture and sale by the person or entity having ownership or management of the cemetery. Unoccupied cemetery space is presumed to be abandoned if it has been neglected and in a state of disrepair for a period of five years. [2005 c 365 § 106; 1943 c 247 § 78; Rem. Supp. 1943 § 3778-78.]

68.36.020 Notice—Requirements—Limitation on placing. Cemetery management shall place a suitable notice on each unoccupied space, setting forth the date the notice is placed and that the unoccupied space is subject to forfeiture and sale by the cemetery. If the owner of the unoccupied space fails during the next three years following the date of the notice to maintain or care for the unoccupied space, the cemetery may reclaim the unoccupied space. However, such a notice cannot be placed on the unoccupied space in any cemetery lot until twenty years have elapsed since the last interment in any such lot of a member of the immediate family of the record owner. [2005 c 365 § 107; 1943 c 247 § 79; Rem. Supp. 1943 § 3778-79.]

68.36.030 Petition for order of abandonment—Notice and hearing. After a three-year period, the owner or manager of the cemetery may file a verified petition in the office of the county clerk, setting forth the facts relating to the abandonment. The petition may ask for an order of the superior court for abandonment.

At the time of filing the petition, the cemetery authority shall request a hearing of the petition. The superior court will fix the time for the hearing. Not less than sixty days before the time fixed for the hearing of the petition, notice and nature of the hearing shall be given to the owner of such unoccupied space. [2005 c 365 § 108; 1943 c 247 § 80; Rem. Supp. 1943 § 3778-80.]

68.36.040 Service of notice. The notice may be served personally upon the owner, or may be given by the mailing of the notice by registered mail to the owner to his or her last known address and by publishing the notice three times in a legal newspaper published in the county in which the cemetery is located. In the event that the whereabouts of the owner is unknown, then the notice may be given by publishing the notice three times in a legal newspaper as required by this

section. The cemetery authority may file an affidavit in the proceeding to the effect that the owner is unknown and that the cemetery exercised diligence in attempting to locate the unknown parties. The affidavit shall be conclusive to that effect. [2005 c 365 § 109; 1943 c 247 § 81; Rem. Supp. 1943 § 3778-81.]

68.36.050 Hearing—Order—Attorneys' fees. An owner or claimant may appear and answer the allegations of the petition. If an owner fails to do so prior to the day fixed for hearing, a default shall be entered and it shall then be the duty of the superior court to immediately enter an order adjudging the unoccupied space to have been abandoned and subject to sale. In the event the owner or claimant shall appear and file his or her answer prior to the day fixed for the hearing, the presumption of abandonment shall no longer exist, and on the day fixed for the hearing of the petition or on any subsequent day to which the hearing of the cause is adjourned, the allegations and proof of the parties shall be presented to the court and if the court shall determine that there has been a continued failure to maintain or care for the unoccupied space for a period of three consecutive years preceding the filing of the petition, an order shall be entered accordingly adjudging the unoccupied space to have been abandoned and subject to sale at the expiration of one year by the person, association, corporation, or municipality having ownership of the cemetery containing the same. Upon any adjudication of abandonment, the court shall fix such sum as it shall deem reasonable as attorneys' fees for petitioner's attorney for rights of interment adjudged to have been abandoned in such proceedings. [2005 c 365 § 110; 1943 c 247 § 82; Rem. Supp. 1943 § 3778-82.]

68.36.060 Contract for care before adjudication. If at any time before the adjudication of abandonment the owner of an unoccupied space contracts with the owner or manager of the cemetery for the endowment care of the space, the court shall dismiss the proceedings as to such unoccupied space. [1953 c 290 § 1; 1943 c 247 § 83; Rem. Supp. 1943 § 3778-83.]

68.36.070 Contract for care within one year after adjudication. If at any time within one year after the adjudication of abandonment, the former owner of the unoccupied space shall contract for its endowment care, and reimburse the owner or manager of the cemetery for the expense of the proceedings, including attorney's fees, the space shall not be sold and the order adjudging it to have been abandoned shall be vacated upon petition of the former owner. [1953 c 290 § 2; 1943 c 247 § 84; Rem. Supp. 1943 § 3778-84.]

68.36.080 Sale after one year. One year after the entry of the order adjudging such lot, part of lot, lots or parts of lots to have been abandoned, the owner or manager of the ceme-

tery in which the same is located shall have the power to sell the same, in whole or in part, at public or private sale, and convey by deed good, clear and sufficient title thereto. [1943 c 247 § 85; Rem. Supp. 1943 § 3778-85.]

68.36.100 Petition may cover several lots. In any one petition for abandonment, a petitioner may, irrespective of diversity of ownership, include in any such petition as many lots or parts of lots as come within the provisions of *this act. The petition for abandonment shall be entitled: "In the Matter of the Abandonment, Forfeiture and Sale of Unoccupied and Uncared for Space located in Cemetery." [1943 c 247 § 87; Rem. Supp. 1943 § 3778-87.]

*Reviser's note: For "this act," see note following RCW 68.04.020.

Chapter 68.40 RCW

ENDOWMENT AND NONENDOWMENT CARE

Sections

68.40.010	Cemetery authorities—Deposit in endowment care fund required.
68.40.025	Nonendowed sections—Identification.
68.40.040	Endowment care fiscal reports—Review by plot owners.
68.40.060	May accept property in trust—Application of income.
68.40.085	Representing fund as perpetual—Penalty.
68.40.090	Penalty.
68.40.095	Certain cemeteries exempt from chapter.
68.40.100	Only nonendowment care cemeteries now in existence are authorized.
68.40.900	Effective date—1987 c 331.

68.40.010 Cemetery authorities—Deposit in endowment care fund required. A cemetery authority not exempt under this chapter shall deposit in an endowment care fund not less than the following amounts for plots or interment rights sold: Ten percent of the gross sales price for each grave, niche, or crypt.

In the event that a cemetery authority sells an interment right at a price that is less than its current list price, or gives away, bequeaths, or otherwise gives title to an interment right, the interment right shall be endowed at the rate at which it would normally be endowed.

The deposits shall be made not later than the twentieth day of the month following the final payment on the sale price. If a contract for interment rights is sold, pledged, or otherwise encumbered as security for a loan by the cemetery authority, the cemetery authority shall pay into the endowment care fund ten percent of the gross sales price of the interment right within twenty days of receipt of payment of the proceeds from such sale or loan.

Any cemetery hereafter established shall have deposited in an endowment care fund the sum of twenty-five thousand dollars before selling any interment right. [2005 c 365 § 111; 1987 c 331 § 35; 1984 c 53 § 1; 1961 c 133 § 2; 1953 c 290 § 4; 1943 c 247 § 118; Rem. Supp. 1943 § 3778-118.]

68.40.025 Nonendowed sections—Identification. Cemeteries with nonendowed sections opened before July 1, 1987, shall only be required to endow sections opened after July 1, 1987. On the face of any contract, receipt, or deed used for sales of nonendowed interment rights shall be prominently displayed the words "Nonendowment section." All nonendowed sections shall be identified as such by posting of a legible sign containing the following phrase: "Nonendowment section." [2005 c 365 § 112; 1987 c 331 § 36.]

68.40.040 Endowment care fiscal reports—Review by plot owners. A cemetery authority not exempt under this chapter shall file in its principal office for review by plot owners the previous seven fiscal years' endowment care reports as filed with the funeral and cemetery board in accordance with RCW 68.44.150. [2009 c 102 § 14; 1987 c 331 § 37; 1953 c 290 § 7; 1943 c 247 § 122; Rem. Supp. 1943 § 3778-122.]

Funeral directors and embalmers account and cemetery account abolished, moneys transferred to funeral and cemetery account—2009 c 102: See note following RCW 18.39.810.

68.40.060 May accept property in trust—Application of income. The cemetery authority of an endowment care cemetery may accept any property bequeathed, granted, or given to it in trust and may apply the income from such property to any or all of the following purposes:

(1) Improvement or embellishment of all or any part of the cemetery;

(2) Erection, renewal, repair, or preservation of any monument, fence, building, or other structure in the cemetery;

(3) Planting or cultivation of trees, shrubs, or plants in or around any part of the cemetery;

(4) Special care or ornamenting of any part of any interment right, section, or building in the cemetery; and

(5) Any purpose or use consistent with the purpose for which the cemetery was established or is maintained. [2005 c 365 § 113; 1987 c 331 § 38; 1953 c 290 § 8; 1943 c 247 § 129; Rem. Supp. 1943 § 3778-129.]

68.40.085 Representing fund as perpetual—Penalty. It is a misdemeanor for any cemetery authority, its officers, employees, or agents, or a cemetery broker or salesperson to represent that an endowment care fund, or any other fund set up for maintaining care, is perpetual. [2012 c 117 § 311; 1953 c 290 § 24.]

68.40.090 Penalty. Any person, partnership, corporation, association, or his or her or its agents or representatives who shall violate any of the provisions of this chapter or make any false statement appearing on any sign, contract, agreement, receipt, statement, literature, or other publication shall be guilty of a misdemeanor. [2012 c 117 § 312; 1987 c 331 § 39; 1943 c 247 § 125; Rem. Supp. 1943 § 3778-125.]

68.40.095 Certain cemeteries exempt from chapter. This chapter does not apply to any cemetery controlled and operated by a coroner, county, city, town, or cemetery district. [1987 c 331 § 40.]

68.40.100 Only nonendowment care cemeteries now in existence are authorized. After June 7, 1979, no nonendowment care cemetery may be established. However, any nonendowment care cemetery in existence on June 7, 1979, may continue to operate as a nonendowment care cemetery. [1979 c 21 § 18.]

68.40.900 Effective date—1987 c 331. See RCW 68.05.900.

Chapter 68.44 RCW

ENDOWMENT CARE FUND

Sections

68.44.010	Funds authorized—Investments.
68.44.020	Use and care of funds.
68.44.030	Authorized investments.
68.44.060	Unauthorized loans—Penalty.
68.44.070	Use of contributions to funds.
68.44.080	Plans for care—Financing.
68.44.090	Covenant to care for cemetery.
68.44.100	Agreement by owner to care for plot.
68.44.110	Trustees of fund.
68.44.115	Trustee to file statement with board—Resignation of trusteeship.
68.44.120	Directors as trustees—Secretary.
68.44.130	Bank or trust company as trustee.
68.44.140	Compensation of trustees.
68.44.150	Annual report.
68.44.160	Contributions.
68.44.170	Use of income from fund.
68.44.180	Certain cemeteries exempt from chapter.
68.44.900	Effective date—1987 c 331.

68.44.010 Funds authorized—Investments. Any cemetery authority not exempt under chapter 68.40 RCW shall establish, maintain, and operate an inviolable endowment care fund. Endowment care, special care, and other cemetery authorities' endowment care funds may be commingled for investment and the income therefrom shall be divided between the funds in the proportion that each contributed to the sum invested. The funds shall be held in the name of the trustees appointed by the cemetery authority with the words "endowment care fund" being a part of the name. [1987 c 331 § 41; 1953 c 290 § 11; 1943 c 247 § 105; Rem. Supp. 1943 § 3778-105.]

68.44.020 Use and care of funds. Endowment care funds shall not be used for any purpose other than to provide, through income only, for the endowment care stipulated in the instrument by which the fund was established. Endowment care funds shall be kept separate and distinct from all assets of the cemetery authority. Endowment care principal shall remain inviolable and may not be reduced in any way not found within RCW 11.100.020. [2005 c 365 § 114; 1987 c 331 § 42; 1953 c 290 § 12. Prior: (i) 1943 c 247 § 106; Rem. Supp. 1943 § 3778-106. (ii) 1943 c 247 § 126; Rem. Supp. 1943 § 3778-126.]

68.44.030 Authorized investments. Endowment care funds shall be kept invested in accordance with the provisions of RCW 11.100.020 subject to the following restrictions:

(1) No officer or director of the cemetery authority, trustee of the endowment care or special care funds, or spouse, sibling, parent, grandparent, or issue of such officer, director, or trustee, shall borrow any of such funds for himself or herself, directly or indirectly.

(2) No funds shall be loaned to the cemetery authority, its agents, or employees, or to any corporation, partnership,

or other business entity in which the cemetery authority has any ownership interest.

(3) No funds shall be invested with persons or business entities operating in a business field directly related to cemeteries, including, but not limited to, mortuaries, monument production and sales, florists, and rental of funeral facilities.

(4) Notwithstanding any other provisions contained in this section, funds may be invested in any commercial bank, mutual savings bank, or savings and loan association duly chartered and operating under the laws of the United States or statutes of the state of Washington. [2012 c 117 § 313; 1985 c 30 § 138. Prior: 1984 c 149 § 175; 1979 c 21 § 19; 1953 c 290 § 13; 1943 c 247 § 127; Rem. Supp. 1943 § 3778-127.]

Short title—Application—Purpose—Severability—1985 c 30: See RCW 11.02.900 through 11.02.903.

Additional notes found at www.leg.wa.gov

68.44.060 Unauthorized loans—Penalty. Every director or officer authorizing or consenting to a loan, and the person who receives a loan, in violation of RCW 68.44.030 are severally guilty of a class C felony punishable under chapter 9A.20 RCW. [1984 c 53 § 2; 1943 c 247 § 133; Rem. Supp. 1943 § 3778-133.]

68.44.070 Use of contributions to funds. Contributions to endowment care and special care funds are permitted for charitable purposes. Endowment care and such contributions are provisions for the discharge of a duty from the persons contributing to the persons interred or to be interred in the cemetery. This provision is for the benefit and protection of the public by preserving and keeping cemeteries from becoming neglected places of disgrace in the communities they serve. [2005 c 365 § 115; 1953 c 290 § 16. Prior: (i) 1943 c 247 § 130; Rem. Supp. 1943 § 3778-130. (ii) 1943 c 247 § 117; Rem. Supp. 1943 § 3778-117.]

68.44.080 Plans for care—Financing. The cemetery authority may adopt plans for the care, maintenance, and embellishment of its cemetery. A cemetery authority may charge and collect from all purchasers of plots or rights of interment a reasonable sum that will generate a fund, and the income from the fund will provide care, maintenance, and embellishment on an endowment basis. [2005 c 365 § 116; 1953 c 290 § 17; 1943 c 247 § 108; Rem. Supp. 1943 § 3778-108.]

68.44.090 Covenant to care for cemetery. Upon payment of the purchase price and the contribution for endowment care, a deed of conveyance or other instrument may include an agreement to care for the cemetery, on an endowment basis to the extent the income will permit. [2005 c 365 § 117; 1953 c 290 § 18; 1943 c 247 § 109; Rem. Supp. 1943 § 3778-109.]

68.44.100 Agreement by owner to care for plot. Upon the application of an owner of a plot, and upon the payment by the owner of the amount fixed as a reasonable and proportionate contribution for endowment care, a cemetery authority may enter into an agreement with the owner for the special care of his or her plot and its appurtenances. [2005 c 365 § 118; 1953 c 290 § 19; 1943 c 247 § 110; Rem. Supp. 1943 § 3778-110.]

68.44.110 Trustees of fund. Unless an association of lot owners has been created for the purpose of appointing trustees, the cemetery authority shall appoint a minimum of three trustees for its endowment care fund, who shall hold office subject to the direction of the cemetery authority. [2005 c 365 § 119; 1987 c 331 § 43; 1953 c 290 § 20; 1943 c 247 § 111; Rem. Supp. 1943 § 3778-111.]

68.44.115 Trustee to file statement with board—Resignation of trusteeship. To be considered qualified as a trustee, each trustee of an endowment care fund appointed in accordance with this chapter shall file with the board a statement of acceptance of fiduciary responsibility, on a form approved by the board, before assuming the duties of trustee. The trustee shall remain in the trustee's fiduciary capacity until such time as the trustee advises the funeral and cemetery board in writing of the trustee's resignation of trusteeship. [2009 c 102 § 15; 1987 c 331 § 44.]

Funeral directors and embalmers account and cemetery account abolished, moneys transferred to funeral and cemetery account—2009 c 102: See note following RCW 18.39.810.

68.44.120 Directors as trustees—Secretary. The directors of a cemetery authority may be the trustees of its endowment care fund. When the fund is in the care of the directors, the secretary of the cemetery authority shall keep a true record of all of its proceedings. [2005 c 365 § 120; 1987 c 331 § 45; 1953 c 290 § 21; 1943 c 247 § 112; Rem. Supp. 1943 § 3778-112.]

68.44.130 Bank or trust company as trustee. In lieu of the appointment of a board of trustees of its endowment care fund, a cemetery authority may appoint, as sole trustee of its endowment care fund, any bank or trust company qualified to engage in the trust business. The bank or trust company shall be authorized to receive and accept the endowment care fund at the time of its appointment. [2005 c 365 § 121; 1987 c 331 § 46; 1943 c 247 § 113; Rem. Supp. 1943 § 3778-113.]

68.44.140 Compensation of trustees. Compensation to the board of trustees or trustee for services as trustee and other compensation for administration of trust funds shall not exceed the customary fees charged by banks and trust companies for like services. Such fees may not be paid from the fund principal. [2005 c 365 § 122; 1987 c 331 § 47; 1979 c 21 § 20; 1943 c 247 § 114; Rem. Supp. 1943 § 3778-114.]

68.44.150 Annual report. The cemetery authority or the trustees in whose names the funds are held shall, annually, and within ninety days after the end of the calendar or fiscal year of the cemetery authority, file in its office and with the funeral and cemetery board endowment care trust fund, a

report showing the actual financial condition of the funds. The report must be signed by an officer of the cemetery authority or one or more of the trustees. The report must be maintained for a period of seven years. [2009 c 102 § 16; 2005 c 365 § 123; 1987 c 331 § 48; 1979 c 21 § 21; 1943 c 247 § 115; Rem. Supp. 1943 § 3778-115.]

Funeral directors and embalmers account and cemetery account abolished, moneys transferred to funeral and cemetery account—2009 c 102: See note following RCW 18.39.810.

68.44.160 Contributions. A cemetery authority which has established an endowment care fund may take and hold, as a part of the fund, any property, real, personal, or mixed, bequeathed, devised, granted, given, or otherwise contributed to it for its endowment care fund. [2005 c 365 § 124; 1953 c 290 § 22; 1943 c 247 § 116; Rem. Supp. 1943 § 3778-116.]

68.44.170 Use of income from fund. The income from the endowment care fund shall be used solely for the general care, maintenance, and embellishment of the cemetery, and shall be applied in such manner as the cemetery authority may from time to time determine to be for the best interest of the cemetery. [1953 c 290 § 23; 1943 c 247 § 107; Rem. Supp. 1943 § 3778-107.]

68.44.180 Certain cemeteries exempt from chapter. This chapter does not apply to any cemetery controlled and operated by a coroner, county, city, town, or cemetery district. [1987 c 331 § 49.]

68.44.900 Effective date—1987 c 331. See RCW 68.05.900.

Chapter 68.46 RCW

PREARRANGEMENT CONTRACTS

Sections

68.46.010	Definitions.
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68.46.030	Prearrangement trust funds—Deposits—Bond requirements.
68.46.040	Prearrangement trust funds—Deposit of funds.
68.46.050	Withdrawals from trust funds—Notice of department of social and health services' claim.
68.46.055	Indebtedness limitations.
68.46.060	Termination of contract by purchaser or beneficiary.
68.46.070	Involuntary termination of contract—Refund.
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68.46.160	Contract forms—Filing.
68.46.170	Sales licenses—Requirement.
68.46.175	Unconstructed crypts, etc., as part of contract—Requirements.
68.46.900	Effective date—1987 c 331.

Prearrangement funeral service contracts: RCW 18.39.240 through 18.39.360.

68.46.010 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Board" means the funeral and cemetery board established under RCW 18.39.173 or its authorized representative.

(2) "Cemetery merchandise or services" and "merchandise or services" mean those services normally performed by cemetery authorities, including the sale of monuments, markers, memorials, nameplates, liners, vaults, boxes, urns, vases, interment services, or any one or more of them.

(3) "Prearrangement contract" means a contract for purchase of cemetery merchandise or services, unconstructed crypts or niches, or undeveloped graves to be furnished at a future date for a specific consideration which is paid in advance by one or more payments in one sum or by installment payments.

(4) "Prearrangement trust fund" means all funds required to be maintained in one or more funds for the benefit of beneficiaries by either this chapter or by the terms of a prearrangement contract, as herein defined.

(5) "Undeveloped grave" means any grave in an area which a cemetery authority has not landscaped, groomed, or developed to the extent customary in the cemetery industry. [2009 c 102 § 17; 2005 c 365 § 125; 1979 c 21 § 22; 1975 1st ex.s. c 55 § 1; 1973 1st ex.s. c 68 § 1.]

Reviser's note: The definitions in this section have been alphabetized pursuant to RCW 1.08.015(2)(k).

Funeral directors and embalmers account and cemetery account abolished, moneys transferred to funeral and cemetery account—2009 c 102: See note following RCW 18.39.810.

68.46.020 Prearrangement trust funds—Required. Any cemetery authority selling by prearrangement contracts any merchandise or services shall establish and maintain one or more prearrangement trust funds for the benefit of benefi-

ciaries of prearrangement contracts. [2005 c 365 § 126; 1973 1st ex.s. c 68 § 2.]

68.46.030 Prearrangement trust funds—Deposits—Bond requirements. (1) For each prearrangement contract, a cemetery authority shall deposit the greater of the following amounts in its prearrangement trust fund:

(a) For merchandise:

(i) Fifty percent of the contract price; or

(ii) The wholesale cost of the item.

(b) For services:

(i) Fifty percent of the contract price; or

(ii) The direct cost of providing the service.

(2) Any cemetery authority which does not file and maintain with the board a bond as provided in subsection (4) of this section shall deposit in its prearrangement trust fund an amount as determined under subsection (1) of this section, excluding sales tax and endowment care if such charge is made.

(3) Any cemetery authority which files and maintains with the board a bond as provided in subsection (4) of this section may retain the nontrustable portion of the contract before depositing the balance of payments into its prearrangement trust fund, as determined under subsection (1) of this section, excluding sales tax and endowment care, if such charge is made.

(4) Each cemetery authority electing to make payments to its prearrangement trust fund pursuant to subsection (3) of this section shall file and maintain with the board a bond, issued by a surety company authorized to do business in the state, in the amount by which the cemetery authority's contingent liability for refunds pursuant to RCW 68.46.060 exceeds the amount deposited in its prearrangement trust fund. The bond shall be conditioned that it is for the use and benefit of any person requesting a refund pursuant to RCW 68.46.060 if the cemetery authority does not promptly pay to the person the refund due pursuant to RCW 68.46.060. In addition to any other remedy, every person not promptly receiving the refund due pursuant to RCW 68.46.060 may sue the surety for the refund. The liability of the surety shall not exceed the amount of the bond. Termination or cancellation shall not be effective unless notice is delivered by the surety to the board at least thirty days prior to the date of termination or cancellation. The board shall immediately notify the cemetery authority affected by the termination or cancellation by certified mail, return receipt requested. The cemetery authority shall thereupon obtain another bond or make such other arrangement as may be satisfactory to the board to ensure its ability to make refunds pursuant to RCW 68.46.060.

(5) Deposits to the prearrangement trust fund shall be made not later than the twentieth day of each month following receipt of each payment required to be deposited. If a

prearrangement contract is sold, pledged, or otherwise encumbered as security for a loan by the cemetery authority, the cemetery authority shall pay into the prearrangement trust fund fifty percent of the total sale price of the prearrangement contract within twenty days of receipt of payment of the proceeds from the sale or loan.

(6) Any failure to fund a prearrangement contract as required by this section shall be grounds for disciplinary action against the cemetery authority and the cemetery authority's prearrangement sales license. [2005 c 365 § 127; 1984 c 53 § 3; 1979 c 21 § 24; 1973 1st ex.s. c 68 § 3.]

68.46.040 Prearrangement trust funds—Deposit of funds. (1) All prearrangement trust funds must be deposited in a commercial bank, trust company, mutual savings bank, savings and loan association, or credit union, whether state or federally chartered. Such accounts must be designated as the "prearrangement trust fund" by name and the particular cemetery authority for the benefit of the beneficiaries named in any prearrangement contract.

(2) All prearrangement trust funds must be invested in accordance with the provisions of RCW 11.100.020 subject to the following restrictions:

(a) No officer or director of the cemetery authority, trustee of the prearrangement trust funds, or spouse, sibling, parent, grandparent, or issue of such officer, director, or trustee, may borrow any of such funds for himself or herself, directly or indirectly;

(b) No funds may be loaned to the cemetery authority, its agents, or employees, or to any corporation, partnership, or other business entity in which the cemetery authority has any ownership interest; and

(c) No funds may be invested with persons or business entities operating in a business field directly related to cemeteries. [2012 c 206 § 1; 2005 c 365 § 128; 1987 c 331 § 50; 1973 1st ex.s. c 68 § 4.]

68.46.050 Withdrawals from trust funds—Notice of department of social and health services' claim. (1) A depository of prearrangement funds shall permit a cemetery authority to withdraw all funds deposited under any specific prearrangement contract plus interest accrued thereon, under the following circumstances and conditions:

(a) If the cemetery authority files a verified statement with the depository that the prearrangement merchandise and services covered by a contract have been furnished and delivered; or

(b) If the cemetery authority files a verified statement that a specific prearrangement contract has been canceled in accordance with its terms.

(2) The department of social and health services shall notify the cemetery authority maintaining a prearrangement trust fund regulated by this chapter that the department has a claim on the estate of a beneficiary for long-term care services. Such notice shall be renewed at least every three years. The cemetery authority, upon becoming aware of the death of a beneficiary, shall give notice to the department of social and health services, office of financial recovery, who shall file any claim there may be within thirty days of the notice. [2005 c 365 § 129; 1995 1st sp.s. c 18 § 65; 1973 1st ex.s. c 68 § 5.]

Additional notes found at www.leg.wa.gov

68.46.055 Indebtedness limitations. No cemetery authority may enter into a retail contract for the purchase of debentures, shares, scrip, bonds, notes, or any instrument or evidence of indebtedness that requires the cemetery authority to furnish cemetery merchandise, services, or interment rights to the holder at a future date. This section does not include retail installment sales transactions governed by chapter 63.14 RCW. [2005 c 365 § 130; 1984 c 53 § 8.]

68.46.060 Termination of contract by purchaser or beneficiary. Any purchaser or beneficiary may, upon written demand of any cemetery authority, demand that any prearrangement contract with such cemetery authority be terminated. In such event, the cemetery authority shall, within thirty days, refund to the purchaser or beneficiary fifty percent of the moneys received less the contractual price of any merchandise delivered or services performed before the termination plus interest earned. In any case, where, under a prearrangement contract there is more than one beneficiary, no written demand as provided in this section shall be honored by any cemetery authority unless the written demand provided for in this section shall bear the signatures of all of such beneficiaries. [2005 c 365 § 132; 1987 c 331 § 51; 1984 c 53 § 4; 1979 c 21 § 25; 1973 1st ex.s. c 68 § 6.]

68.46.070 Involuntary termination of contract—Refund. Prearrangement contracts shall terminate upon demand of the purchaser of the contract if the cemetery authority shall go out of business, become insolvent or bankrupt, make an assignment for the benefit of creditors, or for any other reason be unable to fulfill the obligations under the contract. Upon demand by the purchaser or beneficiary or beneficiaries of any prearrangement contract, the cemetery authority shall refund one hundred percent of the original contract, less delivered services and merchandise, including funds held in deposit and interest earned thereon, unless otherwise ordered by a court of competent jurisdiction. [1987 c 331 § 52; 1979 c 21 § 26; 1973 1st ex.s. c 68 § 7.]

68.46.075 Inactive contracts—Funds transfer—Obligations. In the event the beneficiary of a prearrangement contract make[s] no claim within fifty years of the date of the contract for the merchandise and services provided in the prearrangement contract, the funds deposited in the prearrangement trust for that contract, plus interest, shall be transferred to the cemetery authority's endowment fund, to be used for the purposes for which the endowment fund was established. However, the cemetery authority shall remain obligated for merchandise and services, unconstructed crypts, niches, and undeveloped property under the terms of the prearrangement contract. Claims may be made for merchandise and services, unconstructed crypts, niches, and undeveloped property on a prearrangement contract after the funds have been transferred to the endowment fund. These claims shall be paid for from the endowment fund income on a contract by contract basis. [2005 c 365 § 133; 1979 c 21 § 27.]

68.46.080 Other use of trust funds prohibited. Prearrangement trust funds shall not be used in any way for the

benefit of the cemetery authority or any director, officer, agent, or employee of any cemetery authority, including, but not limited to any encumbrance, pledge, or other utilization or prearrangement trust funds as collateral or other security. [2005 c 365 § 134; 1973 1st ex.s. c 68 § 8.]

68.46.090 Financial reports—Filing—Verification.

Any cemetery authority selling prearrangement merchandise or other prearrangement services shall file in its office and with the board a written report upon forms prepared by the board which shall state the amount of the principle of the prearrangement trust fund, the depository of such fund, and cash on hand which is or may be due to the fund as well as other information the board may deem appropriate. All information appearing on such written reports shall be revised at least annually. These reports shall be verified by the president, or the vice president, and one other officer of the cemetery authority, the accountant or auditor who prepared the report, and, if required by the board for good cause, a certified public accountant in accordance with generally accepted auditing standards. [2009 c 102 § 18; 2005 c 365 § 135; 1983 c 190 § 1; 1977 ex.s. c 351 § 5; 1973 1st ex.s. c 68 § 9.]

Funeral directors and embalmers account and cemetery account abolished, moneys transferred to funeral and cemetery account—2009 c 102: See note following RCW 18.39.810.

Additional notes found at www.leg.wa.gov

68.46.100 Prearrangement contract requirements.

Every prearrangement contract shall contain language which informs the purchaser of the prearrangement trust fund and the amount to be deposited in the prearrangement trust fund. The amount deposited to the prearrangement trust fund must meet the requirements of RCW 68.46.030.

Every prearrangement contract shall contain language prominently featured on the face of the contract disclosing to the purchaser what items will be delivered before need, either stored or installed, and thus not subject to funding or refund.

Every prearrangement contract for the sale of unconstructed crypts, niches, or undeveloped property shall contain language which informs the purchaser that sales of unconstructed or undeveloped property are subject to the provisions of RCW 68.46.030. [2005 c 365 § 136; 1987 c 331 § 53; 1984 c 53 § 5; 1973 1st ex.s. c 68 § 10.]

68.46.110 Compliance required. No cemetery authority shall sell, offer to sell, or authorize the sale of cemetery merchandise or services or accept funds in payment of any prearrangement contract unless such acts are performed in compliance with this title and under the authority of a valid and unsuspended certificate of authority to operate a cemetery in this state. [2005 c 365 § 137; 1973 1st ex.s. c 68 § 11.]

68.46.125 Certain cemeteries exempt from chapter.

This chapter does not apply to any cemetery controlled and operated by a coroner, county, city, town, or cemetery district. [1987 c 331 § 54.]

68.46.130 Exemptions from chapter granted by board. The board may grant an exemption from any or all of the requirements of this chapter relating to prearrangement contracts to any cemetery authority which:

(1) Sells less than twenty prearrangement contracts per year; and

(2) Deposits one hundred percent of all funds received into a trust fund under RCW 68.46.030, as now or hereafter amended. [2009 c 102 § 19; 1979 c 21 § 43.]

Funeral directors and embalmers account and cemetery account abolished, moneys transferred to funeral and cemetery account—2009 c 102: See note following RCW 18.39.810.

68.46.160 Contract forms—Filing. No cemetery authority shall use a prearrangement contract without first filing the form of such contract with the board: PROVIDED, That the board may order the cemetery authority to cease using any prearrangement contract form which:

(1) Is in violation of any provision of this chapter;

(2) Is misleading or deceptive; or

(3) Is being used in connection with solicitation by false, misleading or deceptive advertising or sales practices.

Use of a prearrangement contract form which is not on file with the board or which the board has ordered the cemetery authority not to use shall be a violation of this chapter. [1979 c 21 § 38.]

68.46.170 Sales licenses—Requirement. No cemetery authority shall enter into prearrangement contracts in this state unless the cemetery authority has obtained a prearrangement sales license issued by the board or its authorized representative and such license is then current and valid. [1979 c 21 § 23.]

68.46.175 Unconstructed crypts, etc., as part of contract—Requirements. (1) A cemetery authority that enters into prearrangement contracts for the sale of unconstructed crypts, niches, or undeveloped property, or that conveys undeveloped property by gift, shall maintain an adequate inventory of constructed crypts or niches and developed property. The inventory shall be a minimum of ten percent of the unconstructed or undeveloped property sales. The inventory shall be equal or better in quality than the unconstructed crypts or niches, or undeveloped property if they were constructed or developed.

(2) If the death of a purchaser or owner of an unconstructed crypt, niche, or undeveloped property occurs before the property is constructed or developed, the cemetery authority shall provide a constructed crypt, niche, or developed property of equal or better quality without additional cost or charge.

(3) If two or more unconstructed crypts, niches, or undeveloped properties are conveyed with the intention that the crypts, niches, or properties shall be contiguous to each other or maintained together as a group and the death of any one purchaser or owner in such group occurs before the unconstructed crypts, niches, or undeveloped property is developed, the cemetery authority shall provide additional constructed crypts, niches, or developed property of equal or better quality, contiguous to each other or together as a group, as originally intended, to other purchasers or owners in the group without additional cost or charge.

(4) The representative of the deceased purchaser may agree to the placement of the decedent in a temporary crypt,

niche, or grave until the construction is completed and the decedent is placed in the new crypt, niche, or grave.

(5) Prearrangement sales of unconstructed crypts, niches, or undeveloped property must meet the requirements of RCW 68.46.030. [2005 c 365 § 131.]

68.46.900 Effective date—1987 c 331. See RCW 68.05.900.

Chapter 68.50 RCW

HUMAN REMAINS

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68.50.010	Coroner's jurisdiction over remains.
68.50.015	Immunity for determining cause and manner of death—Judicial review of determination.
68.50.020	Notice to coroner—Penalty.
68.50.032	Transportation of remains directed by coroner or medical examiner—Costs.
68.50.035	Unlawful to refuse burial to non-Caucasian.
68.50.040	Deceased's effects to be listed.
68.50.050	Removal or concealment of body—Penalty.
68.50.060	Bodies for instruction purposes.
68.50.070	Human remains—Disposition.
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68.50.310	Dental identification system established—Powers and duties.
68.50.320	Procedures for investigating missing persons—Availability of files.
68.50.330	Identification of body or human remains by dental examination—Comparison of dental examination records with dental records of dental identification system.
68.50.645	Skeletal human remains—Duty to notify—Ground disturbing activities—Coroner determination—Definitions.
68.50.900	Effective date—1987 c 331.
68.50.901	Application—1993 c 228.
68.50.902	Application—Construction—1993 c 228.
68.50.903	Severability—1993 c 228.
68.50.904	Short title—1993 c 228.

Burial and removal permits: RCW 70.58.230.

Coroners to submit blood samples to state toxicologist—Analysis—Utilization of reports: RCW 46.52.065.

County commissioners to dispose of remains of indigents: RCW 36.39.030.

Disposal of remains prohibited unless accompanied by proper permit: RCW 70.58.260.

Fetal deaths: Chapter 70.58 RCW.

Undertaker must file death certificate: RCW 70.58.240.

Veterans and relatives: Chapter 73.24 RCW.

68.50.010 Coroner's jurisdiction over remains. The jurisdiction of bodies of all deceased persons who come to their death suddenly when in apparent good health without medical attendance within the thirty-six hours preceding death; or where the circumstances of death indicate death was caused by unnatural or unlawful means; or where death occurs under suspicious circumstances; or where a coroner's autopsy or postmortem or coroner's inquest is to be held; or where death results from unknown or obscure causes, or where death occurs within one year following an accident; or where the death is caused by any violence whatsoever, or where death results from a known or suspected abortion; whether self-induced or otherwise; where death apparently results from drowning, hanging, burns, electrocution, gunshot wounds, stabs or cuts, lightning, starvation, radiation, exposure, alcoholism, narcotics or other addictions, tetanus, strangulations, suffocation or smothering; or where death is due to premature birth or still birth; or where death is due to a violent contagious disease or suspected contagious disease which may be a public health hazard; or where death results from alleged rape, carnal knowledge or sodomy, where death occurs in a jail or prison; where a body is found dead or is not claimed by relatives or friends, is hereby vested in the county coroner, which bodies may be removed and placed in the morgue under such rules as are adopted by the coroner with the approval of the county commissioners, having jurisdiction, providing therein how the bodies shall be brought to and cared for at the morgue and held for the proper identification where necessary. [1963 c 178 § 1; 1953 c 188 § 1; 1917 c 90 § 3; RRS § 6042. Formerly RCW 68.08.010.]

68.50.015 Immunity for determining cause and manner of death—Judicial review of determination. A county coroner or county medical examiner or persons acting in that capacity shall be immune from civil liability for determining the cause and manner of death. The accuracy of the determinations is subject to judicial review. [1987 c 263 § 1.]

68.50.020 Notice to coroner—Penalty. It shall be the duty of every person who knows of the existence and location of a dead body coming under the jurisdiction of the coroner as set forth in RCW 68.50.010, to notify the coroner thereof in the most expeditious manner possible, unless such person shall have good reason to believe that such notice has already been given. Any person knowing of the existence of such dead body and not having good reason to believe that the coroner has notice thereof and who shall fail to give notice to the coroner as aforesaid, shall be guilty of a misdemeanor. [1987 c 331 § 55; 1917 c 90 § 4; RRS § 6043. Formerly RCW 68.08.020.]

68.50.032 Transportation of remains directed by coroner or medical examiner—Costs. Whenever a coroner or medical examiner assumes jurisdiction over human remains

and directs transportation of those remains by a funeral establishment, as defined in RCW 18.39.010, the reasonable costs of transporting shall be borne by the county if: (1) The funeral establishment transporting the remains is not providing the funeral or disposition services; or (2) the funeral establishment providing the funeral or disposition services is required to transport the remains to a facility other than its own.

Except as provided in RCW 36.39.030, 68.52.030, and 73.08.070, any transportation costs or other costs incurred after the coroner or medical examiner has released jurisdiction over the human remains shall not be borne by the county. [1991 c 176 § 1.]

68.50.035 Unlawful to refuse burial to non-Caucasian. It shall be unlawful for any cemetery under this chapter to refuse burial to any person because such person may not be of the Caucasian race. [1953 c 290 § 53. Formerly RCW 68.05.260.]

Reviser's note: RCW 68.50.035 (formerly RCW 68.05.260) was declared unconstitutional in *Price v. Evergreen Cemetery Co. of Seattle* (1960) 157 Wash. Dec. 249.

68.50.040 Deceased's effects to be listed. Duplicate lists of all jewelry, moneys, papers, and other personal property of the deceased shall be made immediately upon finding the same by the coroner or his or her assistants. The original of such lists shall be kept as a public record at the morgue and the duplicate thereof shall be forthwith duly certified to by the coroner and filed with the county auditor. [2012 c 117 § 314; 1917 c 90 § 6; RRS § 6045. Formerly RCW 68.08.040.]

68.50.050 Removal or concealment of body—Penalty. Any person, not authorized by the coroner or his or her deputies, who removes the body of a deceased person not claimed by a relative or friend, or who came to their death by reason of violence or from unnatural causes or where there shall exist reasonable grounds for the belief that such death has been caused by unlawful means at the hands of another, to any undertaking rooms or elsewhere, or any person who directs, aids or abets such taking, and any person who in any way conceals the body of a deceased person for the purpose of taking the same to any undertaking rooms or elsewhere, shall in each of said cases be guilty of a gross misdemeanor and upon conviction thereof shall be punished by fine of not more than one thousand dollars, or by imprisonment in the county jail for up to three hundred sixty-four days or by both fine and imprisonment in the discretion of the court. [2011 c 96 § 48; 1917 c 90 § 7; RRS § 6046. Formerly RCW 68.08.050.]

Findings—Intent—2011 c 96: See note following RCW 9A.20.021.

68.50.060 Bodies for instruction purposes. Any physician or surgeon of this state, or any medical student under the authority of any such physician or surgeon, may obtain, as hereinafter provided, and have in his or her possession human dead bodies, or the parts thereof, for the purposes of anatomical inquiry or instruction. [2012 c 117 § 315; 1891 c 123 § 1; RRS § 10026. Formerly RCW 68.08.060.]

68.50.070 Human remains—Disposition. (1) Any public agency required to provide for the disposition of human remains in any legal manner at public expense must surrender the human remains to:

(a) Any physician or surgeon, to be used for the advancement of anatomical science, preference being given to medical schools in this state, for their use in the instruction of medical students; or

(b) An accredited educational institution offering funeral services and embalming programs for use in training embalming students under the supervision of an embalmer licensed under chapter 18.39 RCW.

(2) If the deceased person requested to be buried, or if some person claiming to be a relative or a responsible officer of a religious organization with which the deceased at the time of death was affiliated requires the remains to be buried, the remains must be buried, subject to the requirements of RCW 68.50.110 and 68.50.230. [2011 c 265 § 1; 1959 c 23 § 1; 1953 c 224 § 2; 1891 c 123 § 2; RRS § 10027. Formerly RCW 68.08.070.]

68.50.080 Certificate and bond before receiving bodies. Every physician or surgeon before receiving the dead body must give to the board or officer surrendering the same to him or her a certificate from the medical society of the county in which he or she resides, or if there is none, from the board of supervisors of the same, that he or she is a fit person to receive such dead body. He or she must also give a bond with two sureties, that each body so by him or her received will be used only for the promotion of anatomical science, and that it will be used for such purpose in this state only, and so as in no event to outrage the public feeling. [2012 c 117 § 316; 1891 c 123 § 3; RRS § 10028. Formerly RCW 68.08.080.]

68.50.090 Penalty. Any person violating any provision of RCW 68.50.060 through 68.50.080 shall upon conviction thereof be fined in any sum not exceeding five hundred dollars. [1987 c 331 § 56; 1891 c 123 § 4; RRS § 10029. Formerly RCW 68.08.090.]

68.50.100 Dissection, when permitted—Autopsy of person under the age of three years. (1) The right to dissect a dead body shall be limited to cases specially provided by statute or by the direction or will of the deceased; cases where a coroner is authorized to hold an inquest upon the body, and then only as he or she may authorize dissection; and cases where the spouse, state registered domestic partner, or next of kin charged by law with the duty of burial shall authorize dissection for the purpose of ascertaining the cause of death, and then only to the extent so authorized: PROVIDED, That the coroner, in his or her discretion, may make or cause to be made by a competent pathologist, toxicologist, or physician, an autopsy or postmortem in any case in which the coroner has jurisdiction of a body: PROVIDED, FURTHER, That the coroner may with the approval of the University of Washington and with the consent of a parent or guardian deliver any body of a deceased person under the age of three years over which he or she has jurisdiction to the University of Washington medical school for the purpose of having an autopsy made to determine the cause of death.

(2) Every person who shall make, cause, or procure to be made any dissection of a body, except as provided in this section, is guilty of a gross misdemeanor. [2007 c 156 § 21; 2003 c 53 § 307; 1963 c 178 § 2; 1953 c 188 § 2; 1909 c 249 § 237; RRS § 2489. Formerly RCW 68.08.100.]

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

68.50.101 Autopsy, postmortem—Who may authorize. Autopsy or postmortem may be performed in any case where authorization has been given by a member of one of the following classes of persons in the following order of priority:

- (1) The surviving spouse or state registered domestic partner;
- (2) Any child of the decedent who is eighteen years of age or older;
- (3) One of the parents of the decedent;
- (4) Any adult brother or sister of the decedent;
- (5) A person who was guardian of the decedent at the time of death;
- (6) Any other person or agency authorized or under an obligation to dispose of the remains of the decedent. The chief official of any such agency shall designate one or more persons to execute authorizations pursuant to the provisions of this section.

If the person seeking authority to perform an autopsy or postmortem makes reasonable efforts to locate and secure authorization from a competent person in the first or succeeding class and finds no such person available, authorization may be given by any person in the next class, in the order of descending priority. However, no person under this section shall have the power to authorize an autopsy or postmortem if a person of higher priority under this section has refused such authorization: PROVIDED, That this section shall not affect autopsies performed pursuant to RCW 68.50.010 or 68.50.103. [2007 c 156 § 22; 1987 c 331 § 57; 1977 c 79 § 1; 1953 c 188 § 11. Formerly RCW 68.08.101.]

68.50.102 Court petition for autopsy—Cost. Any party by showing just cause may petition the court to have autopsy made and results thereof made known to said party at his or her own expense. [2012 c 117 § 317; 1953 c 188 § 12. Formerly RCW 68.08.102.]

68.50.103 Autopsies in industrial deaths. In an industrial death where the cause of death is unknown, and where the department of labor and industries is concerned, said department in its discretion, may request the coroner in writing to perform an autopsy to determine the cause of death. The coroner shall be required to promptly perform such autopsy upon receipt of the written request from the department of labor and industries. [1953 c 188 § 6. Formerly RCW 68.08.103.]

68.50.104 Cost of autopsy. (1) The cost of autopsy shall be borne by the county in which the autopsy is performed, except when requested by the department of labor and industries, in which case, the department shall bear the cost of such autopsy.

(2) Except as provided in (c) of this subsection, when the county bears the cost of an autopsy, it shall be reimbursed from the death investigations account, established by RCW 43.79.445, as follows:

(a) Up to forty percent of the cost of contracting for the services of a pathologist to perform an autopsy;

(b) Up to twenty-five percent of the salary of pathologists who are primarily engaged in performing autopsies and are (i) county coroners or county medical examiners, or (ii) employees of a county coroner or county medical examiner; and

(c) When the county bears the cost of an autopsy of a child under the age of three whose death was sudden and unexplained, the county shall be reimbursed for the expenses of the autopsy when the death scene investigation and the autopsy have been conducted under RCW 43.103.100 (4) and (5), and the autopsy has been done at a facility designed for the performance of autopsies.

Payments from the account shall be made pursuant to biennial appropriation: PROVIDED, That no county may reduce funds appropriated for this purpose below 1983 budgeted levels. [2001 c 82 § 2; 1983 1st ex.s. c 16 § 14; 1963 c 178 § 3; 1953 c 188 § 7. Formerly RCW 68.08.104.]

Additional notes found at www.leg.wa.gov

68.50.105 Autopsies, postmortems—Reports and records confidential—Exceptions. Reports and records of autopsies or postmortems shall be confidential, except that the following persons may examine and obtain copies of any such report or record: The personal representative of the decedent as defined in RCW 11.02.005, any family member, the attending physician or advanced registered nurse practitioner, the prosecuting attorney or law enforcement agencies having jurisdiction, public health officials, the department of labor and industries in cases in which it has an interest under RCW 68.50.103, or the secretary of the department of social and health services or his or her designee in cases being reviewed under RCW 74.13.640.

The coroner, the medical examiner, or the attending physician shall, upon request, meet with the family of the decedent to discuss the findings of the autopsy or postmortem. For the purposes of this section, the term "family" means the surviving spouse, state registered domestic partner, or any child, parent, grandparent, grandchild, brother, or sister of the decedent, or any person who was guardian of the decedent at the time of death. [2011 c 61 § 1. Prior: 2007 c 439 § 1; 2007 c 156 § 23; 1987 c 331 § 58; 1985 c 300 § 1; 1977 c 79 § 2; 1953 c 188 § 9. Formerly RCW 68.08.105.]

68.50.106 Autopsies, postmortems—Analyses—Opinions—Evidence—Costs. In any case in which an autopsy or postmortem is performed, the coroner or medical examiner, upon his or her own authority or upon the request of the prosecuting attorney or other law enforcement agency having jurisdiction, may make or cause to be made an analysis of the stomach contents, blood, or organs, or tissues of a deceased person and secure professional opinions thereon and retain or dispose of any specimens or organs of the deceased which in his or her discretion are desirable or needful for anatomic, bacteriological, chemical, or toxicological examination or upon lawful request are needed or desired for

evidence to be presented in court. Costs shall be borne by the county. [1993 c 228 § 19; 1987 c 331 § 59; 1975-'76 2nd ex.s. c 28 § 1; 1953 c 188 § 10. Formerly RCW 68.08.106.]

68.50.107 State toxicological laboratory established—State toxicologist. There shall be established in conjunction with the chief of the Washington state patrol and under the authority of the state forensic investigations council a state toxicological laboratory under the direction of the state toxicologist whose duty it will be to perform all necessary toxicologic procedures requested by all coroners, medical examiners, and prosecuting attorneys. The state forensic investigations council, after consulting with the chief of the Washington state patrol and director of the bureau of forensic laboratory services, shall appoint a toxicologist as state toxicologist, who shall report to the director of the bureau of forensic laboratory services and the office of the chief of the Washington state patrol. Toxicological services shall be funded by disbursement from the spirits, beer, and wine restaurant; spirits, beer, and wine private club; spirits, beer, and wine nightclub; spirits, beer, and wine VIP airport lounge; and sports entertainment facility license fees as provided in RCW 66.08.180 and by appropriation from the death investigations account as provided in RCW 43.79.445. [2011 c 325 § 9; 2009 c 271 § 11. Prior: 1999 c 281 § 13; 1999 c 40 § 8; 1995 c 398 § 10; 1986 c 87 § 2; 1983 1st ex.s. c 16 § 10; 1975-'76 2nd ex.s. c 84 § 1; 1970 ex.s. c 24 § 1; 1953 c 188 § 13. Formerly RCW 68.08.107.]

State forensic investigations council: Chapter 43.103 RCW.

Additional notes found at www.leg.wa.gov

68.50.108 Autopsies, postmortems—Consent to embalm or cremate body—Time limitation. No dead body upon which the coroner, or prosecuting attorney, if there be no coroner in the county, may perform an autopsy or postmortem, shall be embalmed or cremated without the consent of the coroner having jurisdiction, and failure to obtain such consent shall be a misdemeanor: PROVIDED, That such autopsy or postmortem must be performed within five days, unless the coroner shall obtain an order from the superior court extending such time. [1953 c 188 § 8. Formerly RCW 68.08.108.]

68.50.110 Burial or cremating. Except in cases of dissection provided for in RCW 68.50.100, and where human remains shall rightfully be carried through or removed from the state for the purpose of burial elsewhere, human remains lying within this state, and the remains of any dissected body, after dissection, shall be decently buried, or cremated within a reasonable time after death. [2005 c 365 § 138; 1987 c 331 § 60; 1909 c 249 § 238; RRS § 2490. Formerly RCW 68.08.110.]

68.50.120 Holding body for debt—Penalty. Every person who arrests, attaches, detains, or claims to detain any human remains for any debt or demand, or upon any pretended lien or charge, is guilty of a gross misdemeanor. [1943 c 247 § 27; Rem. Supp. 1943 § 3778-27. Formerly RCW 68.08.120.]

68.50.130 Unlawful disposal of remains. Every person who performs a disposition of any human remains, except as otherwise provided by law, in any place, except in a cemetery or a building dedicated exclusively for religious purposes, is guilty of a misdemeanor. Disposition of cremated human remains may also occur on private property, with the consent of the property owner; and on public or government lands or waters with the approval of the government agency that has either jurisdiction or control, or both, of the lands or waters. [2005 c 365 § 139; 1943 c 247 § 28; Rem. Supp. 1943 § 3778-28. Formerly RCW 68.08.130.]

68.50.140 Unlawful disturbance, removal, or sale of human remains—Penalty. (1) Every person who shall remove human remains, or any part thereof, from a grave, vault, or other place where the same has been buried or deposited awaiting burial or cremation, without authority of law, with intent to sell the same, or for the purpose of securing a reward for its return, or for dissection, or from malice or wantonness, is guilty of a class C felony.

(2) Every person who shall purchase or receive, except for burial or cremation, human remains or any part thereof, knowing that the same has been removed contrary to the foregoing provisions, is guilty of a class C felony.

(3) Every person who shall open a grave or other place of interment, temporary or otherwise, or a building where human remains are placed, with intent to sell or remove the casket, urn, or of any part thereof, or anything attached thereto, or any vestment, or other article interred, or intended to be interred with the human remains, is guilty of a class C felony.

(4) Every person who removes, disinters, or mutilates human remains from a place of interment, without authority of law, is guilty of a class C felony. [2005 c 365 § 140; 2003 c 53 § 308; 1992 c 7 § 44; 1909 c 249 § 239; RRS § 2491. FORMER PART OF SECTION: 1943 c 247 § 25 now codified as RCW 68.50.145. Formerly RCW 68.08.140.]

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

68.50.160 Right to control disposition of remains—Liability of funeral establishment or cemetery authority—Liability for cost. (1) A person has the right to control the disposition of his or her own remains without the predeath or postdeath consent of another person. A valid written document expressing the decedent's wishes regarding the place or method of disposition of his or her remains, signed by the decedent in the presence of a witness, is sufficient legal authorization for the procedures to be accomplished.

(2) Prearrangements that are prepaid, or filed with a licensed funeral establishment or cemetery authority, under RCW 18.39.280 through 18.39.345 and chapter 68.46 RCW are not subject to cancellation or substantial revision by survivors. Absent actual knowledge of contrary legal authorization under this section, a licensed funeral establishment or cemetery authority shall not be held criminally nor civilly liable for acting upon such prearrangements.

(3) If the decedent has not made a prearrangement as set forth in subsection (2) of this section or the costs of executing the decedent's wishes regarding the disposition of the decedent's remains exceeds a reasonable amount or directions

have not been given by the decedent, the right to control the disposition of the remains of a deceased person vests in, and the duty of disposition and the liability for the reasonable cost of preparation, care, and disposition of such remains devolves upon the following in the order named:

(a) The person designated by the decedent as authorized to direct disposition as listed on the decedent's United States department of defense record of emergency data, DD form 93, or its successor form, if the decedent died while serving in military service as described in 10 U.S.C. Sec. 1481(a) (1)-(8) in any branch of the United States armed forces, United States reserve forces, or national guard;

(b) The designated agent of the decedent as directed through a written document signed and dated by the decedent in the presence of a witness. The direction of the designated agent is sufficient to direct the type, place, and method of disposition;

(c) The surviving spouse or state registered domestic partner;

(d) The majority of the surviving adult children of the decedent;

(e) The surviving parents of the decedent;

(f) The majority of the surviving siblings of the decedent;

(g) A court-appointed guardian for the person at the time of the person's death.

(4) If any person to whom the right of control has vested pursuant to subsection (3) of this section has been arrested or charged with first or second degree murder or first degree manslaughter in connection with the decedent's death, the right of control is relinquished and passed on in accordance with subsection (3) of this section.

(5) If a cemetery authority as defined in RCW 68.04.190 or a funeral establishment licensed under chapter 18.39 RCW has made a good faith effort to locate the person cited in subsection (3)(a) through (g) of this section or the legal representative of the decedent's estate, the cemetery authority or funeral establishment shall have the right to rely on an authority to bury or cremate the human remains, executed by the most responsible party available, and the cemetery authority or funeral establishment may not be held criminally or civilly liable for burying or cremating the human remains. In the event any government agency or charitable organization provides the funds for the disposition of any human remains, the cemetery authority or funeral establishment may not be held criminally or civilly liable for cremating the human remains.

(6) The liability for the reasonable cost of preparation, care, and disposition devolves jointly and severally upon all kin of the decedent in the same degree of kindred, in the order listed in subsection (3) of this section, and upon the estate of the decedent. [2012 c 5 § 1; 2011 c 265 § 2; 2010 c 274 § 602; 2007 c 156 § 24; 2005 c 365 § 141; 1993 c 297 § 1; 1992 c 108 § 1; 1943 c 247 § 29; Rem. Supp. 1943 § 3778-29. Formerly RCW 68.08.160.]

Intent—2010 c 274: See note following RCW 10.31.100.

Disposal of remains of indigent persons: RCW 36.39.030.

Order of payment of debts of estate: RCW 11.76.110.

68.50.170 Effect of authorization. Any person signing any authorization for the interment or cremation of any

human remains warrants the truthfulness of any fact set forth in the authorization, the identity of the person whose human remains are sought to be interred or cremated, and his or her authority to order interments or cremation. That person is personally liable for all damage occasioned by or resulting from breach of such warranty. [2005 c 365 § 142; 1943 c 247 § 30; Rem. Supp. 1943 § 3778-30. Formerly RCW 68.08.170.]

68.50.185 Individual cremation—Exception—Penalty. (1) A person authorized to dispose of human remains shall not cremate or cause to be cremated more than one human remains at a time unless written permission, after full and adequate disclosure regarding the manner of cremation, has been received from the person or persons under RCW 68.50.160 having the authority to order cremation. This restriction shall not apply when equipment, techniques, or devices are employed that keep human remains separate and distinct before, during, and after the cremation process.

(2) Violation of this section is a gross misdemeanor. [2005 c 365 § 143; 1987 c 331 § 61; 1985 c 402 § 3. Formerly RCW 68.08.185.]

Legislative finding—1985 c 402: "The legislature finds that certain practices in storing human remains and in performing cremations violate common notions of decency and generally held expectations. In enacting this legislation, the legislature is reaffirming that certain practices, which have never been acceptable, violate principles of human dignity." [1985 c 402 § 1.]

68.50.200 Permission to remove human remains. Human remains may be removed from a plot in a cemetery with the consent of the cemetery authority and the written consent of one of the following in the order named:

(1) The surviving spouse or state registered domestic partner.

(2) The surviving children of the decedent.

(3) The surviving parents of the decedent.

(4) The surviving brothers or sisters of the decedent.

If the required consent cannot be obtained, permission by the superior court of the county where the cemetery is situated is sufficient: PROVIDED, That the permission shall not violate the terms of a written contract or the rules and regulations of the cemetery authority. [2007 c 156 § 25; 2005 c 365 § 144; 1943 c 247 § 33; Rem. Supp. 1943 § 3778-33. Formerly RCW 68.08.200.]

68.50.210 Notice for order to remove remains. Notice of application to the court for such permission shall be given, at least ten days prior thereto, personally, or at least fifteen days prior thereto if by mail, to the cemetery authority and to the persons not consenting, and to every other person on whom service of notice may be required by the court. [1943 c 247 § 34; Rem. Supp. 1943 § 3778-34. Formerly RCW 68.08.210.]

68.50.220 Exceptions. RCW 68.50.200 and 68.50.210 do not apply to or prohibit the removal of any human remains from one plot to another in the same cemetery or the removal of [human] remains by a cemetery authority from a plot for which the purchase price is past due and unpaid, to some other suitable place; nor do they apply to the disinterment of human remains upon order of court or coroner. However, a

cemetery authority shall provide notification to the person cited in RCW 68.50.200 before moving human remains. [2005 c 365 § 145; 1987 c 331 § 62; 1943 c 247 § 35; Rem. Supp. 1943 § 3778-35. Formerly RCW 68.08.220.]

68.50.230 Human remains that have not been disposed—Rules. (1) Whenever any human remains shall have been in the lawful possession of any person, firm, corporation, or association for a period of ninety days or more, and the relatives of, or persons interested in, the deceased person shall fail, neglect, or refuse to direct the disposition, the human remains may be disposed of by the person, firm, corporation, or association having such lawful possession thereof, under and in accordance with rules adopted by the funeral and cemetery board, not inconsistent with any statute of the state of Washington or rule adopted by the state board of health.

(2)(a) The department of veterans affairs may certify that the deceased person to whom subsection (1) of this section applies was a veteran or the dependent of a veteran eligible for interment at a federal or state veterans' cemetery.

(b) Upon certification of eligible veteran or dependent of a veteran status under (a) of this subsection, the person, firm, corporation, or association in possession of the veteran's or veteran's dependent's remains shall transfer the custody and control of the remains to the department of veterans affairs.

(c) The transfer of human remains under (b) of this subsection does not create:

(i) A private right of action against the state or its officers and employees or instrumentalities, or against any person, firm, corporation, or association transferring the remains; or

(ii) Liability on behalf of the state, the state's officers, employees, or instrumentalities; or on behalf of the person, firm, corporation, or association transferring the remains. [2009 c 102 § 20; 2009 c 56 § 1; 2005 c 365 § 146; 1985 c 402 § 9; 1979 c 158 § 218; 1937 c 108 § 14; RRS § 8323-3. Formerly RCW 68.08.230.]

Reviser's note: This section was amended by 2009 c 56 § 1 and by 2009 c 102 § 20, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Funeral directors and embalmers account and cemetery account abolished, moneys transferred to funeral and cemetery account—2009 c 102: See note following RCW 18.39.810.

Legislative finding—1985 c 402: See note following RCW 68.50.185.

68.50.232 Remains—Entrusting to funeral homes or mortuaries. See RCW 36.24.155.

68.50.240 Record of human remains to be kept. The person in charge of any premises on which interments or cremations are made shall keep a record of all human remains interred or cremated on the premises under his or her charge, in each case stating the name of each deceased person, date of cremation or interment, and name and address of the funeral establishment. [2005 c 365 § 147; 1943 c 247 § 39; Rem. Supp. 1943 § 3778-39. Formerly RCW 68.08.240.]

68.50.270 Possession of cremated human remains. The person or persons determined under RCW 68.50.160 as having authority to order cremation shall be entitled to possession of the cremated human remains without further inter-

vention by the state or its political subdivisions. [2005 c 365 § 148; 1987 c 331 § 63; 1977 c 47 § 4. Formerly RCW 68.08.245.]

68.50.290 Corneal tissue for transplantation—Presumption of good faith. In any subsequent civil action in which the next of kin of a decedent contends that he/she affirmatively informed the county coroner or medical examiner or designee of his/her objection to removal of corneal tissue from the decedent, it shall be presumed that the county coroner or medical examiner acted in good faith and without knowledge of the objection. [1975-'76 2nd ex.s. c 60 § 2. Formerly RCW 68.08.305.]

68.50.300 Release of information concerning a death. (1) The county coroner, medical examiner, or prosecuting attorney having jurisdiction may in such official's discretion release information concerning a person's death to the media and general public, in order to aid in identifying the deceased, when the identity of the deceased is unknown to the official and when he or she does not know the information to be readily available through other sources.

(2) The county coroner, medical examiner, or prosecuting attorney may withhold any information which directly or indirectly identifies a decedent until either:

(a) A notification period of forty-eight hours has elapsed after identification of the decedent by such official; or

(b) The next of kin of the decedent has been notified.

During the forty-eight hour notification period, such official shall make a good faith attempt to locate and notify the next of kin of the decedent. [2012 c 117 § 318; 1981 c 176 § 2. Formerly RCW 68.08.320.]

68.50.310 Dental identification system established—Powers and duties. A dental identification system is established in the identification section of the Washington state patrol. The dental identification system shall act as a repository or computer center or both for dental examination records and it shall be responsible for comparing such records with dental records filed under RCW 68.50.330. It shall also determine which scoring probabilities are the highest for purposes of identification and shall submit such information to the coroner or medical examiner who prepared and forwarded the dental examination records. Once the dental identification system is established, operating funds shall come from the state general fund. [1987 c 331 § 65; 1983 1st ex.s. c 16 § 15. Formerly RCW 68.08.350.]

Additional notes found at www.leg.wa.gov

68.50.320 Procedures for investigating missing persons—Availability of files. When a person reported missing has not been found within thirty days of the report, or at any time the investigating agency suspects criminal activity to be the basis of the victim being missing, the sheriff, chief of police, county coroner or county medical examiner, or other law enforcement authority initiating and conducting the investigation for the missing person shall: (1) File a missing person's report with the Washington state patrol missing and unidentified persons unit; (2) initiate the collection of DNA samples from the known missing person and their family members for nuclear and mitochondrial DNA testing along

with the necessary consent forms; and (3) ask the missing person's family or next of kin to give written consent to contact the dentist or dentists of the missing person and request the person's dental records.

The missing person's dentist or dentists shall provide diagnostic quality copies of the missing person's dental records or original dental records to the sheriff, chief of police, county coroner or county medical examiner, or other law enforcement authority, when presented with the written consent from the missing person's family or next of kin or with a statement from the sheriff, chief of police, county coroner or county medical examiner, or other law enforcement authority that the missing person's family or next of kin could not be located in the exercise of due diligence or that the missing person's family or next of kin refuse to consent to the release of the missing person's dental records and there is reason to believe that the missing person's family or next of kin may have been involved in the missing person's disappearance.

As soon as possible after collecting the DNA samples, the sheriff, chief of police, or other law enforcement authority shall submit the DNA samples to the appropriate laboratory. Dental records shall be submitted as soon as possible to the Washington state patrol missing and unidentified persons unit.

The descriptive information from missing person's reports and dental data submitted to the Washington state patrol missing and unidentified persons unit shall be recorded and maintained by the Washington state patrol missing and unidentified persons unit in the applicable dedicated missing person's databases.

When a person reported missing has been found, the sheriff, chief of police, coroner or medical examiner, or other law enforcement authority shall report such information to the Washington state patrol.

The dental identification system shall maintain a file of information regarding persons reported to it as missing. The file shall contain the information referred to in this section and such other information as the Washington state patrol finds relevant to assist in the location of a missing person.

The files of the dental identification system shall, upon request, be made available to law enforcement agencies attempting to locate missing persons. [2007 c 10 § 5. Prior: 2006 c 235 § 4; 2006 c 102 § 6; 2001 c 223 § 1; 1984 c 17 § 18; 1983 1st ex.s. c 16 § 16. Formerly RCW 68.08.355.]

Intent—2007 c 10: See note following RCW 43.103.110.

Purpose—Effective date—2006 c 235: See notes following RCW 70.02.050.

Finding—Intent—2006 c 102: See note following RCW 36.28A.100. *Missing children clearinghouse and hot line: Chapter 13.60 RCW.*

Additional notes found at www.leg.wa.gov

68.50.330 Identification of body or human remains by dental examination—Comparison of dental examination records with dental records of dental identification system. If the county coroner or county medical examiner investigating a death is unable to establish the identity of a body or human remains by visual means, fingerprints, or other identifying data, he or she shall have a qualified dentist, as determined by the county coroner or county medical examiner, carry out a dental examination of the body or

human remains. If the county coroner or county medical examiner with the aid of the dental examination and other identifying findings is still unable to establish the identity of the body or human remains, he or she shall prepare and forward such dental examination records within thirty days of the date the body or human remains were found to the dental identification system of the state patrol identification and criminal history section on forms supplied by the state patrol for such purposes.

The dental identification system shall act as a repository or computer center or both with respect to such dental examination records. It shall compare such dental examination records with dental records filed with it and shall determine which scoring probabilities are the highest for the purposes of identification. It shall then submit such information to the county coroner or county medical examiner who prepared and forwarded the dental examination records. [2001 c 172 § 1; 1984 c 17 § 19; 1983 1st ex.s. c 16 § 17. Formerly RCW 68.08.360.]

Additional notes found at www.leg.wa.gov

68.50.645 Skeletal human remains—Duty to notify—Ground disturbing activities—Coroner determination—Definitions.

(1) It is the duty of every person who knows of the existence and location of skeletal human remains to notify the coroner and local law enforcement in the most expeditious manner possible, unless such person has good reason to believe that such notice has already been given. Any person knowing of the existence of skeletal human remains and not having good reason to believe that the coroner and local law enforcement has notice thereof and who fails to give notice to the coroner and local law enforcement, is guilty of a misdemeanor.

(2) Any person engaged in ground disturbing activity and who encounters or discovers skeletal human remains in or on the ground shall:

(a) Immediately cease any activity which may cause further disturbance;

(b) Make a reasonable effort to protect the area from further disturbance;

(c) Report the presence and location of the remains to the coroner and local law enforcement in the most expeditious manner possible; and

(d) Be held harmless from criminal and civil liability arising under the provisions of this section provided the following criteria are met:

(i) The finding of the remains was based on inadvertent discovery;

(ii) The requirements of the subsection are otherwise met; and

(iii) The person is otherwise in compliance with applicable law.

(3) The coroner must make a determination of whether the skeletal human remains are forensic or nonforensic within five business days of receiving notification of a finding of such human remains provided that there is sufficient evidence to make such a determination within that time period. The coroner will retain jurisdiction over forensic remains.

(a) Upon determination that the remains are nonforensic, the coroner must notify the department of archaeology and historic preservation within two business days. The depart-

ment will have jurisdiction over such remains until provenance of the remains is established. A determination that remains are nonforensic does not create a presumption of removal or nonremoval.

(b) Upon receiving notice from a coroner of a finding of nonforensic skeletal human remains, the department must notify the appropriate local cemeteries, and all affected Indian tribes via certified mail to the head of the appropriate tribal government, and contact the appropriate tribal cultural resources staff within two business days of the finding. The determination of what are appropriate local cemeteries to be notified is at the discretion of the department. A notification to tribes of a finding of such nonforensic skeletal human remains does not create a presumption that the remains are Indian.

(c) The state physical anthropologist must make an initial determination of whether nonforensic skeletal human remains are Indian or non-Indian to the extent possible based on the remains within two business days of notification of a finding of nonforensic remains. If the remains are determined to be Indian, the department must notify all affected Indian tribes via certified mail to the head of the appropriate tribal government within two business days and contact the appropriate tribal cultural resources staff.

(d) The affected tribes have five business days to respond via telephone or writing to the department as to their interest in the remains.

(4) For the purposes of this section:

(a) "Affected tribes" are:

(i) Those federally recognized tribes with usual and accustomed areas in the jurisdiction where the remains were found;

(ii) Those federally recognized tribes that submit to the department maps that reflect the tribe's geographical area of cultural affiliation; and

(iii) Other tribes with historical and cultural affiliation in the jurisdiction where the remains were found.

(b) "Forensic remains" are those that come under the jurisdiction of the coroner pursuant to RCW 68.50.010.

(c) "Inadvertent discovery" has the same meaning as used in RCW 27.44.040.

(5) Nothing in this section constitutes, advocates, or otherwise grants, confers, or implies federal or state recognition of those tribes that are not federally recognized pursuant to 25 C.F.R. part 83, procedures for establishing that an American Indian group exists as an Indian tribe. [2008 c 275 § 1.]

Reporting requirements—2008 c 275: "The department of archaeology and historic preservation must communicate with the appropriate committees of the legislature by November 15, 2009, and biennially thereafter, regarding the numbers of inadvertent discoveries of skeletal human remains and other associated activities pursuant to this act." [2008 c 275 § 8.]

68.50.900 Effective date—1987 c 331. See RCW 68.05.900.

68.50.901 Application—1993 c 228. RCW *68.50.520 through **68.50.630 and 68.50.901 through 68.50.904 apply to a document of gift, revocation, or refusal to make an anatomical gift signed by the donor or a person authorized to make or object to making an anatomical gift before, on, or after July 25, 1993. [1993 c 228 § 12.]

Reviser's note: *(1) RCW 68.50.520 through 68.50.620 were repealed by 2008 c 139 § 31.

***(2) RCW 68.50.630 was repealed by 2002 c 45 § 1.

68.50.902 Application—Construction—1993 c 228.

This act shall be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of this act among states enacting it. [1993 c 228 § 13.]

68.50.903 Severability—1993 c 228. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1993 c 228 § 14.]

68.50.904 Short title—1993 c 228. RCW *68.50.520 through **68.50.630 and 68.50.901 through 68.50.903 may be cited as the "uniform anatomical gift act." [1993 c 228 § 16.]

Reviser's note: *(1) RCW 68.50.520 through 68.50.620 were repealed by 2008 c 139 § 31.

***(2) RCW 68.50.630 was repealed by 2002 c 45 § 1.

Chapter 68.52 RCW

PUBLIC CEMETERIES AND MORGUES

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68.52.010 Morgues authorized in counties. The county legislative authority of each county may at its discretion provide and equip a public morgue together with suitable morgue wagon for the conveyance, receipt and proper disposition of the bodies of all deceased persons not claimed by relatives, and of all dead bodies which are by law subject to a postmortem or coroner's inquest: PROVIDED, HOWEVER, That only one public morgue may be established in any county: PROVIDED FURTHER, That counties may agree to establish joint morgue facilities pursuant to chapter 39.34 RCW. [1983 1st ex.s. c 16 § 19; 1917 c 90 § 1; RRS § 6040. Formerly RCW 68.12.010.]

Additional notes found at www.leg.wa.gov

68.52.020 Coroner to control morgue—Expense. Such morgue shall be under the control and management of the coroner who shall have power with the advice and consent of the county commissioners, to employ the necessary deputies and employees; and, with the advice and consent of the county commissioners, to fix their salaries and compensation, which, together with the expenses of operating such morgue, shall be paid monthly out of the county treasury. [1917 c 90 § 2; RRS § 6041. Formerly RCW 68.12.020.]

68.52.030 Counties and cities may provide for burial, acquire cemeteries, etc. Each and every county, town or city, shall have power to provide a hearse and pall for burial of the dead, and to procure and hold lands for burying grounds, and to make regulations and fence the same, and to preserve the monuments erected therein, and to levy and collect the necessary taxes for that purpose, in the same manner as other taxes are levied and collected. [1857 p 28 § 3; RRS § 3772. Formerly RCW 68.12.030.]

68.52.040 Cities and towns may own, improve, etc., cemeteries. Any city or town may acquire, hold, or improve land for cemetery purposes, and may sell lots therein, and may provide by ordinance that a specified percentage of the proceeds therefrom be set aside and invested, and the income from the investment be used in the care of the lots, and may take and hold any property devised, bequeathed or given upon trust, and apply the income thereof for the improvement or embellishment of the cemeteries or the erection or preservation of structures, fences, or walks therein, or for the repair, preservation, erection, or renewal of any tomb, monument, gravestone, fence, railing, or other erection at or around a cemetery, lot, or plat, or for planting and cultivating trees, shrubs, flowers, or plants in or around the lot or plot, or for improving or embellishing the cemetery in any other manner or form consistent with the design and purpose of the city, according to the terms of the grant, devise, or bequest. [1955 c 378 § 1; 1909 c 156 § 1; RRS § 3773. Formerly RCW 68.12.040.]

68.52.045 Cities and towns may provide for a cemetery board. The legislative body of any city or town may provide by ordinance for a cemetery board to be appointed by the mayor in cities and towns operating under the mayor-council form of government, by the city commission in cities operating under the commission form of government, and by the city manager in cities and towns operating under the council-manager form of government: PROVIDED FURTHER, That no ordinance shall be enacted, pursuant to this section, in conflict with provisions contained in charters of cities of the first class. [1955 c 378 § 2. Formerly RCW 68.12.045.]

68.52.050 Cemetery improvement fund. All moneys received in the manner above provided shall be deposited with the city treasurer, and shall be kept apart in a fund known as the cemetery improvement fund, and shall be paid out only upon warrants drawn by the order of the cemetery board, if such a board exists, or by order of the body, department, commission, or committee duly authorized by ordinance to issue such an order, or by the legislative body of a city or town, which order shall be approved by such legislative body if such order is not issued by the legislative body, and shall be indorsed by the mayor and attested by the city comptroller or other authorized officer. [1955 c 378 § 3; 1909 c 156 § 4; RRS § 3776. Formerly RCW 68.12.050.]

68.52.060 Care and investment of fund. It shall be the duty of the cemetery board and other body or commission having in charge the care and operation of cemeteries to invest all sums set aside from the sale of lots, and all sums of money received, and to care for the income of all money and property held in trust for the purposes designated herein: PROVIDED, HOWEVER, That all investments shall be made in municipal, county, school or state bonds, general obligation warrants of the city owning such cemetery, or in first mortgages on good and improved real estate. [1933 c 91 § 1; 1909 c 156 § 2; RRS § 3774. FORMER PART OF SECTION: 1909 c 156 § 3 now codified as RCW 68.52.065. Formerly RCW 68.12.060.]

68.52.065 Approval of investments. All investments shall be approved by the council or legislative body of the city. [1909 c 156 § 3; RRS § 3775. Formerly RCW 68.12.060, part, and 68.12.065.]

68.52.070 Cemetery improvement fund—Management. The said city shall, by ordinance, make all necessary rules and regulations concerning the control and management of said fund to properly safeguard the same, but shall in nowise be liable for any of said funds except a misappropriation thereof, and shall not have power to bind the city or said fund for any further liability than whatever net interest may be actually realized from such investments, and shall not be liable to any particular person for more than the proportionate part of such net earnings. [1909 c 156 § 6; RRS § 3778. Formerly RCW 68.12.070.]

68.52.080 Books of account—Audit. Accurate books of account shall be kept of all transactions pertaining to said fund, which books shall be open to the public for inspection and shall be audited by the auditing committee of said city. [1909 c 156 § 5; RRS § 3777. Formerly RCW 68.12.080.]

68.52.090 Establishment authorized. Cemetery districts may be established in all counties and on any island in any county, as in this chapter provided. [1971 c 19 § 1; 1957 c 99 § 1; 1953 c 41 § 1; 1947 c 27 § 1; 1947 c 6 § 1; Rem. Supp. 1947 § 3778-150. Formerly RCW 68.16.010.]

68.52.100 Petition—Requisites—Examination. For the purpose of forming a cemetery district, a petition designating the boundaries of the proposed district by metes and bounds or describing the lands to be included in the proposed

district by government townships, ranges, and legal subdivisions, signed by not less than ten percent of the registered voters who reside within the boundaries of the proposed district, setting forth the object of the formation of such district and stating that the establishment thereof will be conducive to the public welfare and convenience, shall be filed with the county auditor of the county within which the proposed district is located, accompanied by an obligation signed by two or more petitioners agreeing to pay the cost of publishing the notice hereinafter provided for. The county auditor shall, within thirty days from the date of filing of such petition, examine the signatures and certify to the sufficiency or insufficiency thereof. The name of any person who signed a petition shall not be withdrawn from the petition after it has been filed with the county auditor. If the petition is found to contain a sufficient number of valid signatures, the county auditor shall transmit it, with a certificate of sufficiency attached, to the county legislative authority, which shall thereupon, by resolution entered upon its minutes, receive the same and fix a day and hour when it will publicly hear the petition. [2008 c 96 § 1; 1994 c 223 § 74; 1947 c 6 § 2; Rem. Supp. 1947 § 3778-151. Formerly RCW 68.16.020.]

68.52.110 Hearing—Place and date. The hearing on such petition shall be at the office of the board of county commissioners and shall be held not less than twenty nor more than forty days from the date of receipt thereof from the county auditor. The hearing may be completed on the day set therefor or it may be adjourned from time to time as may be necessary, but such adjournment or adjournments shall not extend the time for determining said petition more than sixty days in all from the date of receipt by the board. [1947 c 6 § 3; Rem. Supp. 1947 § 3778-152. Formerly RCW 68.16.030.]

68.52.120 Publication and posting of petition and notice of hearing. A copy of the petition with the names of petitioners omitted, together with a notice signed by the clerk of the board of county commissioners stating the day, hour, and place of the hearing, shall be published in three consecutive weekly issues of the official newspaper of the county prior to the date of hearing. Said clerk shall also cause a copy of the petition with the names of petitioners omitted, together with a copy of the notice attached, to be posted for not less than fifteen days before the date of hearing in each of three public places within the boundaries of the proposed district, to be previously designated by him or her and made a matter of record in the proceedings. [2012 c 117 § 319; 1947 c 6 § 4; Rem. Supp. 1947 § 3778-153. Formerly RCW 68.16.040.]

68.52.130 Hearing—Inclusion and exclusion of lands. At the time and place fixed for hearing on the petition or at any adjournment thereof, the board of county commissioners shall hear said petition and receive such evidence as it may deem material in favor of or opposed to the formation of the district or to the inclusion therein or exclusion therefrom of any lands, but no lands not within the boundaries of the proposed district as described in the petition shall be included without a written waiver describing the land, executed by all persons having any interest of record therein, having been filed in the proceedings. No land within the boundaries described in petition shall be excluded from the district.

[1947 c 6 § 5; Rem. Supp. 1947 § 3778-154. Formerly RCW 68.16.050.]

68.52.140 Election on formation of district and first commissioners. The county legislative authority shall have full authority to hear and determine the petition, and if it finds that the formation of the district will be conducive to the public welfare and convenience, it shall by resolution so declare, otherwise it shall deny the petition. If the county legislative authority finds in favor of the formation of the district, it shall designate the name and number of the district, fix the boundaries thereof, and cause an election to be held therein for the purpose of determining whether or not the district shall be organized under the provisions of this chapter, and for the purpose of electing its first cemetery district commissioners. At the same election three cemetery district commissioners shall be elected, but the election of the commissioners shall be null and void if the district is not created. No primary shall be held for the office of cemetery district commissioner. A special filing period shall be opened as provided in *RCW 29.15.170 and 29.15.180. Candidates shall run for specific commissioner positions. The person receiving the greatest number of votes for each commissioner position shall be elected to that commissioner position. The terms of office of the initial commissioners shall be as provided in RCW 68.52.220. [1996 c 324 § 3; 1994 c 223 § 75; 1982 c 60 § 2; 1947 c 6 § 6; Rem. Supp. 1947 § 3778-155. Formerly RCW 68.16.060.]

***Reviser's note:** RCW 29.15.170 and 29.15.180 were recodified as RCW 29A.24.170 and 29A.24.180, respectively, pursuant to 2003 c 111 § 2401, effective July 1, 2004. RCW 29A.24.170 and 29A.24.180 were subsequently repealed by 2004 c 271 § 193. Later enactment of RCW 29A.24.170 and 29A.24.180, see RCW 29A.24.171 and 29A.24.181.

68.52.150 Election, how conducted—Notice. Except as otherwise provided in this chapter, the election shall insofar as possible be called, noticed, held, conducted and canvassed in the same manner and by the same officials as provided by law for special elections in the county. For the purpose of such election county voting precincts may be combined or divided and redefined, and the territory in the district shall be included in one or more election precincts as may be deemed convenient, a polling place being designated for each such precinct. The notice of election shall state generally and briefly the purpose thereof, shall give the boundaries of the proposed district, define the election precinct or precincts, designate the polling place for each, mention the names of the candidates for first cemetery district commissioners, and name the day of the election and the hours during which the polls will be open. [1947 c 6 § 7; Rem. Supp. 1947 § 3778-156. Formerly RCW 68.16.070.]

Elections: Title 29A RCW.

68.52.155 Conformity with election laws—Exception—Vacancies. Cemetery district elections shall conform with general election laws, except that there shall be no primary to nominate candidates. All persons filing and qualifying shall appear on the general election ballot and the person receiving the largest number of votes for each position shall be elected.

A vacancy on a board of cemetery district commissioners shall occur and shall be filled as provided in chapter 42.12 RCW. [1996 c 324 § 4; 1994 c 223 § 73.]

68.52.160 Election ballot. The ballot for the election shall be in such form as may be convenient but shall present the propositions substantially as follows:

" . . . (insert county name) . . . cemetery district No. . . . (insert number) . . .
 . . . Yes . . .
 . . . (insert county name) . . . cemetery district No. . . . (insert number) . . .
 . . . No . . . "

[1994 c 223 § 76; 1947 c 6 § 8; Rem. Supp. 1947 § 3778-157. Formerly RCW 68.16.080.]

68.52.170 Canvass of returns—Resolution of organization. The returns of such election shall be canvassed at the court house on the Monday next following the day of the election, but the canvass may be adjourned from time to time if necessary to await the receipt of election returns which may be unavoidably delayed. The canvassing officials, upon conclusion of the canvass, shall forthwith certify the results thereof in writing to the board of county commissioners. If upon examination of the certificate of the canvassing officials it is found that two-thirds of all the votes cast at said election were in favor of the formation of the cemetery district, the board of county commissioners shall, by resolution entered upon its minutes, declare such territory duly organized as a cemetery district under the name theretofore designated and shall declare the three candidates receiving the highest number of votes for cemetery commissioners, the duly elected first cemetery commissioners of the district. The clerk of the board of county commissioners shall certify a copy of the resolution and cause it to be filed for record in the offices of the county auditor and the county assessor of the county. The certified copy shall be entitled to record without payment of a recording fee. If the certificate of the canvassing officials shows that the proposition to organize the proposed cemetery district failed to receive two-thirds of the votes cast at said election, the board of county commissioners shall enter a minute to that effect and all proceedings theretofore had shall become null and void. [1947 c 6 § 9; Rem. Supp. 1947 § 3778-158. Formerly RCW 68.16.090.]

68.52.180 Review—Organization complete. Any person, firm or corporation having a substantial interest involved, and feeling aggrieved by any finding, determination or resolution of the board of county commissioners under the provisions of this chapter, may appeal within five days after such finding, determination or resolution was made to the superior court of the county in the same manner as provided by law for appeals from orders of said board. After the expiration of five days from the date of the resolution declaring the district organized, and upon filing of certified copies thereof in the offices of the county auditor and county assessor, the formation of the district shall be complete and its legal existence shall not thereafter be questioned by any per-

son by reason of any defect in the proceedings had for the creation thereof. [1947 c 6 § 10; Rem. Supp. 1947 § 3778-159. Formerly RCW 68.16.100.]

Appeals from action of board of county commissioners: RCW 36.32.330.

68.52.185 Ballot proposition authorized for district formation. A county legislative authority may, by ordinance or resolution, provide for a ballot proposition to form a cemetery district. When proposed by ordinance or resolution of the county legislative authority, a ballot proposition shall designate the boundaries of the proposed district by metes and bounds or describing the lands to be included in the proposed district by government townships, ranges, and legal subdivisions. The ballot proposition authorizing the formation of a cemetery district shall be submitted to the voters residing within the proposed district consistent with the provisions of this chapter. [2008 c 96 § 2.]

68.52.190 General powers of district. Cemetery districts created under this chapter shall be deemed to be municipal corporations within the purview of the Constitution and laws of the state of Washington. They shall constitute bodies corporate and possess all the usual powers of corporations for public purposes. They shall have full authority to carry out the objects of their creation, and to that end are empowered to acquire, hold, lease, manage, occupy and sell real and personal property or any interest therein; to enter into and perform any and all necessary contracts; to appoint and employ necessary officers, agents and employees; to contract indebtedness, to borrow money, and to issue general obligation bonds in accordance with chapter 39.46 RCW; to levy and enforce the collection of taxes against the lands within the district, and to do any and all lawful acts to effectuate the purposes of this chapter. [1984 c 186 § 58; 1967 c 164 § 6; 1947 c 6 § 11; Rem. Supp. 1947 § 3778-160. Formerly RCW 68.16.110.]

Purpose—1984 c 186: See note following RCW 39.46.110.

Purpose—Severability—1967 c 164: See notes following RCW 4.96.010.

Tortious conduct of local governmental entities: RCW 4.96.010.

68.52.192 Public cemetery facilities or services—Cooperation with public or private agencies—Joint purchasing. A cemetery district may jointly operate or provide, cooperate to operate and provide and/or contract for a term of not to exceed five years to provide or have provided public cemetery facilities or services, with any other public or private agency, including out of state public agencies, which each is separately authorized to operate or provide, under terms mutually agreed upon by such public or private agencies. The governing body of a cemetery district may join with any other public or private agency in buying supplies, equipment, and services collectively. [1963 c 112 § 3. Formerly RCW 68.16.112.]

68.52.193 Public cemetery facilities or services—"Public agency" defined. As used in RCW 68.52.192, "public agency" means counties, cities and towns, special districts, or quasi municipal corporations. [1987 c 331 § 73; 1963 c 112 § 2. Formerly RCW 68.16.113.]

68.52.195 Community revitalization financing—Public improvements. In addition to other authority that a cemetery district possesses, a cemetery district may provide any public improvement as defined under RCW 39.89.020, but this additional authority is limited to participating in the financing of the public improvements as provided under RCW 39.89.050.

This section does not limit the authority of a cemetery district to otherwise participate in the public improvements if that authority exists elsewhere. [2001 c 212 § 21.]

Additional notes found at www.leg.wa.gov

68.52.200 Right of eminent domain. The taking and damaging of property or rights therein by any cemetery district to carry out the purposes of its creation, are hereby declared to be for a public use, and any such district shall have and exercise the power of eminent domain to acquire any property or rights therein, either inside or outside the district for the use of such district. In exercising the power of eminent domain, a district shall proceed in the manner provided by law for the appropriation of real property or rights therein by private corporations. It may at its option unite in a single action proceedings to condemn property held by separate owners. Two or more condemnation suits instituted separately may also in the discretion of the court be consolidated upon motion of any interested party into a single action. In such cases the jury shall render separate verdicts for each tract of land in different ownership. No finding of the jury or decree of the court as to damages in any condemnation suit instituted by the district shall be held or construed to destroy the right of the district to levy and collect taxes for any and all district purposes against the uncondemned land situated within the district. [1947 c 6 § 12; Rem. Supp. 1947 § 3778-161. Formerly RCW 68.16.120.]

Eminent domain: State Constitution Art. 1 § 16 (Amendment 9).

Eminent domain by corporations: Chapter 8.20 RCW.

68.52.210 Power to do cemetery business—District boundaries may include cities and towns—Eminent domain exception. (1) A cemetery district organized under this chapter shall have power to acquire, establish, maintain, manage, improve and operate cemeteries and conduct any and all of the businesses of a cemetery as defined in this title. A cemetery district shall constitute a cemetery authority as defined in this title and shall have and exercise all powers conferred thereby upon a cemetery authority and be subject to the provisions thereof.

(2) A cemetery district may include within its boundaries the lands embraced within the corporate limits of any incorporated city or town and in any such cases the district may acquire any cemetery or cemeteries theretofore maintained and operated by any such city or town and proceed to maintain, manage, improve and operate the same under the provisions hereof. In such event the governing body of the city or town, after the transfer takes place, shall levy no cemetery tax. The power of eminent domain heretofore conferred shall not extend to the condemnation of existing cemeteries within the district: PROVIDED, That no cemetery district shall operate a cemetery within the corporate limits of any city or town where there is a private cemetery operated for profit. [2006 c 335 § 1; 1994 c 81 § 82; 1971 c 19 § 2; 1959 c 23 §

2; 1957 c 39 § 1; 1947 c 6 § 13; Rem. Supp. 1947 § 3778-162. Formerly RCW 68.16.130.]

68.52.220 District commissioners—Compensation—Election. The affairs of the district shall be managed by a board of cemetery district commissioners composed of three members. The board may provide, by resolution passed by the commissioners, for the payment of compensation to each of its commissioners at a rate of up to ninety dollars for each day or portion of a day spent in actual attendance at official meetings of the district commission, or in performance of other official services or duties on behalf of the district. However, the compensation for each commissioner must not exceed eight thousand six hundred forty dollars per year.

Any commissioner may waive all or any portion of his or her compensation payable under this section as to any month or months during his or her term of office, by a written waiver filed with the clerk of the board. The waiver, to be effective, must be filed any time after the commissioner's election and prior to the date on which the compensation would otherwise be paid. The waiver shall specify the month or period of months for which it is made. The board shall fix the compensation to be paid the secretary and other employees of the district. Cemetery district commissioners and candidates for cemetery district commissioner are exempt from the requirements of chapter 42.17A RCW.

The initial cemetery district commissioners shall assume office immediately upon their election and qualification. Staggering of terms of office shall be accomplished as follows: (1) The person elected receiving the greatest number of votes shall be elected to a six-year term of office if the election is held in an odd-numbered year or a five-year term of office if the election is held in an even-numbered year; (2) the person who is elected receiving the next greatest number of votes shall be elected to a four-year term of office if the election is held in an odd-numbered year or a three-year term of office if the election is held in an even-numbered year; and (3) the other person who is elected shall be elected to a two-year term of office if the election is held in an odd-numbered year or a one-year term of office if the election is held in an even-numbered year. The initial commissioners shall assume office immediately after they are elected and qualified but their terms of office shall be calculated from the first day of January after the election.

Thereafter, commissioners shall be elected to six-year terms of office. Commissioners shall serve until their successors are elected and qualified and assume office as provided in RCW 29A.20.040.

The polling places for a cemetery district election may be located inside or outside the boundaries of the district, as determined by the auditor of the county in which the cemetery district is located, and no such election shall be held irregular or void on that account.

The dollar thresholds established in this section must be adjusted for inflation by the office of financial management every five years, beginning July 1, 2008, based upon changes in the consumer price index during that time period. "Consumer price index" means, for any calendar year, that year's annual average consumer price index, for Washington state, for wage earners and clerical workers, all items, compiled by the bureau of labor and statistics, United States department of

labor. If the bureau of labor and statistics develops more than one consumer price index for areas within the state, the index covering the greatest number of people, covering areas exclusively within the boundaries of the state, and including all items shall be used for the adjustments for inflation in this section. The office of financial management must calculate the new dollar threshold and transmit it to the office of the code reviser for publication in the Washington State Register at least one month before the new dollar threshold is to take effect.

A person holding office as commissioner for two or more special purpose districts shall receive only that per diem compensation authorized for one of his or her commissioner positions as compensation for attending an official meeting or conducting official services or duties while representing more than one of his or her districts. However, such commissioner may receive additional per diem compensation if approved by resolution of all boards of the affected commissions. [2011 c 60 § 47; 2007 c 469 § 6; 1998 c 121 § 6; 1994 c 223 § 77; 1990 c 259 § 33; 1982 c 60 § 3; 1979 ex.s. c 126 § 40; 1947 c 6 § 14; Rem. Supp. 1947 § 3778-163. Formerly RCW 68.16.140.]

Effective date—2011 c 60: See RCW 42.17A.919.

Purpose—1979 ex.s. c 126: See RCW 29A.20.040(1).

68.52.250 Special elections. Special elections submitting propositions to the registered voters of the district may be called at any time by resolution of the cemetery commissioners in accordance with *RCW 29.13.010 and 29.13.020, and shall be called, noticed, held, conducted and canvassed in the same manner and by the same officials as provided for the election to determine whether the district shall be created. [1990 c 259 § 34; 1947 c 6 § 17; Rem. Supp. 1947 § 3778-166. Formerly RCW 68.16.170.]

***Reviser's note:** RCW 29.13.010 and 29.13.020 were recodified as RCW 29A.04.320 and 29A.04.330, respectively, pursuant to 2003 c 111 § 2401, effective July 1, 2004. RCW 29A.04.320 was subsequently repealed by 2004 c 271 § 193. Later enactment of RCW 29A.04.320, see RCW 29A.04.321.

Qualifications of electors: RCW 29A.08.210.

68.52.260 Oath of commissioners. Each cemetery commissioner, before assuming the duties of his or her office, shall take and subscribe an official oath to faithfully discharge the duties of his or her office, which oath shall be filed in the office of the county auditor. [2012 c 117 § 320; 1986 c 167 § 24; 1947 c 6 § 18; Rem. Supp. 1947 § 3778-167. Formerly RCW 68.16.180.]

Additional notes found at www.leg.wa.gov

68.52.270 Organization of board—Secretary—Office—Meetings—Powers. The board of cemetery district commissioners shall organize and elect a chair from its number and shall appoint a secretary for such term as the board may determine. The secretary shall keep a record of proceedings of the board and perform such other duties as may be prescribed by law or by the board, and shall also take and subscribe an oath for the faithful discharge of his or her duties, which shall be filed with the county clerk. The office of the board of cemetery commissioners and principal place of business of the district shall be at some place in the district

designated by the board. The board shall hold regular monthly meetings at its office on such day as it may by resolution determine and may adjourn such meetings as may be required for the transaction of business. Special meetings of the board may be called at any time by a majority of the commissioners or by the secretary and the chair of the board. Any commissioner not joining in the call of a special meeting shall be entitled to three days written notice by mail of such meeting, specifying generally the business to be transacted. All meetings of the board of cemetery commissioners shall be public and a majority shall constitute a quorum. All records of the board shall be open to the inspection of any elector of the district at any meeting of the board. The board shall adopt a seal for the district; manage and conduct the affairs of the district; make and execute all necessary contracts; employ any necessary service, and promulgate reasonable rules and regulations for the government of the district and the performance of its functions and generally perform all acts which may be necessary to carry out the purposes for which the district was formed. [2012 c 117 § 321; 1947 c 6 § 19; Rem. Supp. 1947 § 3778-168. Formerly RCW 68.16.190.]

68.52.280 Duty of county treasurer—Cemetery district fund. It shall be the duty of the county treasurer of the county in which any cemetery district is situated to receive and disburse all district revenues and collect all taxes authorized and levied under this chapter. There is hereby created in the office of county treasurer of each county in which a cemetery district shall be organized for the use of the district, a cemetery district fund. All taxes levied for district purposes when collected shall be placed by the county treasurer in the cemetery district fund. [1947 c 6 § 20; Rem. Supp. 1947 § 3778-169. Formerly RCW 68.16.200.]

68.52.290 Tax levy authorized for fund. Annually, after the county board of equalization has equalized assessments for general tax purposes, the secretary of the district shall prepare a budget of the requirements of the cemetery district fund, certify the same and deliver it to the board of county commissioners in ample time for such board to levy district taxes. At the time of making general tax levies in each year, the board of county commissioners shall levy taxes required for cemetery district purposes against the real and personal property in the district in accordance with the equalized valuation thereof for general tax purposes, and as a part of said general taxes. Such levies shall be part of the general tax roll and be collected as a part of general taxes against the property in the district. [1947 c 6 § 21; Rem. Supp. 1947 § 3778-170. Formerly RCW 68.16.210.]

68.52.300 Disbursement of fund. The county treasurer shall disburse the cemetery district fund upon warrants issued by the county auditor on vouchers approved and signed by a majority of the board of cemetery commissioners and the secretary thereof. [1947 c 6 § 22; Rem. Supp. 1947 § 3778-171. Formerly RCW 68.16.220.]

68.52.310 Limitation of indebtedness—Limitation of tax levy. The board of cemetery commissioners shall have no authority to contract indebtedness in any year in excess of the aggregate amount of the currently levied taxes, which

annual tax levy for cemetery district purposes shall not exceed eleven and one-quarter cents per thousand dollars of assessed valuation. [1973 1st ex.s. c 195 § 77; 1947 c 6 § 23; Rem. Supp. 1947 § 3778-172. Formerly RCW 68.16.230.]

Additional notes found at www.leg.wa.gov

68.52.320 Dissolution of districts. Cemetery districts may be dissolved by a majority vote of the electors at an election called for that purpose, which shall be conducted in the same manner as provided for special elections, and no further district obligations shall thereafter be incurred, but such dissolution shall not abridge or cancel any of the outstanding obligations of the district, and the board of county commissioners shall have authority to make annual levies against the lands included within the district until the obligations of the district are fully paid. When the obligations are fully paid, any moneys remaining in the cemetery district fund and all collections of unpaid district taxes shall be transferred to the current expense fund of the county. [1947 c 6 § 24; Rem. Supp. 1947 § 3778-173. Formerly RCW 68.16.240.]

Dissolution of districts: Chapter 53.48 RCW.

Dissolution of inactive special purpose districts: Chapter 36.96 RCW.

68.52.330 Disincorporation of district located in county with a population of two hundred ten thousand or more and inactive for five years. See chapter 57.90 RCW.

68.52.900 Severability—1947 c 6. If any portion of this act shall be adjudged invalid or unconstitutional for any reason, such adjudication shall not affect, impair or invalidate the remaining portions of the act. [1947 c 6 § 25; no RRS. Formerly RCW 68.16.900.]

68.52.901 Effective date—1987 c 331. See RCW 68.05.900.

Chapter 68.54 RCW

ANNEXATION AND MERGER OF CEMETERY DISTRICTS

Sections

68.54.010	Annexation—Petition—Procedure.
68.54.020	Merger—Authorized.
68.54.030	Merger—Petition—Procedure—Contents.
68.54.040	Merger—Petition—Rejection, concurrence, or modification—Signatures.
68.54.050	Merger—Petition—Special election.
68.54.060	Merger—Petition—Election—Vote required—Merger effected.
68.54.070	Merger—Petition—When election dispensed with.
68.54.080	Merger—Preexisting obligations.
68.54.090	Merger—Transfer of all property, funds, assessments.
68.54.100	Merger and transfer of part of one district to adjacent district—Petition—Election—Vote.
68.54.110	Merger and transfer of part of one district to adjacent district—When election dispensed with.
68.54.120	Merger and transfer of part of one district to adjacent district—Preexisting indebtedness.
68.54.900	Effective date—1987 c 331.

68.54.010 Annexation—Petition—Procedure. Any territory contiguous to a cemetery district and not within the boundaries of a city or town other than as set forth in RCW 68.52.210 or other cemetery district may be annexed to such cemetery district by petition of ten percent of the registered voters residing within the territory proposed to be annexed who voted in the last general municipal election. Such petition shall be filed with the cemetery commissioners of the cemetery district and if the cemetery commissioners shall concur in the petition they shall then file such petition with the county auditor who shall within thirty days from the date of filing such petition examine the signatures thereof and certify to the sufficiency or insufficiency thereof. After the county auditor shall have certified to the sufficiency of the petition, the proceedings thereafter by the county legislative authority, and the rights and powers and duties of the county legislative authority, petitioners and objectors and the election and canvass thereof shall be the same as in the original proceedings to form a cemetery district: PROVIDED, That the county legislative authority shall have authority and it shall be its duty to determine on an equitable basis, the amount of obligation which the territory to be annexed to the district shall assume, if any, to place the taxpayers of the existing district on a fair and equitable relationship with the taxpayers of the territory to be annexed by reason of the benefits of coming into a going district previously supported by the taxpayers of the existing district, and such obligation may be paid to the district in yearly installments to be fixed by the county legislative authority if within the limits as outlined in RCW 68.52.310 and included in the annual tax levies against the property in such annexed territory until fully paid. The amount of the obligation and the plan of payment thereof filed by the county legislative authority shall be set out in general terms in the notice of election for annexation: PROVIDED, That the special election shall be held only within the boundaries of the territory proposed to be annexed to the cemetery district. Upon the entry of the order of the county legislative authority incorporating such contiguous territory

within such existing cemetery district, the territory shall become subject to the indebtedness, bonded or otherwise, of the existing district in like manner as the territory of the district. Should such petition be signed by sixty percent of the registered voters residing within the territory proposed to be annexed, and should the cemetery commissioners concur therein, an election in such territory and a hearing on such petition shall be dispensed with and the county legislative authority shall enter its order incorporating such territory within the existing cemetery district. [1990 c 259 § 35; 1987 c 331 § 74; 1969 ex.s. c 78 § 1. Formerly RCW 68.18.010.]

68.54.020 Merger—Authorized. A cemetery district organized under chapter 68.52 RCW may merge with another such district lying adjacent thereto, upon such terms and conditions as they agree upon, in the manner hereinafter provided. The district desiring to merge with another district shall hereinafter be called the "merging district", and the district into which the merger is to be made shall be called the "merger district". [1990 c 259 § 36; 1969 ex.s. c 78 § 2. Formerly RCW 68.18.020.]

68.54.030 Merger—Petition—Procedure—Contents. To effect such a merger, a petition therefor shall be filed with the board of the merger district by the commissioners of the merging district. The commissioners of the merging district may sign and file the petition upon their own initiative, and they shall file such a petition when it is signed by ten percent of the registered voters resident in the merging district who voted in the last general municipal election and presented to them. The petition shall state the reasons for the merger; give a detailed statement of the district's finances, listing its assets and liabilities; state the terms and conditions under which the merger is proposed; and pray for the merger. [1990 c 259 § 37; 1969 ex.s. c 78 § 3. Formerly RCW 68.18.030.]

68.54.040 Merger—Petition—Rejection, concurrence, or modification—Signatures. The board of the merger district may, by resolution, reject the petition, or it may concur therein as presented, or it may modify the terms and conditions of the proposed merger, and shall transmit the petition, together with a copy of its resolution thereon to the merging district. If the petition is concurred in as presented or as modified, the board of the merging district shall forthwith present the petition to the auditor of the county in which the merging district is situated, who shall within thirty days examine the signatures thereon and certify to the sufficiency or insufficiency thereof, and for that purpose he or she shall have access to all registration books and records in the possession of the registration officers of the election precincts included, in whole or in part, within the merging district. Such books and records shall be prima facie evidence of truth of the certificate. No signatures may be withdrawn from the

petition after the filing. [2012 c 117 § 322; 1969 ex.s. c 78 § 4. Formerly RCW 68.18.040.]

68.54.050 Merger—Petition—Special election. If the auditor finds that the petition contains the signatures of a sufficient number of qualified electors, he or she shall return it, together with his or her certificate of sufficiency attached thereto, to the board of the merging district. Thereupon such board shall adopt a resolution, calling a special election in the merging district, at which shall be submitted to the electors thereof, the question of the merger. [2012 c 117 § 323; 1969 ex.s. c 78 § 5. Formerly RCW 68.18.050.]

68.54.060 Merger—Petition—Election—Vote required—Merger effected. The board of [the] merging district shall notify the board of the merger district of the results of the election. If three-fifths of the votes cast at the election favor the merger, the respective district boards shall adopt concurrent resolutions, declaring the districts merged, under the name of the merger district. Thereupon the districts are merged into one district, under the name of the merger district; the merging district is dissolved without further proceedings; and the boundaries of the merger district are thereby extended to include all the area of the merging district. Thereafter the legal existence cannot be questioned by any person by reason of any defect in the proceedings had for the merger. [1969 ex.s. c 78 § 6. Formerly RCW 68.18.060.]

68.54.070 Merger—Petition—When election dispensed with. If three-fifths of all the qualified electors in the merging district sign the petition to merge, no election on the question of the merger is necessary. In such case, the auditor shall return the petition, together with his or her certificate of sufficiency attached thereto, to the board of the merging district. Thereupon the boards of the respective districts shall adopt their concurrent resolutions of merger in the same manner and to the same effect as if the merger had been authorized by an election. [2012 c 117 § 324; 1969 ex.s. c 78 § 7. Formerly RCW 68.18.070.]

68.54.080 Merger—Preexisting obligations. None of the obligations of the merged districts or of a local improvement district therein shall be affected by the merger and dissolution, and all land liable to be assessed to pay any of such indebtedness shall remain liable to the same extent as if the merger had not been made, and any assessments theretofore levied against the land shall remain unimpaired and shall be collected in the same manner as if no merger had been made. The commissioners of the merged district shall have all the powers possessed at the time of the merger by the commissioners of the two districts, to levy, assess and cause to be collected all assessments against any land in both districts which may be necessary to provide for the payment of the indebtedness thereof, and until the assessments are collected and all indebtedness of the districts paid, separate funds shall be maintained for each district as were maintained before the merger: PROVIDED, That the board of the merged district may, with the consent of the creditors of the districts merged, cancel any or all assessments theretofore levied, in accordance with the terms and conditions of the merger, to the end that the lands in the respective districts shall bear their fair

and proportionate share of such indebtedness. [1969 ex.s. c 78 § 8. Formerly RCW 68.18.080.]

68.54.090 Merger—Transfer of all property, funds, assessments. The commissioners of the merging district shall, forthwith upon completion of the merger, transfer, convey, and deliver to the merged district all property and funds of the merging district, together with all interest in and right to collect any assessments theretofore levied. [1969 ex.s. c 78 § 9. Formerly RCW 68.18.090.]

68.54.100 Merger and transfer of part of one district to adjacent district—Petition—Election—Vote. A part of one district may be transferred and merged with an adjacent district whenever such area can be better served by the merged district. To effect such a merger a petition, signed by not less than fifteen percent of the qualified electors residing in the area to be merged, shall be filed with the commissioners of the merging district. Such petition shall be promoted by one or more qualified electors within the area to be transferred. If the commissioners of the merging district act favorably upon the petition, then the petition shall be presented to the commissioners of the merger district. If the commissioners of the merger district act favorably upon the petition, an election shall be called in the area merged.

In the event that either board of cemetery commissioners should not concur with the petition, the petition may then be presented to a county review board established for such purposes, if there be no county review board for such purposes then to the state review board and if there be no state review board, then to the county commissioners of the county in which the area to be merged is situated, who shall decide if the area can be better served by such a merger; upon an affirmative decision an election shall be called in the area merged.

A majority of the votes cast shall be necessary to approve the transfer. [1969 ex.s. c 78 § 10. Formerly RCW 68.18.100.]

68.54.110 Merger and transfer of part of one district to adjacent district—When election dispensed with. If three-fifths of all the qualified electors in the area to be merged sign a petition to merge the districts, no election on the question of the merger is necessary, in which case the auditor shall return the petition, together with his or her certificate of sufficiency attached thereto, to the boards of the merging districts. Thereupon the boards of the respective districts shall adopt their concurrent resolutions of transfer in the same manner and to the same effect as if the same had been authorized by an election. [2012 c 117 § 325; 1969 ex.s. c 78 § 11. Formerly RCW 68.18.110.]

68.54.120 Merger and transfer of part of one district to adjacent district—Preexisting indebtedness. When a part of one cemetery district is transferred to another as provided by RCW 68.54.100 and 68.54.110, said part shall be relieved of all liability for any indebtedness of the district from which it is withdrawn. However, the acquiring district shall pay to the losing district that portion of the latter's indebtedness for which the transferred part was liable. This amount shall not exceed the proportion that the assessed valuation of the transferred part bears to the assessed valuation

of the whole district from which said part is withdrawn. The adjustment of such indebtedness shall be based on the assessment for the year in which the transfer is made. The boards of commissioners of the districts involved in the said transfer and merger shall enter into a contract for the payment by the acquiring district of the above-referred to indebtedness under such terms as they deem proper, provided such contract shall not impair the security of existing creditors. [1987 c 331 § 75; 1969 ex.s. c 78 § 12. Formerly RCW 68.18.120.]

68.54.900 Effective date—1987 c 331. See RCW 68.05.900.

Chapter 68.56 RCW

PENAL AND MISCELLANEOUS PROVISIONS

Sections

68.56.010	Unlawful damage to graves, markers, shrubs, etc.—Interfering with funeral.
68.56.020	Unlawful damage to graves, markers, shrubs, etc.—Civil liability for damage.
68.56.030	Unlawful damage to graves, markers, shrubs, etc.—Exceptions.
68.56.040	Nonconforming cemetery a nuisance—Penalty.
68.56.050	Defendant liable for costs.
68.56.060	Police authority—Who may exercise.
68.56.070	Forfeiture of office for inattention to duty.
68.56.900	Effective date—1987 c 331.

Burial, removal permits required: RCW 70.58.230.

Care of veterans' plot at Olympia: RCW 73.24.020.

68.56.010 Unlawful damage to graves, markers, shrubs, etc.—Interfering with funeral. Every person is guilty of a gross misdemeanor who unlawfully or without right wilfully does any of the following:

(1) Destroys, cuts, mutilates, effaces, or otherwise injures, tears down or removes, any tomb, plot, monument, memorial or marker in a cemetery, or any gate, door, fence, wall, post or railing, or any enclosure for the protection of a cemetery or any property in a cemetery.

(2) Destroys, cuts, breaks, removes or injures any building, statuary, ornamentation, tree, shrub, flower or plant within the limits of a cemetery.

(3) Disturbs, obstructs, detains or interferes with any person carrying or accompanying human remains to a cemetery or funeral establishment, or engaged in a funeral service, or an interment. [1943 c 247 § 36; Rem. Supp. 1943 § 3778-36. Cf. 1909 c 249 § 240 and 1856-57 p 28 §§ 4, 5. Formerly RCW 68.48.010.]

68.56.020 Unlawful damage to graves, markers, shrubs, etc.—Civil liability for damage. Any person violating any provision of RCW 68.56.010 is liable, in a civil action by and in the name of the cemetery authority, to pay all damages occasioned by his or her unlawful acts. The sum recovered shall be applied in payment for the repair and restoration of the property injured or destroyed. [2012 c 117 § 326; 1943 c 247 § 37; Rem. Supp. 1943 § 3778-37. Formerly RCW 68.48.020.]

68.56.030 Unlawful damage to graves, markers, shrubs, etc.—Exceptions. The provisions of *RCW 68.48.010 do not apply to the removal or unavoidable breakage or injury, by a cemetery authority, of any thing placed in or upon any portion of its cemetery in violation of any of the rules or regulations of the cemetery authority, nor to the removal of anything placed in the cemetery by or with the consent of the cemetery authority which has become in a wrecked, unsightly or dilapidated condition. [1943 c 247 § 37; Rem. Supp. 1943 § 3778-37. Formerly RCW 68.48.030.]

***Reviser's note:** RCW 68.48.010 was recodified as RCW 68.56.010 pursuant to 1987 c 331 § 89.

68.56.040 Nonconforming cemetery a nuisance—Penalty. Every person, firm, or corporation who is the owner or operator of a cemetery established in violation of *this act is guilty of maintaining a public nuisance, which is a gross misdemeanor. [2005 c 365 § 149; 2003 c 53 § 313; 1943 c 247 § 145; Rem. Supp. 1943 § 3778-145. Formerly RCW 68.48.040.]

***Reviser's note:** For "this act," see note following RCW 68.04.020.

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

Section applies to certain mausoleums, columbariums, etc.: RCW 68.28.010.

68.56.050 Defendant liable for costs. Every person who violates any provision of *this act is guilty of a misdemeanor, and in addition is liable for all costs, expenses, and disbursements paid or incurred by a person prosecuting the case. [1943 c 247 § 139; Rem. Supp. 1943 § 3778-139. Formerly RCW 68.48.060.]

***Reviser's note:** For "this act," see note following RCW 68.04.020.

Costs, etc., to be fixed by court having jurisdiction: RCW 68.28.065.

Section applies to certain mausoleums, columbariums, etc.: RCW 68.28.010.

68.56.060 Police authority—Who may exercise. The sexton, superintendent, or other person in charge of a cemetery, and such other persons as the cemetery authority designates have the authority of a police officer for the purpose of maintaining order, enforcing the rules and regulations of the cemetery association, the laws of the state, and the ordinances of the city or county, within the cemetery over which he or she has charge, and within such radius as may be necessary to protect the cemetery property. [2012 c 117 § 327; 1943 c 247 § 55; Rem. Supp. 1943 § 3778-55. Formerly RCW 68.48.080.]

68.56.070 Forfeiture of office for inattention to duty. The office of any director or officer who acts or permits action contrary to *this act immediately thereupon becomes vacant. [1943 c 247 § 132; Rem. Supp. 1943 § 3778-132. Formerly RCW 68.48.090.]

***Reviser's note:** For "this act," see note following RCW 68.04.020.

68.56.900 Effective date—1987 c 331. See RCW 68.05.900.

Chapter 68.60 RCW

ABANDONED AND HISTORIC CEMETERIES AND HISTORIC GRAVES

Sections

68.60.010	Definitions.
68.60.020	Dedication.
68.60.030	Preservation and maintenance corporations—Authorization of other corporations to restore, maintain, and protect abandoned cemeteries.
68.60.040	Protection of cemeteries—Penalties.
68.60.050	Protection of historic graves—Penalty.
68.60.055	Skeletal human remains—Duty to notify—Ground disturbing activities—Coroner determination—Definitions.
68.60.060	Violations—Civil liability.

68.60.010 Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Abandoned cemetery" means a burial ground of the human dead in [for] which the county assessor can find no record of an owner; or where the last known owner is deceased and lawful conveyance of the title has not been made; or in which a cemetery company, cemetery association, corporation, or other organization formed for the purposes of burying the human dead has either disbanded, been administratively dissolved by the secretary of state, or otherwise ceased to exist, and for which title has not been conveyed.

(2) "Historical cemetery" means any burial site or grounds which contain within them human remains buried prior to November 11, 1889; except that (a) cemeteries holding a valid certificate of authority to operate granted under RCW 68.05.115 and 68.05.215, (b) cemeteries owned or operated by any recognized religious denomination that qualifies for an exemption from real estate taxation under RCW 84.36.020 on any of its churches or the ground upon which any of its churches are or will be built, and (c) cemeteries controlled or operated by a coroner, county, city, town, or cemetery district shall not be considered historical cemeteries.

(3) "Historic grave" means a grave or graves that were placed outside a cemetery dedicated pursuant to this chapter and to chapter 68.24 RCW, prior to June 7, 1990, except Indian graves and burial cairns protected under chapter 27.44 RCW.

(4) "Cemetery" has the meaning provided in RCW 68.04.040(2). [1990 c 92 § 1.]

68.60.020 Dedication. Any cemetery, abandoned cemetery, historical cemetery, or historic grave that has not been dedicated pursuant to RCW 68.24.030 and 68.24.040 shall be considered permanently dedicated and subject to RCW 68.24.070. Removal of dedication may only be made pursuant to RCW 68.24.090 and 68.24.100. [1999 c 367 § 3; 1990 c 92 § 2.]

68.60.030 Preservation and maintenance corporations—Authorization of other corporations to restore, maintain, and protect abandoned cemeteries. (1)(a) The department of archaeology and historic preservation may grant by nontransferable certificate authority to maintain and protect an abandoned cemetery upon application made by a preservation organization which has been incorporated for the purpose of restoring, maintaining, and protecting an abandoned cemetery. Such authority shall be limited to the care, maintenance, restoration, protection, and historical preservation of the abandoned cemetery, and shall not include authority to make burials. In order to activate a historical cemetery for burials, an applicant must apply for a certificate of authority to operate a cemetery from the funeral and cemetery board.

(b) Those preservation and maintenance corporations that are granted authority to maintain and protect an abandoned cemetery shall be entitled to hold and possess burial records, maps, and other historical documents as may exist. Maintenance and preservation corporations that are granted authority to maintain and protect an abandoned cemetery shall not be liable to those claiming burial rights, ancestral ownership, or to any other person or organization alleging to have control by any form of conveyance not previously recorded at the county auditor's office within the county in which the abandoned cemetery exists. Such organizations shall not be liable for any reasonable alterations made during restoration work on memorials, roadways, walkways, features, plantings, or any other detail of the abandoned cemetery.

(c) Should the maintenance and preservation corporation be dissolved, the department of archaeology and historic preservation shall revoke the certificate of authority.

(d) Maintenance and preservation corporations that are granted authority to maintain and protect an abandoned cemetery may establish care funds.

(2) Except as provided in subsection (1) of this section, the department of archaeology and historic preservation may, in its sole discretion, authorize any Washington nonprofit corporation that is not expressly incorporated for the purpose of restoring, maintaining, and protecting an abandoned cemetery, to restore, maintain, and protect one or more abandoned cemeteries. The authorization may include the right of access to any burial records, maps, and other historical documents, but shall not include the right to be the permanent custodian of original records, maps, or documents. This authorization shall be granted by a nontransferable certificate of authority. Any nonprofit corporation authorized and acting under this subsection is immune from liability to the same extent as if it were a preservation organization holding a certificate of authority under subsection (1) of this section.

(3) The department of archaeology and historic preservation shall establish standards and guidelines for granting certificates of authority under subsections (1) and (2) of this section to assure that any restoration, maintenance, and protection activities authorized under this subsection are conducted and supervised in an appropriate manner. [2009 c 102 § 21; 2005 c 365 § 150; 1995 c 399 § 168; 1993 c 67 § 1; 1990 c 92 § 3.]

Funeral directors and embalmers account and cemetery account abolished, moneys transferred to funeral and cemetery account—2009 c 102: See note following RCW 18.39.810.

68.60.040 Protection of cemeteries—Penalties. (1) Every person who in a cemetery unlawfully or without right willfully destroys, cuts, mutilates, effaces, or otherwise injures, tears down or removes, any tomb, plot, monument, memorial, or marker in a cemetery, or any gate, door, fence, wall, post, or railing, or any enclosure for the protection of a cemetery or any property in a cemetery is guilty of a class C felony punishable under chapter 9A.20 RCW.

(2) Every person who in a cemetery unlawfully or without right willfully destroys, cuts, breaks, removes, or injures any building, statuary, ornamentation, tree, shrub, flower, or plant within the limits of a cemetery is guilty of a gross misdemeanor punishable under chapter 9A.20 RCW.

(3) Every person who in a cemetery unlawfully or without right willfully opens a grave; removes personal effects of the decedent; removes all or portions of human remains; removes or damages caskets, surrounds, outer burial containers, or any other device used in making the original burial; transports unlawfully removed human remains from the cemetery; or knowingly receives unlawfully removed human remains from the cemetery is guilty of a class C felony punishable under chapter 9A.20 RCW. [1990 c 92 § 4.]

68.60.050 Protection of historic graves—Penalty. (1) Any person who knowingly removes, mutilates, defaces, injures, or destroys any historic grave shall be guilty of a class C felony punishable under chapter 9A.20 RCW. Persons disturbing historic graves through inadvertence, including disturbance through construction, shall reinter the human remains under the supervision of the department of archaeology and historic preservation. Expenses to reinter such human remains are to be provided by the department of archaeology and historic preservation to the extent that funds for this purpose are appropriated by the legislature.

(2) This section does not apply to actions taken in the performance of official law enforcement duties.

(3) It shall be a complete defense in a prosecution under subsection (1) of this section if the defendant can prove by a preponderance of evidence that the alleged acts were accidental or inadvertent and that reasonable efforts were made to preserve the remains accidentally disturbed or discovered, and that the accidental discovery or disturbance was properly reported. [2009 c 102 § 22; 1999 c 67 § 1; 1989 c 44 § 5. Formerly RCW 68.05.420.]

Funeral directors and embalmers account and cemetery account abolished, moneys transferred to funeral and cemetery account—2009 c 102: See note following RCW 18.39.810.

Intent—1989 c 44: See RCW 27.44.030.

Additional notes found at www.leg.wa.gov

68.60.055 Skeletal human remains—Duty to notify—Ground disturbing activities—Coroner determination—Definitions. (1) Any person who discovers skeletal human remains shall notify the coroner and local law enforcement in the most expeditious manner possible. Any person knowing of the existence of skeletal human remains and not having good reason to believe that the coroner and local law enforcement has notice thereof and who fails to give notice thereof is guilty of a misdemeanor.

(2) Any person engaged in ground disturbing activity and who encounters or discovers skeletal human remains in or on the ground shall:

(a) Immediately cease any activity which may cause further disturbance;

(b) Make a reasonable effort to protect the area from further disturbance;

(c) Report the presence and location of the remains to the coroner and local law enforcement in the most expeditious manner possible; and

(d) Be held harmless from criminal and civil liability arising under the provisions of this section provided the following criteria are met:

(i) The finding of the remains was based on inadvertent discovery;

(ii) The requirements of the subsection are otherwise met; and

(iii) The person is otherwise in compliance with applicable law.

(3) The coroner must make a determination whether the skeletal human remains are forensic or nonforensic within five business days of receiving notification of a finding of such remains provided that there is sufficient evidence to make such a determination within that time period. The coroner will retain jurisdiction over forensic remains.

(a) Upon determination that the remains are nonforensic, the coroner must notify the department of archaeology and historic preservation within two business days. The department will have jurisdiction over such remains until provenance of the remains is established. A determination that remains are nonforensic does not create a presumption of removal or nonremoval.

(b) Upon receiving notice from a coroner of a finding of nonforensic skeletal human remains, the department must notify the appropriate local cemeteries, and all affected Indian tribes via certified mail to the head of the appropriate tribal government, and contact the appropriate tribal cultural resources staff within two business days of the finding. The determination of what are appropriate local cemeteries to be notified is at the discretion of the department. A notification to tribes of a finding of such nonforensic skeletal human remains does not create a presumption that the remains are Indian.

(c) The state physical anthropologist must make an initial determination of whether nonforensic skeletal human remains are Indian or non-Indian to the extent possible based on the remains within two business days of notification of a finding of such nonforensic remains. If the remains are determined to be Indian, the department must notify all affected Indian tribes via certified mail to the head of the appropriate tribal government within two business days and contact the appropriate tribal cultural resources staff.

(d) The affected tribes have five business days to respond via telephone or writing to the department as to their interest in the remains.

(4) For the purposes of this section:

(a) "Affected tribes" are:

(i) Those federally recognized tribes with usual and accustomed areas in the jurisdiction where the remains were found;

(ii) Those federally recognized tribes that submit to the department maps that reflect the tribe's geographical area of cultural affiliation; and

(iii) Other tribes with historical and cultural affiliation in the jurisdiction where the remains were found.

(b) "Forensic remains" are those that come under the jurisdiction of the coroner pursuant to RCW 68.50.010.

(c) "Inadvertent discovery" has the same meaning as used in RCW 27.44.040.

(5) Nothing in this section constitutes, advocates, or otherwise grants, confers, or implies federal or state recognition of those tribes that are not federally recognized pursuant to 25 C.F.R. part 83, procedures for establishing that an American Indian group exists as an Indian tribe. [2008 c 275 § 3.]

Reporting requirements—2008 c 275: See note following RCW 68.50.645.

68.60.060 Violations—Civil liability. Any person who violates any provision of this chapter is liable in a civil action by and in the name of the department of archaeology and historic preservation to pay all damages occasioned by their unlawful acts. The sum recovered shall be applied in payment for the repair and restoration of the property injured or destroyed and to the care fund if one is established. [2009 c 102 § 23; 1990 c 92 § 5.]

Funeral directors and embalmers account and cemetery account abolished, moneys transferred to funeral and cemetery account—2009 c 102: See note following RCW 18.39.810.

Chapter 68.64 RCW

UNIFORM ANATOMICAL GIFT ACT

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68.64.010 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Adult" means an individual who is at least eighteen years old.

(2) "Agent" means an individual:

(a) Authorized to make health care decisions on the principal's behalf by a power of attorney for health care; or

(b) Expressly authorized to make an anatomical gift on the principal's behalf by any other record signed by the principal.

(3) "Anatomical gift" means a donation of all or part of a human body to take effect after the donor's death for the purpose of transplantation, therapy, research, or education.

(4) "Decedent" means a deceased individual whose body or part is or may be the source of an anatomical gift.

(5) "Disinterested witness" means a witness other than the spouse or state registered domestic partner, child, parent, sibling, grandchild, grandparent, or guardian of the individual who makes, amends, revokes, or refuses to make an anatomical gift. The term does not include a person to which an anatomical gift could pass under RCW 68.64.100.

(6) "Document of gift" means a donor card or other record used to make an anatomical gift. The term includes a

statement or symbol on a driver's license, identification card, or donor registry.

(7) "Donor" means an individual whose body or part is the subject of an anatomical gift.

(8) "Donor registry" means a database that contains records of anatomical gifts and amendments to or revocations of anatomical gifts.

(9) "Driver's license" means a license or permit issued by the department of licensing to operate a vehicle, whether or not conditions are attached to the license or permit.

(10) "Eye bank" means a person that is licensed, accredited, or regulated under federal or state law to engage in the recovery, screening, testing, processing, storage, or distribution of human eyes or portions of human eyes.

(11) "Guardian" means a person appointed by a court to make decisions regarding the support, care, education, health, or welfare of an individual. The term does not include a guardian ad litem.

(12) "Hospital" means a facility licensed as a hospital under the law of any state or a facility operated as a hospital by the United States, a state, or a subdivision of a state.

(13) "Identification card" means an identification card issued by the department of licensing.

(14) "Know" means to have actual knowledge.

(15) "Minor" means an individual who is less than eighteen years old.

(16) "Organ procurement organization" means a person designated by the secretary of the United States department of health and human services as an organ procurement organization.

(17) "Parent" means a parent whose parental rights have not been terminated.

(18) "Part" means an organ, an eye, or tissue of a human being. The term does not include the whole body.

(19) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government or governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

(20) "Physician" means an individual licensed or otherwise authorized to practice medicine and surgery or osteopathic medicine and surgery under the law of any state.

(21) "Procurement organization" means an eye bank, organ procurement organization, or tissue bank.

(22) "Prospective donor" means an individual whose death is imminent and has been determined by a procurement organization to have a part that could be medically suitable for transplantation, therapy, research, or education. "Prospective donor" does not include an individual who has made a refusal.

(23) "Reasonable costs" include: (a) Programming and software installation and upgrades; (b) employee training that is specific to the organ and tissue donor registry or the dona-

tion program created in RCW 46.16A.090(2); (c) literature that is specific to the organ and tissue donor registry or the donation program created in RCW 46.16A.090(2); and (d) hardware upgrades or other issues important to the organ and tissue donor registry or the donation program created in RCW 46.16A.090(2) that have been mutually agreed upon in advance by the department of licensing and the Washington state organ procurement organizations.

(24) "Reasonably available" means able to be contacted by a procurement organization without undue effort and willing and able to act in a timely manner consistent with existing medical criteria necessary for the making of an anatomical gift.

(25) "Recipient" means an individual into whose body a decedent's part has been or is intended to be transplanted.

(26) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(27) "Refusal" means a record created under RCW 68.64.060 that expressly states an intent to bar other persons from making an anatomical gift of an individual's body or part.

(28) "Sign" means, with the present intent to authenticate or adopt a record:

(a) To execute or adopt a tangible symbol; or

(b) To attach to or logically associate with the record an electronic symbol, sound, or process.

(29) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

(30) "Technician" means an individual determined to be qualified to remove or process parts by an appropriate organization that is licensed, accredited, or regulated under federal or state law. The term includes an enucleator.

(31) "Tissue" means a portion of the human body other than an organ or an eye. The term does not include blood unless the blood is donated for the purpose of research or education.

(32) "Tissue bank" means a person that is licensed to conduct business in this state, accredited, and regulated under federal or state law to engage in the recovery, screening, testing, processing, storage, or distribution of tissue.

(33) "Transplant hospital" means a hospital that furnishes organ transplants and other medical and surgical specialty services required for the care of transplant patients.

(34) "Washington state organ procurement organization" means an organ procurement organization that has been designated by the United States department of health and human services to coordinate organ procurement activities for any portion of Washington state. [2010 c 161 § 1156; 2008 c 139 § 2.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

68.64.020 Scope. This chapter applies to an anatomical gift or amendment to, revocation of, or refusal to make an anatomical gift, whenever made. [2008 c 139 § 3.]

68.64.030 Persons authorized to make an anatomical gift—During life of donor. Subject to RCW 68.64.070, an anatomical gift of a donor's body or part may be made during the life of the donor in the manner provided in RCW 68.64.040 by:

(1) The donor, if the donor is an adult or if the donor is a minor and is:

(a) Emancipated; or

(b) Authorized under state law to apply for a driver's license because the donor is at least fifteen and one-half years old;

(2) An agent of the donor, unless the power of attorney for health care or other record prohibits the agent from making an anatomical gift;

(3) A parent of the donor, if the donor is an unemancipated minor; provided, however, that an anatomical gift made pursuant to this subsection shall cease to be valid once the donor becomes either an emancipated minor or an adult; or

(4) The donor's guardian. [2008 c 139 § 4.]

68.64.040 Manner in which an anatomical gift may be made. (1) A donor may make an anatomical gift:

(a) By authorizing a statement or symbol indicating that the donor has made an anatomical gift to be imprinted on the donor's driver's license or identification card;

(b) In a will;

(c) During a terminal illness or injury of the donor, by any form of communication addressed to at least two adults, at least one of whom is a disinterested witness; or

(d) As provided in subsection (2) of this section.

(2) A donor or other person authorized to make an anatomical gift under RCW 68.64.030 may make a gift by a donor card or other record signed by the donor or other person making the gift or by authorizing that a statement or symbol indicating that the donor has made an anatomical gift be included on a donor registry. If the donor or other person is physically unable to sign a record, the record may be signed by another individual at the direction of the donor or other person and must:

(a) Be witnessed by at least two adults, at least one of whom is a disinterested witness, who have signed at the request of the donor or the other person; and

(b) State that it has been signed and witnessed as provided in (a) of this subsection.

(3) Revocation, suspension, expiration, or cancellation of a driver's license or identification card through which an anatomical gift has been made does not invalidate the gift.

(4) An anatomical gift made by will takes effect upon the donor's death whether or not the will is probated. Invalidation of the will after the donor's death does not invalidate the gift. [2008 c 139 § 5.]

68.64.050 Amending or revoking an anatomical gift.

(1) Subject to RCW 68.64.070, a donor or other person authorized to make an anatomical gift under RCW 68.64.030 may amend or revoke an anatomical gift by:

(a) A record signed by:

(i) The donor;

(ii) The other person; or

(iii) Subject to subsection (2) of this section, another individual acting at the direction of the donor or the other per-

son if the donor or other person is physically unable to sign; or

(b) A later-executed document of gift that amends or revokes a previous anatomical gift or portion of an anatomical gift, either expressly or by inconsistency.

(2) A record signed pursuant to subsection (1)(a)(iii) of this section must:

(a) Be witnessed by at least two adults, at least one of whom is a disinterested witness, who have signed at the request of the donor or the other person; and

(b) State that it has been signed and witnessed as provided in (a) of this subsection.

(3) Subject to RCW 68.64.070, a donor or other person authorized to make an anatomical gift under RCW 68.64.030 may revoke an anatomical gift by the destruction or cancellation of the document of gift, or the portion of the document of gift used to make the gift, with the intent to revoke the gift. The donor or other person shall notify the Washington organ procurement organization of the destruction or cancellation of the document of gift for the purpose of removing the individual's name from the organ and tissue donor registry created in RCW 68.64.200. If the Washington state organ procurement organization that is notified does not maintain a registry for Washington residents, it shall notify all Washington state procurement organizations that do maintain such a registry.

(4) A donor may amend or revoke an anatomical gift that was not made in a will by any form of communication during a terminal illness or injury addressed to at least two adults, at least one of whom is a disinterested witness.

(5) A donor who makes an anatomical gift in a will may amend or revoke the gift in the manner provided for amendment or revocation of wills or as provided in subsection (1) of this section. [2008 c 139 § 6.]

68.64.060 Refusal to make an anatomical gift. (1) An individual may refuse to make an anatomical gift of the individual's body or part by:

(a) A record signed by:

(i) The individual; or

(ii) Subject to subsection (2) of this section, another individual acting at the direction of the individual if the individual is physically unable to sign;

(b) The individual's will, whether or not the will is admitted to probate or invalidated after the individual's death; or

(c) Any form of communication made by the individual during the individual's terminal illness or injury addressed to at least two adults, at least one of whom is a disinterested witness.

(2) A record signed pursuant to subsection (1)(a)(ii) of this section must:

(a) Be witnessed by at least two adults, at least one of whom is a disinterested witness, who have signed at the request of the individual; and

(b) State that it has been signed and witnessed as provided in (a) of this subsection.

(3) An individual who has made a refusal may amend or revoke the refusal:

(a) In the manner provided in subsection (1) of this section for making a refusal;

(b) By subsequently making an anatomical gift pursuant to RCW 68.64.040 that is inconsistent with the refusal; or

(c) By destroying or canceling the record evidencing the refusal, or the portion of the record used to make the refusal, with the intent to revoke the refusal.

(4) Except as otherwise provided in RCW 68.64.070(8), in the absence of an express, contrary indication by the individual set forth in the refusal, an individual's unrevoked refusal to make an anatomical gift of the individual's body or part bars all other persons from making an anatomical gift of the individual's body or part. [2008 c 139 § 7.]

68.64.070 Making, amending, or revoking a gift by a person other than donor—Making additional gifts. (1)

Except as otherwise provided in subsection (7) of this section and subject to subsection (6) of this section, in the absence of an express, contrary indication by the donor, a person other than the donor is barred from making, amending, or revoking an anatomical gift of a donor's body or part if the donor made an anatomical gift of the donor's body or part under RCW 68.64.040 or an amendment to an anatomical gift of the donor's body or part under RCW 68.64.050.

(2) A donor's revocation of an anatomical gift of the donor's body or part under RCW 68.64.050 is not a refusal and does not bar another person specified in RCW 68.64.030 or 68.64.080 from making an anatomical gift of the donor's body or part under RCW 68.64.040 or 68.64.090.

(3) If a person other than the donor makes an unrevoked anatomical gift of the donor's body or part under RCW 68.64.040 or an amendment to an anatomical gift of the donor's body or part under RCW 68.64.050, another person may not make, amend, or revoke the gift of the donor's body or part under RCW 68.64.090.

(4) A revocation of an anatomical gift of a donor's body or part under RCW 68.64.050 by a person other than the donor does not bar another person from making an anatomical gift of the body or part under RCW 68.64.040 or 68.64.090.

(5) In the absence of an express, contrary indication by the donor or other person authorized to make an anatomical gift under RCW 68.64.030, an anatomical gift of a part is neither a refusal to give another part nor a limitation on the making of an anatomical gift of another part at a later time by the donor or another person.

(6) In the absence of an express, contrary indication by the donor or other person authorized to make an anatomical gift under RCW 68.64.030, an anatomical gift of a part for one or more of the permitted purposes is not a limitation on the making of an anatomical gift of the part for any of the other purposes by the donor or any other person under RCW 68.64.040 or 68.64.090.

(7) If a donor who is an unemancipated minor dies, a parent of the donor who is reasonably available may revoke or amend an anatomical gift of the donor's body or part.

(8) If an unemancipated minor who signed a refusal dies, a parent of the minor who is reasonably available may revoke the minor's refusal. [2008 c 139 § 8.]

68.64.080 Persons authorized to make an anatomical gift—After donor's death. (1) Subject to subsections (2) and (3) of this section and unless barred by RCW 68.64.060

or 68.64.070, an anatomical gift of a decedent's body or part may be made by any member of the following classes of persons who is reasonably available, in the order of priority listed:

- (a) An agent of the decedent at the time of death who could have made an anatomical gift under RCW 68.64.030(2) immediately before the decedent's death;
- (b) The spouse, or domestic partner registered as required by state law, of the decedent;
- (c) Adult children of the decedent;
- (d) Parents of the decedent;
- (e) Adult siblings of the decedent;
- (f) Adult grandchildren of the decedent;
- (g) Grandparents of the decedent;
- (h) The persons who were acting as the guardians of the person of the decedent at the time of death; and
- (i) Any other person having the authority under applicable law to dispose of the decedent's body.

(2) If there is more than one member of a class listed in subsection (1)(a), (c), (d), (e), (f), (g), or (h) of this section entitled to make an anatomical gift, an anatomical gift may be made by a member of the class unless that member or a person to which the gift may pass under RCW 68.64.100 knows of an objection by another member of the class. If an objection is known, the gift may be made only by a majority of the members of the class who are reasonably available.

(3) A person may not make an anatomical gift if, at the time of the decedent's death, a person in a prior class under subsection (1) of this section is reasonably available to make or to object to the making of an anatomical gift. [2008 c 139 § 9.]

68.64.090 Manner in which an anatomical gift may be made—After donor's death. (1) A person authorized to make an anatomical gift under RCW 68.64.080 may make an anatomical gift by a document of gift signed by the person making the gift or by that person's oral communication that is electronically recorded or is contemporaneously reduced to a record and signed by the individual receiving the oral communication.

(2) Subject to subsection (3) of this section, an anatomical gift by a person authorized under RCW 68.64.080 may be amended or revoked orally or in a record by any member of a prior class who is reasonably available. If more than one member of the prior class is reasonably available, the gift made by a person authorized under RCW 68.64.080 may be:

- (a) Amended only if a majority of the reasonably available members agree to the amending of the gift; or
- (b) Revoked only if a majority of the reasonably available members agree to the revoking of the gift or if they are equally divided as to whether to revoke the gift.

(3) A revocation under subsection (2) of this section is effective only if, before an incision has been made to remove a part from the donor's body or before transplant procedures have begun on the recipient, the procurement organization, transplant hospital, or physician or technician knows of the revocation. [2008 c 139 § 10.]

68.64.100 Persons to whom an anatomical gift may be made. (1) An anatomical gift may be made to the following persons named in the document of gift:

(a) For research or education: A hospital; an accredited medical school, dental school, college, or university; or an organ procurement organization;

(b) Subject to subsection (2) of this section, an individual designated by the person making the anatomical gift if the individual is the recipient of the part;

(c) An eye bank or tissue bank.

(2) If an anatomical gift to an individual under subsection (1)(b) of this section cannot be transplanted into the individual, the part passes in accordance with subsection (7) of this section in the absence of an express, contrary indication by the person making the anatomical gift.

(3) If an anatomical gift of one or more specific parts or of all parts is made in a document of gift that does not name a person described in subsection (1) of this section but identifies the purpose for which an anatomical gift may be used, the following rules apply:

(a) If the part is an eye and the gift is for the purpose of transplantation or therapy, the gift passes to the appropriate eye bank.

(b) If the part is tissue and the gift is for the purpose of transplantation or therapy, the gift passes to the appropriate tissue bank.

(c) If the part is an organ and the gift is for the purpose of transplantation or therapy, the gift passes to the appropriate organ procurement organization as custodian of the organ.

(d) If the part is an organ, an eye, or tissue and the gift is for the purpose of research or education, the gift passes to the appropriate procurement organization.

(4) For the purpose of subsection (3) of this section, if there is more than one purpose of an anatomical gift set forth in the document of gift but the purposes are not set forth in any priority, the gift must be used for transplantation or therapy, if suitable. If the gift cannot be used for transplantation or therapy, the gift may be used for research or education.

(5) If an anatomical gift of one or more specific parts is made in a document of gift that does not name a person described in subsection (1) of this section and does not identify the purpose of the gift, the gift may be used only for transplantation or therapy, and the gift passes in accordance with subsection (7) of this section.

(6) If a document of gift specifies only a general intent to make an anatomical gift by words such as "donor," "organ donor," or "body donor," or by a symbol or statement of similar import, the gift may be used only for transplantation or therapy, and the gift passes in accordance with subsection (7) of this section.

(7) For purposes of subsections (2), (5), and (6) of this section the following rules apply:

(a) If the part is an eye, the gift passes to the appropriate eye bank.

(b) If the part is tissue, the gift passes to the appropriate tissue bank.

(c) If the part is an organ, the gift passes to the appropriate organ procurement organization as custodian of the organ.

(8) An anatomical gift of an organ for transplantation or therapy, other than an anatomical gift under subsection (1)(b) of this section, passes to the organ procurement organization as custodian of the organ.

(9) If an anatomical gift does not pass pursuant to subsections (1) through (8) of this section or the decedent's body

or part is not used for transplantation, therapy, research, or education, custody of the body or part passes to the person under obligation to dispose of the body or part.

(10) A person may not accept an anatomical gift if the person knows that the gift was not effectively made under RCW 68.64.040 or 68.64.090 or if the person knows that the decedent made a refusal under RCW 68.64.060 that was not revoked. For purposes of this subsection (10), if a person knows that an anatomical gift was made on a document of gift, the person is deemed to know of any amendment or revocation of the gift or any refusal to make an anatomical gift on the same document of gift.

(11) Except as otherwise provided in subsection (1)(b) of this section, nothing in this chapter affects the allocation of organs for transplantation or therapy. [2008 c 139 § 11.]

68.64.105 Document of gift—Validity requirements.

(1) A document of gift is valid if executed in accordance with:

- (a) This chapter;
- (b) The laws of the state or country where it was executed; or
- (c) The laws of the state or country where the person making the anatomical gift was domiciled, has a place of residence, or was a national at the time the document of gift was executed.

(2) If a document of gift is valid under this section, the law of this state governs the interpretation of the document of gift.

(3) A person may presume that a document of gift or amendment of an anatomical gift is valid unless that person knows that it was not validly executed or was revoked. [2008 c 139 § 19.]

68.64.110 Document of gift or refusal—Examination and copying. (1) A document of gift need not be delivered during the donor's lifetime to be effective.

(2) Upon or after an individual's death, a person in possession of a document of gift or a refusal to make an anatomical gift with respect to the individual shall allow examination and copying of the document of gift or refusal by a person authorized to make or object to the making of an anatomical gift with respect to the individual or by a person to which the gift could pass under RCW 68.64.100. [2008 c 139 § 12.]

68.64.120 Procurement organizations—Reasonable examinations—Donee's rights—Physician removal of donated part. (1) When a hospital refers an individual at or near death to a procurement organization, the organization shall make a reasonable search of the records of the department of licensing and any donor registry that it knows exists for the geographical area in which the individual resides to ascertain whether the individual has made an anatomical gift.

(2) A procurement organization must be allowed reasonable access to information in the records of the department of licensing to ascertain whether an individual at or near death is a donor.

(3) When a hospital refers an individual at or near death to a procurement organization, the organization may conduct any reasonable examination necessary to ensure the medical

suitability of a part that is or could be the subject of an anatomical gift for transplantation, therapy, research, or education from a donor or a prospective donor. During the examination period, measures necessary to ensure the medical suitability of the part may not be withdrawn unless the hospital or procurement organization knows that the individual expressed a contrary intent.

(4) Unless prohibited by law other than this chapter, at any time after a donor's death, the person to which a part passes under RCW 68.64.100 may conduct any reasonable examination necessary to ensure the medical suitability of the body or part for its intended purpose.

(5) Unless prohibited by law other than this chapter, an examination under subsection (3) or (4) of this section may include an examination of all medical records of the donor or prospective donor.

(6) Upon the death of a minor who was a donor or had signed a refusal, unless a procurement organization knows the minor is emancipated, the procurement organization shall conduct a reasonable search for the parents of the minor and provide the parents with an opportunity to revoke or amend the anatomical gift or revoke the refusal.

(7) Upon referral by a hospital under subsection (1) of this section, a procurement organization shall make a reasonable search for any person listed in RCW 68.64.080 having priority to make an anatomical gift on behalf of a prospective donor. If a procurement organization receives information that an anatomical gift to any other person was made, amended, or revoked, it shall promptly advise the other person of all relevant information.

(8) Subject to RCW 68.64.100(9), 68.64.190, and 68.64.901, the rights of the person to which a part passes under RCW 68.64.100 are superior to the rights of all others with respect to the part. The person may accept or reject an anatomical gift in whole or in part. Subject to the terms of the document of gift and this chapter, a person that accepts an anatomical gift of an entire body may allow embalming, burial, or cremation, and use of remains in a funeral service. If the gift is of a part, the person to which the part passes under RCW 68.64.100, upon the death of the donor and before embalming, burial, or cremation, shall cause the part to be removed without unnecessary mutilation.

(9) Neither the physician who attends the decedent at death nor the physician who determines the time of the decedent's death may participate in the procedures for removing or transplanting a part from the decedent.

(10) A physician or technician may remove a donated part from the body of a donor that the physician or technician is qualified to remove. [2008 c 139 § 13.]

68.64.130 Nonnative English speakers—Interpreter services and translations. When English is not the first language of the person or persons making, amending, revoking, or refusing anatomical gifts as defined in chapter 139, Laws of 2008, organ procurement organizations are responsible for providing, at no cost, appropriate interpreter services or translations to such persons for the purpose of making such decisions. [2008 c 139 § 14.]

68.64.140 Hospitals—Agreements or affiliations with procurement organizations required. Each hospital in this

state shall enter into agreements or affiliations with procurement organizations for coordination of procurement and use of anatomical gifts. [2008 c 139 § 15.]

68.64.150 Illegal purchases or sales—Felony. (1) Except as otherwise provided in subsection (2) of this section, a person who, for valuable consideration, knowingly purchases or sells a part for transplantation or therapy if removal of a part from an individual is intended to occur after the individual's death is guilty of a class C felony under RCW 9A.20.010.

(2) A person may charge a reasonable amount for the removal, processing, preservation, quality control, storage, transportation, implantation, or disposal of a part. [2008 c 139 § 16.]

68.64.160 Illegal financial gain—Altering a document, amendment, or revocation of gift—Felony. A person who, in order to obtain financial gain, intentionally falsifies, forges, conceals, defaces, or obliterates a document of gift, an amendment or revocation of a document of gift, or a refusal is guilty of a class C felony under RCW 9A.20.010. [2008 c 139 § 17.]

68.64.170 Liability. (1) A person who acts in accordance with this chapter or with the applicable anatomical gift law of another state, or attempts in good faith to do so, is not liable for the act in a civil action, criminal prosecution, or administrative proceeding.

(2) Neither the person making an anatomical gift nor the donor's estate is liable for any injury or damage that results from the making or use of the gift.

(3) In determining whether an anatomical gift has been made, amended, or revoked under this chapter, a person may rely upon representations of an individual listed in RCW 68.64.080(1) (b) through (g) relating to the individual's relationship to the donor or prospective donor unless the person knows that the representation is untrue. [2008 c 139 § 18.]

68.64.180 Declarations or advance health care directives—Conflicts with medical suitability measures. (1) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Advance health care directive" means a power of attorney for health care or a "directive" as defined in RCW 70.122.020.

(b) "Declaration" means a record signed by a prospective donor specifying the circumstances under which a life support system may be withheld or withdrawn from the prospective donor.

(c) "Health care decision" means any decision made regarding the health care of the prospective donor.

(2) If a prospective donor has a declaration or advance health care directive, and the terms of the declaration or directive and the express or implied terms of a potential anatomical gift are in conflict with regard to the administration of measures necessary to ensure the medical suitability of a part for transplantation or therapy, the prospective donor's attending physician and the prospective donor shall confer to resolve the conflict. If the prospective donor is incapable of resolving the conflict, an agent acting under the prospective

donor's declaration or directive, or, if none or the agent is not reasonably available, another person authorized by law other than this chapter to make health care decisions on behalf of the prospective donor, shall act for the donor to resolve the conflict. The conflict must be resolved as expeditiously as possible. Information relevant to the resolution of the conflict may be obtained from the appropriate procurement organization and any other person authorized to make an anatomical gift for the prospective donor under RCW 68.64.080. Before resolution of the conflict, measures necessary to ensure the medical suitability of the part may not be withheld or withdrawn from the prospective donor if withholding or withdrawing the measures is not contraindicated by appropriate end-of-life care. [2008 c 139 § 20.]

68.64.190 Coroner or medical examiner—Duties. (1)(a) A coroner or medical examiner shall cooperate with procurement organizations, to the extent that such cooperation does not prevent, hinder, or impede the timely investigation of death, to facilitate the opportunity to recover anatomical gifts for the purpose of transplantation or therapy. However, a coroner or medical examiner may limit the number of procurement organizations with which he or she cooperates.

(b) The coroner or medical examiner may release the initial investigative information to the tissue or organ procurement organization for the purpose of determining the suitability of the potential donor by those organizations. The information released for this purpose shall remain confidential. The coroner or medical examiner is not liable for any release of confidential information by the procurement organization.

(2)(a) Procurement organizations shall cooperate with the coroner or medical examiner to ensure the preservation of and timely transfer to the coroner or medical examiner any physical or biological evidence from a prospective donor that the procurement organization may have contact with or access to that is required by the coroner or medical examiner for the investigation of death.

(b) If the coroner or medical examiner or a designee releases a part for donation under subsection (4) of this section, the procurement organization, upon request, shall cause the physician or technician who removes the part to provide the coroner or medical examiner with a record describing the condition of the part, biopsies, residual tissue, photographs, and any other information and observations requested by the coroner or medical examiner that would assist in the investigation of death.

(3) A part may not be removed from the body of a decedent under the jurisdiction of a coroner or medical examiner for transplantation, therapy, research, or education unless the part is the subject of an anatomical gift, and has been released by the coroner or medical examiner. The body of a decedent under the jurisdiction of the coroner or medical examiner may not be delivered to a person for research or education unless the body is the subject of an anatomical gift. This subsection does not preclude a coroner or medical examiner from performing the medicolegal investigation upon the body or relevant parts of a decedent under the jurisdiction of the coroner or medical examiner.

(4) If an anatomical gift of a part from the decedent under the jurisdiction of the coroner or medical examiner has been or might be made, but the coroner or medical examiner

initially believes that the recovery of the part could interfere with the postmortem investigation into the decedent's cause or manner of death, the collection of evidence, or the description, documentation, or interpretation of injuries on the body, the coroner or medical examiner may consult with the procurement organization or physician or technician designated by the procurement organization about the proposed recovery. After consultation, the coroner or medical examiner may release the part for recovery. [2008 c 139 § 21.]

68.64.200 Organ and tissue donor registry. (1) The department of licensing shall electronically transfer all information that appears on the front of a driver's license or identicard including the name, gender, date of birth, and most recent address of any person who obtains a driver's license or identicard and volunteers to donate organs or tissue upon death to any Washington state organ procurement organization that intends to establish a statewide organ and tissue donor registry as provided under subsection (2) of this section. All subsequent electronic transfers of donor information shall be at no charge to this Washington state organ procurement organization.

(2) Information obtained by a Washington state organ procurement organization under subsection (1) of this section shall be used for the purpose of establishing a statewide organ and tissue donor registry accessible to in-state recognized cadaveric organ and cadaveric tissue agencies for the recovery or placement of organs and tissue and to procurement agencies in another state when a Washington state resident is a donor of an anatomical gift and is not located in this state at the time of death or immediately before the death of the donor. Any registry created using information acquired under subsection (1) of this section must include all residents of Washington state regardless of their residence within the service area designated by the federal government.

(3) No organ or tissue donation organization may obtain information from the organ and tissue donor registry for the purposes of fund-raising. Organ and tissue donor registry information may not be further disseminated unless authorized in this section or by federal law. Dissemination of organ and tissue donor registry information may be made by a Washington state organ procurement organization to another Washington state organ procurement organization, a recognized in-state procurement agency for other tissue recovery, or an out-of-state federally designated organ procurement organization that has been designated by the United States department of health and human services to serve an area outside Washington.

(4) A Washington state organ procurement organization may acquire donor information from sources other than the department of licensing.

(5) All reasonable costs associated with the creation of an organ and tissue donor registry shall be paid by the Washington state organ procurement organization that has requested the information. The reasonable costs associated with the initial installation and setup for electronic transfer of the donor information at the department of licensing shall be paid by the Washington state organ procurement organization that requested the information.

(6) An individual does not need to participate in the organ and tissue donor registry to be a donor of organs or tis-

sue. The registry is to facilitate organ and tissue donations and not inhibit persons from being donors upon death. [2003 c 94 § 3. Formerly RCW 68.50.635.]

Findings—2003 c 94: "The legislature finds that the use of anatomical gifts, including the donation of organ[s] or tissue, for the purpose of transplantation is of great interest to the citizens of Washington state and may save or prolong the life or improve the health of extremely ill and dying persons.

The legislation further finds that more than eighty thousand people are currently waiting for life-saving organ transplants on the national transplant waiting list. More than one thousand two hundred of these people are listed at Washington state transplant centers. Nationally, seventeen people die each day as a result of the shortage of donated organs.

The creation of a statewide organ and tissue donor registry is crucial to facilitate timely and successful organ and tissue procurement. The legislature further finds that continuing education as to the existence and maintenance of a statewide organ and tissue donor registry is in the best interest of the people of the state of Washington." [2003 c 94 § 1.]

68.64.210 Organ and tissue donation awareness account. (1) The organ and tissue donation awareness account is created in the custody of the state treasurer. All receipts from donations made under RCW 46.16A.090(2), and other contributions and appropriations specifically made for the purposes of organ and tissue donor awareness, shall be deposited into the account. Except as provided in subsection (2) of this section, expenditures from the account may be authorized by the director of the department of licensing or the director's designee and do not require an appropriation.

(2) The department of licensing shall submit a funding request to the legislature covering the reasonable costs associated with the ongoing maintenance associated with the electronic transfer of the donor information to the organ and tissue donor registry and the donation program established in RCW 46.16A.090(2). The legislature shall appropriate to the department of licensing an amount it deems reasonable from the organ and tissue donation awareness account to the department of licensing for these purposes.

(3) At least quarterly, the department of licensing shall transmit any remaining moneys in the organ and tissue donation awareness account to the foundation established in RCW 46.16A.090(2) for the costs associated with educating the public about the organ and tissue donor registry and related organ and tissue donation education programs.

(4) Funding for donation awareness programs must be proportional across the state regardless of which Washington state organ procurement organization may be designated by the United States department of health and human services to serve a particular geographic area. No funds from the account may be used to fund activities outside Washington state. [2010 c 161 § 1157; 2003 c 94 § 7. Formerly RCW 68.50.640.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

Findings—2003 c 94: See note following RCW 68.64.200.

68.64.900 Short title. This chapter may be cited as the revised uniform anatomical gift act. [2008 c 139 § 1.]

68.64.901 Applicable state laws. This chapter is subject to the laws of this state governing the jurisdiction of the coroner or medical examiner. [2008 c 139 § 22.]

68.64.902 Uniformity of application and construction—2008 c 139. In applying and construing this uniform act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it. [2008 c 139 § 23.]

68.64.903 Supersedes, in part, the federal electronic signatures in global and national commerce act. This chapter modifies, limits, and supersedes the federal electronic signatures in global and national commerce act (15 U.S.C. Sec. 7001 et seq.) with respect to electronic signatures and anatomical gifts, but does not modify, limit, or supersede section 101(a) of that act (15 U.S.C. Sec. 7001), or authorize electronic delivery of any of the notices described in section 103(b) of that act (15 U.S.C. Sec. 7003(b)). [2008 c 139 § 24.]

Title 98 WAC

LICENSING, DEPARTMENT OF (CEMETERY BOARD)

Chapters

98-08	Practice and procedure.
98-11	Nonendowed care cemeteries.
98-12	Endowment care cemeteries.
98-14	Prearrangement contracts.
98-15	Crematories.
98-16	Hybrid units.
98-20	Cemetery property.
98-60	Disposition of cremated remains.
98-70	Fees.
98-80	Rules of procedure for cremation.

68.05.100 as amended by 1985 c 402 § 8. 85-19-012 (Order 108), § 98-40-080, filed 9/6/85.] Repealed by 02-19-018, filed 9/9/02, effective 10/10/02. Statutory Authority: RCW 68.05.100.

DISPOSITION OF CHAPTERS FORMERLY CODIFIED IN THIS TITLE

Chapter 98-40 PROCEDURES FOR HANDLING DEAD HUMAN BODIES BY AUTHORIZED CREMATORY AUTHORITIES

98-40-010	Purpose for procedures. [Statutory Authority: RCW 68.05.100 as amended by 1985 c 402 § 8. 85-19-012 (Order 108), § 98-40-010, filed 9/6/85.] Repealed by 02-19-018, filed 9/9/02, effective 10/10/02. Statutory Authority: RCW 68.05.100.
98-40-020	Terminology. [Statutory Authority: RCW 68.05.105. 89-08-043 (Order PM 830), § 98-40-020, filed 3/31/89. Statutory Authority: RCW 68.05.100 as amended by 1985 c 402 § 8. 85-19-012 (Order 108), § 98-40-020, filed 9/6/85.] Repealed by 02-19-018, filed 9/9/02, effective 10/10/02. Statutory Authority: RCW 68.05.100.
98-40-030	Removal and identification of human remains. [Statutory Authority: RCW 68.05.105. 89-08-043 (Order PM 830), § 98-40-030, filed 3/31/89. Statutory Authority: RCW 68.05.100 as amended by 1985 c 402 § 8. 85-19-012 (Order 108), § 98-40-030, filed 9/6/85.] Repealed by 02-19-018, filed 9/9/02, effective 10/10/02. Statutory Authority: RCW 68.05.100.
98-40-040	Holding human remains for cremation. [Statutory Authority: RCW 68.05.105. 89-08-043 (Order PM 830), § 98-40-040, filed 3/31/89. Statutory Authority: RCW 68.05.100 as amended by 1985 c 402 § 8. 85-19-012 (Order 108), § 98-40-040, filed 9/6/85.] Repealed by 02-19-018, filed 9/9/02, effective 10/10/02. Statutory Authority: RCW 68.05.100.
98-40-050	Cremation of human remains. [Statutory Authority: RCW 68.05.105. 89-08-043 (Order PM 830), § 98-40-050, filed 3/31/89. Statutory Authority: RCW 68.05.105(1). 88-07-032 (Order PM 714), § 98-40-050, filed 3/9/88. Statutory Authority: RCW 68.05.100 as amended by 1985 c 402 § 8. 85-19-012 (Order 108), § 98-40-050, filed 9/6/85.] Repealed by 02-19-018, filed 9/9/02, effective 10/10/02. Statutory Authority: RCW 68.05.100.
98-40-060	Processing of cremated remains. [Statutory Authority: RCW 68.05.100 as amended by 1985 c 402 § 8. 85-19-012 (Order 108), § 98-40-060, filed 9/6/85.] Repealed by 02-19-018, filed 9/9/02, effective 10/10/02. Statutory Authority: RCW 68.05.100.
98-40-070	Packaging and storage of cremated remains. [Statutory Authority: RCW 68.05.105. 89-08-043 (Order PM 830), § 98-40-070, filed 3/31/89. Statutory Authority: RCW 68.05.100 as amended by 1985 c 402 § 8. 85-19-012 (Order 108), § 98-40-070, filed 9/6/85.] Repealed by 02-19-018, filed 9/9/02, effective 10/10/02. Statutory Authority: RCW 68.05.100.
98-40-080	Disposition of cremated remains. [Statutory Authority: RCW 68.05.105. 89-08-043 (Order PM 830), § 98-40-080, filed 3/31/89. Statutory Authority: RCW

Chapter 98-08 WAC

PRACTICE AND PROCEDURE

<p>WAC</p> <p>98-08-001 Model rules of procedure.</p> <p>98-08-005 Brief adjudicative proceedings—When they can be used.</p> <p>98-08-015 Objections to brief adjudicative proceedings and conversion to formal adjudicative hearings.</p> <p style="text-align: center;">DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER</p> <p>98-08-010 Appearance and practice before agency—Who may appear. [Rule .08.010, effective 2/8/60.] Repealed by 02-19-018, filed 9/9/02, effective 10/10/02. Statutory Authority: RCW 68.05.100.</p> <p>98-08-030 Appearance and practice before agency—Solicitation of business unethical. [Rule .08.030, effective 2/8/60.] Repealed by 02-19-018, filed 9/9/02, effective 10/10/02. Statutory Authority: RCW 68.05.100.</p> <p>98-08-040 Appearance and practice before agency—Standards of ethical conduct. [Rule .08.040, effective 2/8/60.] Repealed by 02-19-018, filed 9/9/02, effective 10/10/02. Statutory Authority: RCW 68.05.100.</p> <p>98-08-050 Appearance and practice before agency—Appearance by former employee of agency or former member of attorney general's staff. [Rule .08.050, effective 2/8/60.] Repealed by 02-19-018, filed 9/9/02, effective 10/10/02. Statutory Authority: RCW 68.05.100.</p> <p>98-08-060 Appearance and practice before agency—Former employee as expert witness. [Rule .08.060, effective 2/8/60.] Repealed by 02-19-018, filed 9/9/02, effective 10/10/02. Statutory Authority: RCW 68.05.100.</p> <p>98-08-070 Computation of time. [Rule .08.070, effective 2/8/60.] Repealed by 02-19-018, filed 9/9/02, effective 10/10/02. Statutory Authority: RCW 68.05.100.</p> <p>98-08-080 Notice and opportunity for hearing in contested cases. [Rule .08.080, effective 2/8/60.] Repealed by 02-19-018, filed 9/9/02, effective 10/10/02. Statutory Authority: RCW 68.05.100.</p> <p>98-08-090 Service of process—By whom served. [Rule .08.090, effective 2/8/60.] Repealed by 02-19-018, filed 9/9/02, effective 10/10/02. Statutory Authority: RCW 68.05.100.</p> <p>98-08-100 Service of process—Upon whom served. [Rule .08.100, effective 2/8/60.] Repealed by 02-19-018, filed 9/9/02, effective 10/10/02. Statutory Authority: RCW 68.05.100.</p> <p>98-08-110 Service of process—Service upon parties. [Rule .08.110, effective 2/8/60.] Repealed by 02-19-018, filed 9/9/02, effective 10/10/02. Statutory Authority: RCW 68.05.100.</p> <p>98-08-120 Service of process—Method of service. [Rule .08.120, effective 2/8/60.] Repealed by 02-19-018, filed 9/9/02, effective 10/10/02. Statutory Authority: RCW 68.05.100.</p> <p>98-08-130 When service complete. [Rule .08.130, effective 2/8/60.] Repealed by 02-19-018, filed 9/9/02, effective 10/10/02. Statutory Authority: RCW 68.05.100.</p> <p>98-08-140 When service complete—Filing with agency. [Rule .08.140, effective 2/8/60.] Repealed by 02-19-018, filed 9/9/02, effective 10/10/02. Statutory Authority: RCW 68.05.100.</p> <p>98-08-150 Subpoenas—Where provided by law—Form. [Statutory Authority: RCW 68.05.105. 89-08-043 (Order PM 830), § 98-08-150, filed 3/31/89; Rule .08.150, effective 2/8/60.] Repealed by 02-19-018, filed 9/9/02, effective 10/10/02. Statutory Authority: RCW 68.05.100.</p> <p>98-08-170 Subpoenas—Service. [Rule .08.170, effective 2/8/60.] Repealed by 02-19-018, filed 9/9/02, effective 10/10/02. Statutory Authority: RCW 68.05.100.</p> <p>98-08-190 Subpoenas—Proof of service. [Rule .08.190, effective 2/8/60.] Repealed by 02-19-018, filed 9/9/02, effective 10/10/02. Statutory Authority: RCW 68.05.100.</p>	<p>98-08-200 Subpoenas—Quashing. [Rule .08.200, effective 2/8/60.] Repealed by 02-19-018, filed 9/9/02, effective 10/10/02. Statutory Authority: RCW 68.05.100.</p> <p>98-08-210 Subpoenas—Enforcement. [Rule .08.210, effective 2/8/60.] Repealed by 02-19-018, filed 9/9/02, effective 10/10/02. Statutory Authority: RCW 68.05.100.</p> <p>98-08-220 Subpoenas—Geographical scope. [Rule .08.220, effective 2/8/60.] Repealed by 02-19-018, filed 9/9/02, effective 10/10/02. Statutory Authority: RCW 68.05.100.</p> <p>98-08-370 Official notice—Matters of law. [Rule .08.370, effective 2/8/60.] Repealed by 02-19-018, filed 9/9/02, effective 10/10/02. Statutory Authority: RCW 68.05.100.</p> <p>98-08-380 Official notice—Material facts. [Rule .08.380, effective 2/8/60.] Repealed by 02-19-018, filed 9/9/02, effective 10/10/02. Statutory Authority: RCW 68.05.100.</p> <p>98-08-390 Presumptions. [Rule .08.390, effective 2/8/60.] Repealed by 02-19-018, filed 9/9/02, effective 10/10/02. Statutory Authority: RCW 68.05.100.</p> <p>98-08-400 Stipulations and admissions of record. [Rule .08.400, effective 2/8/60.] Repealed by 02-19-018, filed 9/9/02, effective 10/10/02. Statutory Authority: RCW 68.05.100.</p> <p>98-08-410 Form and content of decisions in contested cases. [Rule .08.410, effective 2/8/60.] Repealed by 02-19-018, filed 9/9/02, effective 10/10/02. Statutory Authority: RCW 68.05.100.</p> <p>98-08-420 Definition of issues before hearing. [Rule .08.420, effective 2/8/60.] Repealed by 02-19-018, filed 9/9/02, effective 10/10/02. Statutory Authority: RCW 68.05.100.</p> <p>98-08-430 Prehearing conference rule—Authorized. [Rule .08.430, effective 2/8/60.] Repealed by 02-19-018, filed 9/9/02, effective 10/10/02. Statutory Authority: RCW 68.05.100.</p> <p>98-08-440 Prehearing conference rule—Record of conference action. [Rule .08.440, effective 2/8/60.] Repealed by 02-19-018, filed 9/9/02, effective 10/10/02. Statutory Authority: RCW 68.05.100.</p> <p>98-08-450 Submission of documentary evidence in advance. [Rule .08.450, effective 2/8/60.] Repealed by 02-19-018, filed 9/9/02, effective 10/10/02. Statutory Authority: RCW 68.05.100.</p> <p>98-08-460 Excerpts from documentary evidence. [Rule .08.460, effective 2/8/60.] Repealed by 02-19-018, filed 9/9/02, effective 10/10/02. Statutory Authority: RCW 68.05.100.</p> <p>98-08-470 Expert or opinion testimony and testimony based on economic and statistical data—Number and qualifications of witnesses. [Rule .08.470, effective 2/8/60.] Repealed by 02-19-018, filed 9/9/02, effective 10/10/02. Statutory Authority: RCW 68.05.100.</p> <p>98-08-480 Expert or opinion testimony and testimony based on economic and statistical data—Written sworn statements. [Rule .08.480, effective 2/8/60.] Repealed by 02-19-018, filed 9/9/02, effective 10/10/02. Statutory Authority: RCW 68.05.100.</p> <p>98-08-490 Expert or opinion testimony and testimony based on economic and statistical data—Supporting data. [Rule .08.490, effective 2/8/60.] Repealed by 02-19-018, filed 9/9/02, effective 10/10/02. Statutory Authority: RCW 68.05.100.</p> <p>98-08-500 Expert or opinion testimony and testimony based on economic and statistical data—Effect of noncompliance with WAC 98-08-470 or 98-08-480. [Rule .08.500, effective 2/8/60.] Repealed by 02-19-018, filed 9/9/02, effective 10/10/02. Statutory Authority: RCW 68.05.100.</p> <p>98-08-510 Continuances. [Rule .08.510, effective 2/8/60.] Repealed by 02-19-018, filed 9/9/02, effective 10/10/02. Statutory Authority: RCW 68.05.100.</p> <p>98-08-520 Rules of evidence—Admissibility criteria. [Rule .08.520, effective 2/8/60.] Repealed by 02-19-018, filed 9/9/02, effective 10/10/02. Statutory Authority: RCW 68.05.100.</p>
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- 98-08-530 Rules of evidence—Tentative admission—Exclusion—Discontinuance—Objections. [Rule .08.530, effective 2/8/60.] Repealed by 02-19-018, filed 9/9/02, effective 10/10/02. Statutory Authority: RCW 68.05.100.
- 98-08-540 Petitions for rule making, amendment or repeal. [Rule .08.540, effective 2/8/60.] Repealed by 02-19-018, filed 9/9/02, effective 10/10/02. Statutory Authority: RCW 68.05.100.
- 98-08-550 Petitions for rule making, amendment or repeal—Requirements. [Rule .08.550, effective 2/8/60.] Repealed by 02-19-018, filed 9/9/02, effective 10/10/02. Statutory Authority: RCW 68.05.100.
- 98-08-560 Petitions for rule making, amendment or repeal—Agency must consider. [Rule .08.560, effective 2/8/60.] Repealed by 02-19-018, filed 9/9/02, effective 10/10/02. Statutory Authority: RCW 68.05.100.
- 98-08-570 Petitions for rule making, amendment or repeal—Notice of disposition. [Rule .08.570, effective 2/8/60.] Repealed by 02-19-018, filed 9/9/02, effective 10/10/02. Statutory Authority: RCW 68.05.100.
- 98-08-580 Declaratory rulings. [Rule .08.580, effective 2/8/60.] Repealed by 02-19-018, filed 9/9/02, effective 10/10/02. Statutory Authority: RCW 68.05.100.
- 98-08-590 Forms. [Rule .08.590, effective 2/8/60.] Repealed by 02-19-018, filed 9/9/02, effective 10/10/02. Statutory Authority: RCW 68.05.100.

WAC 98-08-001 Model rules of procedure. Except as they may be inconsistent with the rules in this chapter, the cemetery board adopts the model rules of procedure as set forth in chapter 10-08 WAC.

[Statutory Authority: RCW 68.05.100. 02-19-018, § 98-08-001, filed 9/9/02, effective 10/10/02.]

WAC 98-08-005 Brief adjudicative proceedings—When they can be used. (1) The board adopts RCW 34.05.482 through 34.05.494 for the administration of brief adjudicative proceedings conducted at the discretion of the board. Brief adjudicative proceedings can be used in place of formal adjudicative hearings whenever the board issues a statement of charges, notice of intent to issue a cease and desist order, or temporary cease and desist order alleging that an applicant or licensee's conduct, act(s), or condition(s) constitute unlicensed practice or unprofessional conduct as that term is defined under chapter 18.235 RCW, the Uniform Regulation of Business and Professions Act. Brief adjudicative proceedings can also be used whenever the statement of charges, notice of intent to issue a cease and desist order, or temporary cease and desist order alleges violations of any statute or rule that specifically governs disciplinary actions within a profession for which the applicant seeks a license or from which the licensee holds a license.

(2) Brief adjudicative proceedings may be used to determine the following issues, including, but not limited to:

- (a) Whether an applicant has satisfied terms for reinstatement of a license after a period of license restriction, suspension, or revocation;
- (b) Whether an applicant or licensee has satisfied financial security requirements by providing adequate proof of surety bonds or other proof of financial security, as required by law;
- (c) Whether a sanction proposed by the department is appropriate based on the stipulated facts;
- (d) Whether an applicant meets minimum requirements for an initial or renewal application;
- (e) Whether an applicant or licensee failed to cooperate in an investigation by the department;

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(f) Whether an applicant or licensee was convicted of a crime that should disqualify the applicant or licensee from holding the specific license sought or held;

(g) Whether an applicant or licensee has defaulted on educational loans;

(h) Whether an applicant or licensee has violated the terms of a final order issued by the director or director's designee;

(i) Whether a licensee has committed recordkeeping violations;

(j) Whether a licensee has committed trust account violations;

(k) Whether an applicant or licensee has engaged in false, deceptive, or misleading advertising; or

(l) Whether a person has engaged in unlicensed practice.

(3) In addition to the situations enumerated in subsection (2) of this section, the board may conduct brief adjudicative proceedings instead of formal adjudicative hearings whenever the parties have stipulated to the facts and the only issues presented are issues of law, or whenever issues of fact exist but witness testimony is unnecessary to prove or disprove the relevant facts.

[Statutory Authority: RCW 68.05.105 and chapter 34.05 RCW. 05-23-149, § 98-08-005, filed 11/22/05, effective 12/23/05.]

WAC 98-08-015 Objections to brief adjudicative proceedings and conversion to formal adjudicative hearings. (1) At least five days before the scheduled brief adjudicative proceeding, any party, including the board, may file a written objection to resolution of a matter by a brief adjudicative proceeding and may request that a matter be converted to a formal adjudicative hearing. Upon receiving a timely written objection, the presiding officer shall determine whether the matter should be converted. Regardless of whether any party files a timely objection, the presiding officer may convert any brief adjudicative proceeding to a formal adjudicative hearing whenever it appears that a brief adjudicative proceeding is insufficient to determine the issues pending before the board.

(2) In determining whether to convert a proceeding, the presiding officer may consider the following factors:

- (a) Whether witness testimony will aid the presiding officer in resolving contested issues of fact;
- (b) Whether the legal or factual issues are sufficiently complex to warrant a formal adjudicative proceeding, including whether there are multiple issues of fact or law;
- (c) Whether a brief adjudicative proceeding will establish an adequate record for further agency or judicial review;
- (d) Whether the legal issues involved in the proceeding present questions of legal significance or are being raised for the first time before the agency;
- (e) Whether conversion of the proceeding will cause unnecessary delay in resolving the issues; and
- (f) Any other factors that the presiding officer deems relevant in reaching a determination.

[Statutory Authority: RCW 68.05.105 and chapter 34.05 RCW. 05-23-149, § 98-08-015, filed 11/22/05, effective 12/23/05.]

Chapter 98-11 WAC

NONENDOWED CARE CEMETERIES

WAC

98-11-010 Financial responsibility requirements for nonendowment care cemeteries.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

98-11-005 Definition—Section. [Statutory Authority: RCW 68.05.105(1). 88-07-032 (Order PM 714), § 98-11-005, filed 3/9/88.] Repealed by 07-11-088, filed 5/15/07, effective 6/15/07. Statutory Authority: RCW 68.05.105 and chapter 34.05 RCW.

WAC 98-11-010 Financial responsibility requirements for nonendowment care cemeteries. Any cemetery authority defined in RCW 68.04.190 desiring to obtain a certificate of authority to operate a cemetery (as required by RCW 68.05.115, 68.05.210, and 68.05.215), that does not deposit the minimum sum required by RCW 68.40.010 in an endowment care fund shall be required by the cemetery board to present satisfactory proof that the cemetery authority has a corporate net worth, determined by generally accepted accounting principles, in excess of one hundred thousand dollars. This section does not apply to cemeteries referred to in RCW 68.05.400. Any cemetery authority which is denied a certificate of authority shall have the right to appeal the denial to the superior court of the county in which the cemetery authority is located or proposed to be located. Appeals must be taken within thirty days after the denial of the certificate of authority.

[Statutory Authority: RCW 68.05.105 and chapter 34.05 RCW. 07-11-088, § 98-11-010, filed 5/15/07, effective 6/15/07. Statutory Authority: RCW 68.05.105. 89-08-043 (Order PM 830), § 98-11-010, filed 3/31/89; Order 72-1, § 98-11-010, filed 9/8/72.]

Chapter 98-12 WAC

ENDOWMENT CARE CEMETERIES

WAC

98-12-020 Improved commercial or real estate income.
98-12-030 "Gross sales price" defined.
98-12-040 Records of endowment care funds.
98-12-050 Endowment care trust fund contribution for additional rights of interment, entombment or inurnment.

[Statutory Authority: RCW 68.05.105 and chapter 34.05 RCW. 07-11-088, § 98-12-040, filed 5/15/07, effective 6/15/07. Statutory Authority: RCW 68.05.100. 83-02-063 (Order 106), § 98-12-040, filed 1/5/83.]

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

98-12-010 Endowment care trust funds—Alteration of identity of trustee—Notice required. [Order 72-1, § 98-12-010, filed 9/8/72.] Repealed by 89-08-043 (Order PM 830), filed 3/31/89. Statutory Authority: RCW 68.05.105.

WAC 98-12-050 Endowment care trust fund contribution for additional rights of interment, entombment or inurnment. A cemetery authority not exempt from this chapter must make a deposit to the endowment care fund, for additional rights of interment, entombment or inurnment, as required in RCW 68.40.010.

[Statutory Authority: RCW 68.05.105 and chapter 34.05 RCW. 07-11-088, § 98-12-050, filed 5/15/07, effective 6/15/07.]

WAC 98-12-020 Improved commercial or real estate income. In determining the trust fund income for the purpose of RCW 68.44.020 and 68.44.170, an allowance for depreciation on the improved real estate will be used as a determining factor in computing fund income. The cemetery authority must document how depreciation is determined.

[Statutory Authority: RCW 68.05.105 and chapter 34.05 RCW. 07-11-088, § 98-12-020, filed 5/15/07, effective 6/15/07. Statutory Authority: RCW 68.05.100. 81-07-013 (Order 104), § 98-12-020, filed 3/9/81.]

WAC 98-12-030 "Gross sales price" defined. In determining "ten percent of the gross sales price" pursuant to RCW 68.40.010, gross sales price shall not include the endowment care fund portion. Endowment care shall be added to the gross sales price and separately identified as endowment care on any contract. For example: Grave gross sales price - \$100.00. Endowment care requirement - \$10.00. Total contract price - \$110.00.

[Statutory Authority: RCW 68.05.100. 83-02-063 (Order 106), § 98-12-030, filed 1/5/83.]

WAC 98-12-040 Records of endowment care funds. Any cemetery authority maintaining an endowment care fund shall maintain a current accounting system in accordance with generally accepted accounting principles. The system shall track sales, receipts, and disbursements and include the following:

(1) An individual contract or agreement with each individual purchasing a right of interment with reference numbering.

(2) A record of:

- Payments received and the amount due or paid to the endowment care fund.
- Reconciliation of payments to and from the fund.
- All supporting bank and investment statements.

All records required to be maintained pursuant to this rule and Title 68 RCW, whether maintained manually or by computer, shall:

- Be retained and available for inspection for a period of seven years.
- Be understandable to the cemetery board examiner or other persons reasonably having cause to access them.

(5/15/07)

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Chapter 98-14 WAC

PREARRANGEMENT CONTRACTS

WAC

98-14-010	Definitions.
98-14-020	Itemization of charges.
98-14-030	Form of delivery.
98-14-040	Performance of services.
98-14-050	Determination of delivery.
98-14-060	Suppliers.
98-14-070	Securities for loans.
98-14-080	Development plan for unconstructed, undeveloped property.
98-14-090	Records of prearrangement trust funds.
98-14-100	Qualifications of applicant for prearrangement sales license.
98-14-200	Telephone solicitation.

WAC 98-14-010 Definitions. All definitions of chapter 68.46 RCW apply to this chapter of WAC. In addition, the following definition applies:

"Direct cost" for the purpose of chapter 68.46 RCW, direct cost includes actual labor cost and other costs associated with delivery of the service. For example: Direct cost of providing an opening and closing may include labor, materials, fuel, equipment maintenance, and a share of overhead including benefits and insurance.

[Statutory Authority: RCW 68.05.105 and chapter 34.05 RCW. 07-11-088, § 98-14-010, filed 5/15/07, effective 6/15/07; Order CB 101, § 98-14-010, filed 10/17/75.]

WAC 98-14-020 Itemization of charges. In addition to all other requirements of the law relating to consumer contracts, prearrangement contracts must have:

- A specific itemization of charges and descriptions for each merchandise or service to be furnished or delivered.
- An itemization of services to be performed on delivered merchandise such as marker installation and care.
- An itemization of charges and descriptions for each grave niche or crypt sold.

[Statutory Authority: RCW 68.05.105 and chapter 34.05 RCW. 07-11-088, § 98-14-020, filed 5/15/07, effective 6/15/07; Order CB 101, § 98-14-020, filed 10/17/75.]

WAC 98-14-030 Form of delivery. All prearrangement contracts must state on the contract what form or forms of delivery of merchandise will constitute "delivery" to satisfy the requirements of RCW 68.46.050.

[Order CB 101, § 98-14-030, filed 10/17/75.]

WAC 98-14-040 Performance of services. Prearrangement services, including shipment and installation of prearrangement merchandise, shall not be deemed to have been furnished within the meaning of RCW 68.46.050(1) until performance of such services has actually occurred.

[Order CB 101, § 98-14-040, filed 10/17/75.]

WAC 98-14-050 Determination of delivery. Prearrangement merchandise and services will be delivered within the meaning of RCW 68.46.050(1) when:

(5/15/07)

(1) Actual delivery of the merchandise is made to the contract beneficiary; or

(2) Delivery of the merchandise is made to the cemetery authority for the contract beneficiary and the merchandise is permanently affixed to real property or a mausoleum; or

(3) Delivery of the merchandise to the cemetery authority for the contract beneficiary with the storage provided by the cemetery authority, provided that fifty percent of the service charge of the installation and other services to be performed upon the merchandise is maintained in the prearrangement trust fund, and an insurance provision is maintained when stored in a building: Provided, That no insurance is necessary when merchandise is affixed to the grave; or

(4) The cemetery authority has paid its supplier for prearrangement merchandise, and the supplier has caused the merchandise to be manufactured and stored, and has caused title to the merchandise to be transferred to the contract beneficiary, and has agreed to ship the merchandise upon his request or the request of the cemetery authority: Provided, That fifty percent of the service charge of delivery, installation and other costs are maintained in the prearrangement trust fund by the cemetery authority. The delivery and installation cost must be itemized upon the prearrangement contract, in accordance with WAC 98-14-020. This subsection will apply to the manufacture and storage of merchandise, such as, but not limited to, vaults, liners, urns and marker bases, that are not permanently labeled or engraved with the beneficiaries' name.

[Statutory Authority: RCW 68.05.100. 02-19-018, § 98-14-050, filed 9/9/02, effective 10/10/02; Order CB 101, § 98-14-050, filed 10/17/75.]

WAC 98-14-060 Suppliers. No person, firm or corporation will be deemed a supplier for purposes of chapter 98-14 WAC, unless it:

(1) Permanently and unalterably identifies all merchandise with the name of the contract beneficiary; and

(2) Submits, upon request of the board, a report of all merchandise which has been purchased through a Washington cemetery authority and has been placed in storage; and

(3) Permits the board or its designee, at any time, to examine stored merchandise which was purchased through a Washington cemetery authority and to examine any document pertaining thereto; and

(4) Submits evidence of a bond insuring the existing and good title of any merchandise due any contract beneficiary purchased through a Washington cemetery authority; and

(5) Submits evidence insuring that all merchandise purchased through a Washington cemetery authority and being stored by the supplier is insured for casualty, theft or other loss.

Subsection (1) of this section will not apply to merchandise that is manufactured and stored without being perma-

nently labeled or engraved with the beneficiaries' name. Suppliers must maintain an inventory equal to the amount sold.

[Statutory Authority: RCW 68.05.100. 02-19-018, § 98-14-060, filed 9/9/02, effective 10/10/02; Order CB 101, § 98-14-060, filed 10/17/75.]

WAC 98-14-070 Securities for loans. In any instance where a prearrangement contract containing undelivered merchandise or services is sold, pledged or otherwise encumbered as security for a loan by cemetery authority, the cemetery authority shall pay into the prearrangement trust fund fifty percent of the total sale price of the prearrangement contract within twenty days of receipt of payment of the proceeds from the sale or loan.

[Statutory Authority: RCW 68.05.100. 02-19-018, § 98-14-070, filed 9/9/02, effective 10/10/02; Order CB 101, § 98-14-070, filed 10/17/75.]

WAC 98-14-080 Development plan for unconstructed, undeveloped property. Any cemetery authority selling undeveloped graves, unconstructed crypts or niches in accordance with chapter 68.46 RCW must make available to the purchaser at the time the prearrangement contract is signed.

- A statement of estimated time schedule of the development or construction.

Estimated time schedule must:

- Be submitted to the cemetery board annually with the financial reports required by RCW 68.46.090.

- Be made available to holders of prearrangement contracts affected by the development or construction in the offices of the cemetery authority.

A cemetery authority must maintain an equivalent inventory of constructed crypts, niches and developed graves, equal to ten percent of the unconstructed crypts, niches and undeveloped graves sold through prearrangement contracts. The equivalent inventory must be located within the cemetery or an adjacent cemetery under common ownership.

Trust fund deposits required for the prearrangement contract sales of undeveloped property, will be in accordance with RCW 68.46.030.

[Statutory Authority: RCW 68.05.105 and chapter 34.05 RCW. 07-11-088, § 98-14-080, filed 5/15/07, effective 6/15/07. Statutory Authority: RCW 68.05.100. 02-19-018, § 98-14-080, filed 9/9/02, effective 10/10/02; 83-02-063 (Order 106), § 98-14-080, filed 1/5/83.]

WAC 98-14-090 Records of prearrangement trust funds. Any cemetery authority maintaining a prearrangement trust fund shall maintain a current accounting system in accordance with generally accepted accounting principles. The system shall track sales, receipts and disbursements and include the following:

- (1) An individual contract or agreement with each individual establishing a prearrangement trust agreement.

- (2) A record of payments received and the amount due or paid to the prearrangement trust fund.

- (3) Reconciliation of payments to and from the fund.

- (4) All supporting bank and investment statements.

All records required to be maintained pursuant to this rule and Title 68 RCW, whether maintained manually or by computer, shall:

- Be retained and available for inspection for a period of seven years.

- Be understandable to the cemetery board examiner or other persons reasonably having cause to access them.

[Statutory Authority: RCW 68.05.105 and chapter 34.05 RCW. 07-11-088, § 98-14-090, filed 5/15/07, effective 6/15/07. Statutory Authority: RCW 68.05.105. 89-08-043 (Order PM 830), § 98-14-090, filed 3/31/89. Statutory Authority: RCW 68.05.100. 83-02-063 (Order 106), § 98-14-090, filed 1/5/83.]

WAC 98-14-100 Qualifications of applicant for prearrangement sales license. To qualify as an applicant for a prearrangement sales license as set forth in RCW 68.05.155 and 68.46.150, applicant must hold a valid and unsuspended certificate of authority to operate a cemetery issued by the Washington state cemetery board.

[Statutory Authority: RCW 68.05.105 and chapter 34.05 RCW. 07-11-088, § 98-14-100, filed 5/15/07, effective 6/15/07. Statutory Authority: RCW 68.05.105. 89-08-043 (Order PM 830), § 98-14-100, filed 3/31/89.]

WAC 98-14-200 Telephone solicitation. (1) The use of telephones for solicitation of prearrangements is prevalent. This form of communication offers unique benefits, but entails special risk and poses potential for abuse. The board finds that any impropriety in telephone solicitation is a matter vitally affecting the public interest. For the general welfare of the public and in order to protect the integrity of the cemetery industry, the use of telephones in solicitation of prearrangements must be defined by the board.

(2) Definitions:

(a) "Telephone solicitor" means any person who engages in telephone solicitation on behalf of a holder of a certificate of authority to operate.

(b) "Telephone solicitation" means an unsolicited telephone call to a person and conversation for the purpose of inducing the person to make cemetery prearrangements made without previous invitation, expressed or implied, by the person called.

(3) Time limits:

(a) No licensee may knowingly cause a telephone solicitation to be made to any person more often than once in every six months.

(b) A telephone solicitor shall not place calls which will be received before 8:00 a.m. or after 9:00 p.m.

(4) Unfair/deceptive practices. A telephone solicitor may not engage in any conduct the natural consequence of which is to harass, intimidate, or torment any person in connection with the telephone call.

(5) Identification. Within the first thirty seconds of the telephone call, a telephone solicitor or salesperson shall:

(a) Identify himself or herself, the company on whose behalf the solicitation is being made, the property, goods, or services being represented; and

(b) Terminate the telephone call within ten seconds if the purchaser indicates he or she does not wish to continue the conversation.

(6) Termination of contact. If at any time during the telephone contact, the purchaser states or indicates that he or she does not wish to be called again by the telephone solicitor or wants to have his or her name and individual telephone number removed from the telephone lists used by the telephone solicitor, the telephone solicitor shall not make any additional

telephone solicitation of the called party at that telephone number within a period of at least one year.

(7) Enforcement. In the event that the board discerns a pattern of violation of these standards the board may act against the licensee's prearrangement license as provided by Title 68 RCW.

[Statutory Authority: RCW 68.05.105 (1) and (2), 90-17-073, § 98-14-200, filed 8/16/90, effective 9/16/90.]

Chapter 98-15 WAC

CREMATORIES

WAC

98-15-010 Crematory inspections.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

98-15-020 Endowment care trust fund contribution for additional rights of interment, entombment or inurnment. [Statutory Authority: RCW 68.05.100. 02-19-018, § 98-15-020, filed 9/9/02, effective 10/10/02.] Repealed by 07-11-088, filed 5/15/07, effective 6/15/07. Statutory Authority: RCW 68.05.105 and chapter 34.05 RCW.

WAC 98-15-010 Crematory inspections. (1) Crematories registered under the provisions of RCW 68.05.175 will be inspected at least once each year by the duly appointed department inspector.

(2) Inspections will cover compliance with applicable statutes and rules.

[Statutory Authority: RCW 68.05.100. 02-19-018, § 98-15-010, filed 9/9/02, effective 10/10/02.]

Chapter 98-16 WAC

HYBRID UNITS

WAC

98-16-010 Hybrid unit.
98-16-030 Disclosure of support or service items.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

98-16-020 Hybrid unit as funeral merchandise or services. [Statutory Authority: RCW 68.05.105. 89-08-043 (Order PM 830), § 98-16-020, filed 3/31/89. Statutory Authority: RCW 68.05.100. 81-07-013 (Order 104), § 98-16-020, filed 3/9/81.] Repealed by 07-11-088, filed 5/15/07, effective 6/15/07. Statutory Authority: RCW 68.05.105 and chapter 34.05 RCW.

WAC 98-16-010 Hybrid unit. A hybrid unit shall mean any combination "casket-vault" that is designed, intended, or represented to function as a substitute for a casket and/or a vault, or intended to serve the same purpose as a casket or a vault or in lieu thereof.

[Statutory Authority: RCW 68.05.100. 81-07-013 (Order 104), § 98-16-010, filed 3/9/81.]

WAC 98-16-030 Disclosure of support or service items. In accordance with WAC 98-14-020, hybrid units specified as cemetery merchandise or services in cemetery prearrangement contracts must be itemized, and must disclose and describe all items of support or services which are required or may be required for the future or intended use of hybrid units. "Support or service" as used herein means any function, activity, or object, and their availability, required or that may be required to meet a buyer's expectations for necessary cemetery merchandise or services and/or funeral merchandise or services. Whether items of support or service are included in the immediate purchase price or are reserved for future sale at the time of need, must be clearly set forth in the cemetery prearrangement contract, and in all advertising or representations pertaining to preneed or prearrangement contract sales of hybrid units.

[Statutory Authority: RCW 68.05.100. 81-07-013 (Order 104), § 98-16-030, filed 3/9/81.]

Chapter 98-20 WAC

CEMETERY PROPERTY

WAC

98-20-020 Definitions—Sale or transfer of ownership or control of any cemetery.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

98-20-010 Removal of dedication. [Statutory Authority: RCW 68.05.100. 81-07-013 (Order 104), § 98-20-010, filed 3/9/81.] Repealed by 89-08-043 (Order PM 830), filed 3/31/89. Statutory Authority: RCW 68.05.105.

WAC 98-20-020 Definitions—Sale or transfer of ownership or control of any cemetery. For purposes of RCW 68.05.115, sale or transfer of ownership or control of any cemetery authority, the following definitions shall apply:

(1) **Sale:** The purchase of a controlling interest (fifty percent or more) of assets or stock of an existing cemetery corporation.

(2) **Ownership:** The individual or individuals who own the stock of the cemetery corporation. Any one individual who owns fifty percent or more of the stock is considered an owner. When percentages of stock ownership change, anyone moving into a majority (fifty percent or more) position shall be considered the new owner, and thus subject to the provisions of RCW 68.05.115.

(3) **Control:** The person or entity who has fifty percent or more of the ownership, or has acquired the right to sell the corporation or its assets.

[Statutory Authority: RCW 68.05.105. 89-08-043 (Order PM 830), § 98-20-020, filed 3/31/89. Statutory Authority: RCW 68.05.100. 86-17-063 (Order 109), § 98-20-020, filed 8/19/86.]

Chapter 98-60 WAC

DISPOSITION OF CREMATED REMAINS

WAC

98-60-010	Definitions.
98-60-020	Permits and endorsements.
98-60-030	Compliance with all laws.
98-60-040	Records and documentation.
98-60-050	Permits and endorsements—Terms—Fees.

WAC 98-60-010 Definitions. The following definitions shall apply to this chapter:

(1) "Dedicated cemetery property" as used in this chapter means private cemetery property which has been dedicated in compliance with chapter 68.24 RCW, and cemetery property belonging to a public or religious cemetery as defined by RCW 68.05.400.

(2) "Board" as used in this chapter means the cemetery board.

(3) "Department" as used in this chapter means the department of licensing.

[Statutory Authority: RCW 68.05.100. 93-07-040, § 98-60-010, filed 3/12/93, effective 4/12/93.]

WAC 98-60-020 Permits and endorsements. (1) Any-one not authorized to control the disposition of remains under RCW 68.50.160 must register to obtain a permit or endorsement to bury or otherwise dispose of cremated remains by land, sea, or air, where such disposition is made outside dedicated cemetery property.

(2) Authorization under subsection (1) of this section for those holding licenses issued by the cemetery board shall be by an endorsement to their existing license. All other authorization shall be in the form of a permit issued by the board.

(3) In the case of a corporate applicant, the corporation shall apply for and hold the endorsement or permit.

[Statutory Authority: RCW 68.05.100. 93-07-040, § 98-60-020, filed 3/12/93, effective 4/12/93.]

WAC 98-60-030 Compliance with all laws. Permit and endorsement holders shall comply with all federal, state, and local laws related to the disposition of cremated remains.

[Statutory Authority: RCW 68.05.100. 93-07-040, § 98-60-030, filed 3/12/93, effective 4/12/93.]

WAC 98-60-040 Records and documentation. (1) Permit and endorsement holders must provide a Certificate of Disposition of Cremated Remains to the person authorizing the cremation or disposition. The certificate shall identify:

- The name of the deceased.
- The location and date of the disposition of the cremated remains.
- The manner of disposition (boat, air, or other).
- The name of the authorizing agent.
- The name of the funeral home, crematory, or cemetery arranging the service, if applicable.

(2) Permit and endorsement holders must:

- Maintain copies of records required under subsection (1) of this section for seven years from the date of disposition.

- Make records available for inspection by the board.

(3) Permit and endorsement holders shall report the number of dispositions performed in the previous year on the annual renewal form supplied by the department. Failure to provide such a report shall automatically suspend the permit or endorsement. Such permit or endorsement may be restored by making the proper report to the department.

[Statutory Authority: RCW 68.05.105 and chapter 34.05 RCW. 07-11-088, § 98-60-040, filed 5/15/07, effective 6/15/07. Statutory Authority: RCW 68.05.100. 93-07-040, § 98-60-040, filed 3/12/93, effective 4/12/93.]

WAC 98-60-050 Permits and endorsements—Terms—Fees. All permits or endorsements issued under this rule shall be issued for the year and shall expire at midnight, the thirty-first day of January of each year, or at whatever time during any year that ownership or control of any permit or endorsement holder is transferred or sold.

The fees shall be as set forth in chapter 98-70 WAC and the department shall collect in advance the fees required for licensing.

[Statutory Authority: RCW 68.05.100. 93-07-040, § 98-60-050, filed 3/12/93, effective 4/12/93.]

Chapter 98-70 WAC

FEES

WAC
98-70-010 Fees.

WAC 98-70-010 Fees. The following fees shall be charged by the professional licensing division of the department of licensing:

Title of Fee	Fee
Certificate of authority	
Application	\$300.00
Renewal	\$6.20
Charge per each interment, entombment and inurnment during preceding calendar year	
Crematory license/endorsement	
Application	\$210.00
Renewal	\$8.00
Crematory endorsement renewal	
Charge per cremation performed during previous calendar year:	
Charge per cremation performed before 1/1/2011.	\$6.50
Charge per cremation performed on or after 1/1/2011.	\$8.00
Prearrangement sales license	
Application	\$250.00
Renewal	\$225.00
Exemption from prearrangement sales license	
Application	\$70.00
Renewal	\$35.00
Cremated remains disposition permit or endorsement	
Application	\$70.00
Renewal	\$35.00

[Statutory Authority: RCW 68.05.205 and 43.24.086. 10-24-044, § 98-70-010, filed 11/24/10, effective 1/1/11; 09-17-115, § 98-70-010, filed 8/18/09, effective 9/18/09. Statutory Authority: RCW 68.05.105 and chapter 34.05 RCW. 07-11-088, § 98-70-010, filed 5/15/07, effective 6/15/07. Statutory Authority: RCW 68.05.205, 68.05.225, and 43.24.086. 03-11-020, § 98-70-010, filed 5/12/03, effective 6/30/03; 99-16-079, § 98-70-010, filed 8/3/99, effective 9/3/99; 98-19-053, § 98-70-010, filed 9/15/98, effective 10/16/98. Statutory Authority: RCW 68.05.105. 97-23-010, § 98-70-010, filed 11/7/97, effective 12/8/97. Statutory Authority: RCW 68.05.100. 94-01-117, § 98-70-010, filed 12/17/93, effective 1/17/94; 93-07-041, § 98-70-010, filed 3/12/93, effective 4/12/93. Statutory Authority: RCW 68.05.215. 89-06-074 (Order PM 816), § 98-70-010, filed 3/1/89. Statutory Authority: RCW 68.05.100 as amended by 1985 c 402 § 8. 85-19-012 (Order 108), § 98-70-010, filed 9/6/85. Statutory Authority: RCW 68.05.100 and 68.05.230. 83-24-010 (Order 107), § 98-70-010, filed 11/29/83. Statutory Authority: RCW 68.05.100, 68.05.230 and 68.46.180. 81-24-026 (Order 105), § 98-70-010, filed 11/24/81.]

Chapter 98-80 WAC

RULES OF PROCEDURE FOR CREMATION

WAC

98-80-010	Definitions.
98-80-020	Identification of human remains.
98-80-030	Holding human remains for cremation.
98-80-040	Cremation of human remains.
98-80-050	Processing of cremated human remains.
98-80-060	Packaging and storage of cremated human remains.
98-80-070	Disposition of cremated human remains.

WAC 98-80-010 Definitions. (1) **"Authorizing agent"** means the person(s) legally entitled to control the disposition of the human remains.

(2) **"Crematory authority or endorsement"** the legal entity and their authorized representatives, licensed to perform cremations.

(3) **"Cremation chamber"** means the enclosed space in a crematory in which the cremation process takes place.

(4) **"Pulverization"** is the reduction of identifiable bone fragments to unidentifiable dimensions by manual or mechanical means following cremation.

(5) **"Processing"** is the removal of foreign objects from cremated human remains and may include pulverization.

(6) **"Cremation container"** means the container in which the human remains must be enclosed before being placed in the cremation chamber for cremation. A cremation container must:

- Be composed of a combustible material. If the remains are delivered to a crematory in a noncombustible container, the authorizing agent must be informed of the disposition of the container, if the container is not actually used in the cremation process. Any transfer of human remains to combustible containers at the crematory must be in accordance with chapter 18.39 RCW, Title 308 WAC, and applicable public health laws.

- Be rigid enough for placement into the cremation chamber.

- Assure protection to the health and safety of the crematory operators and others.

- Provide a proper covering for the human remains.

- Be resistant to leakage or spillage of body fluids.

(7) **"Sealable container"** means any container in which cremated human remains can be placed and closed to prevent leakage or spillage of cremated human remains.

(8) **"Holding facility"** means an area designated for the care, storage and holding of human remains prior to disposition. A holding facility must:

- Comply with any applicable public health laws.

- Preserve the dignity of the human remains.

- Recognize the personal integrity, health and safety of employees and others.

- Be secure from access by anyone other than authorized personnel.

(9) **"Cadaver"** means human remains or any part thereof, which has been donated to science for medical research purposes.

(10) **"Body parts"** means limbs and other portions of human anatomy that have been removed from a person or human remains for medical purposes during treatment, surgery, biopsy, autopsy or medical research.

(11) **"Commingling"** means the mixing of cremated human remains of more than one deceased person.

(12) **"Residue"** means the cremation products that may unavoidably remain in the cremation chamber after manual sweeping techniques are performed.

[Statutory Authority: RCW 68.05.105 and chapter 34.05 RCW. 07-11-088, § 98-80-010, filed 5/15/07, effective 6/15/07. Statutory Authority: RCW 68.05.100. 02-19-018, § 98-80-010, filed 9/9/02, effective 10/10/02.]

WAC 98-80-020 Identification of human remains. A crematory must not take custody of unidentified human remains. Before accepting human remains, the crematory must verify that identification is attached to the cremation container. Upon accepting human remains for cremation, the crematory must make a permanent record of the following:

- Name of deceased.

- Date of death.

- Place of death.

- Name and relationship of authorizing agent.

- Name of firm engaging crematory services.

- Description of the cremation container to be consumed with the human remains.

- An identification number assigned each human remains and inscribed on a metal disc or metal tag. The metal identification disc or tag must identify the crematory and accompany the human remains through each phase of the cremation, processing and packaging. The disc or tag identification number must be recorded on all paperwork regarding a human remains.

[Statutory Authority: RCW 68.05.105 and chapter 34.05 RCW. 07-11-088, § 98-80-020, filed 5/15/07, effective 6/15/07. Statutory Authority: RCW 68.05.100. 02-19-018, § 98-80-020, filed 9/9/02, effective 10/10/02.]

WAC 98-80-030 Holding human remains for cremation. (1) A crematory must not accept and hold human remains for cremation unless the human remains are contained in a cremation container.

(2) A crematory must not accept human remains in a cremation container having evidence of body fluid leakage.

(3) Human remains that are not embalmed must be held only within a mechanically or commercially acceptable refrigerated facility of adequate capacity, with a maximum temperature of 48 degrees Fahrenheit, or in compliance with applicable public health regulations.

[Statutory Authority: RCW 68.05.105 and chapter 34.05 RCW. 07-11-088, § 98-80-030, filed 5/15/07, effective 6/15/07. Statutory Authority: RCW 68.05.100. 02-19-018, § 98-80-030, filed 9/9/02, effective 10/10/02.]

WAC 98-80-040 Cremation of human remains. (1) Cremation must not take place until the burial transit permit and authorization for cremation are obtained.

(2) Immediately prior to being placed within the cremation chamber, the identification of the human remains must be verified by the crematory operator. Appropriate identification of the human remains will be placed near the cremation chamber in such a way as to identify the human remains being cremated. The metal identification disc or metal tag must be placed in the cremation chamber with the human remains.

(3) Simultaneous cremation of more than one human remains within the same cremation chamber is not permitted, unless written authorization is obtained from the authorizing agent of each human remains to be cremated simultaneously. Such written authorization will exempt the crematory from all liability for commingling the products of the cremation process.

(4) Simultaneous cremation of more than one human remains within the same cremation chamber may be performed without the authorizations required in subsection (3) of this section, if:

- Equipment, techniques, and other devices are employed that keep the human remains separate and distinct, before and during the cremation process.
- Recoverable cremated remains are kept separate and distinct after the cremation process.

(5) Crematories licensed by the state cemetery board or the board of funeral directors and embalmers, will only be used for the cremation of human remains, cadavers, or human body parts.

[Statutory Authority: RCW 68.05.100. 02-19-018, § 98-80-040, filed 9/9/02, effective 10/10/02.]

WAC 98-80-050 Processing of cremated human remains. (1) Upon completion of the cremation, the products of the cremation process must be removed from the cremation chamber, with the exception of residue.

(2) The cremation products must be placed within an individual container or tray in such a way that will insure against commingling with other cremated human remains.

(3) Identification must be attached to the container or tray.

(4) All cremated human remains must undergo processing to comply with applicable legal requirements.

(5) Processing or pulverization of cremated human remains may not be required if cremated human remains are to be placed in a cemetery, mausoleum, columbarium, or building devoted exclusively to religious purposes, or where religious or cultural beliefs oppose the practice.

(6) All body prostheses, bridgework, or similar items removed from the cremated human remains during processing will be disposed of by the crematory, as directed by the authorizing agent.

[Statutory Authority: RCW 68.05.100. 02-19-018, § 98-80-050, filed 9/9/02, effective 10/10/02.]

WAC 98-80-060 Packaging and storage of cremated human remains. (1) The cremated human remains must be placed in a sealable container, or in such container as may have been ordered or supplied by the authorizing agent.

(2) The packaged cremated human remains will be identified. The metal identification disc or metal tag must stay with the cremated human remains.

(3) If the cremated human remains do not completely fill the container, the remaining space may be filled with suitable packing material. The container must then be securely closed.

(4) If the entire cremated human remains will not fit within the designated container, the remainder of the cremated human remains must be returned to the authorizing agent in a second container, clearly identified as being part of, and together with, the designated container. Upon written consent of the authorizing agent, excess cremated human remains may be disposed of in any legal manner.

[Statutory Authority: RCW 68.05.100. 02-19-018, § 98-80-060, filed 9/9/02, effective 10/10/02.]

WAC 98-80-070 Disposition of cremated human remains. (1) A crematory must keep a permanent record of all cremations performed and the disposition or release of the cremated human remains. The record must include the following information:

- Date of death.
- Date burial transit permit was issued.
- Date of delivery of human remains to the crematory.
- Date of cremation.
- Name of crematory operator performing the cremation.
- Name of person performing packaging, and date of packaging.
- Date of release of the cremated human remains and the name of the individual(s) to whom the cremated human remains were released; or
- Date of disposition of the cremated human remains.

(2) When cremated human remains have been in the possession of a crematory, funeral establishment or cemetery for a period of ninety days or more, the entity holding the cremated human remains may arrange for disposition in any legal manner, provided the entity:

- Attempts to contact the authorizing agent for disposition instructions by registered mail.
- Informs the authorizing agent(s) of the procedures that will be followed if disposition instructions are not received.
- Informs the authorizing agent(s) that disposition will take place if disposition instructions are not received within sixty days of initiation of the contact process.
- Informs the authorizing agent(s) that recovery of the cremated human remains, after the disposition, may or may not be possible.
- Maintains a permanent record of the location of the disposition.

(3) No entity making disposition of cremated human remains under subsection (2) of this section will be liable for the disposition or nonrecoverability of cremated human remains.

[Statutory Authority: RCW 68.05.105 and chapter 34.05 RCW. 07-11-088, § 98-80-070, filed 5/15/07, effective 6/15/07. Statutory Authority: RCW 68.05.100. 02-19-018, § 98-80-070, filed 9/9/02, effective 10/10/02.]

Chapter 18.235 RCW

UNIFORM REGULATION OF BUSINESS AND PROFESSIONS ACT

Sections

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18.235.005 Intent. It is the intent of the legislature to consolidate disciplinary procedures for the licensed businesses and professions under the department of licensing by providing a uniform disciplinary act with standardized procedures for the regulation of businesses and professions and the enforcement of laws, the purpose of which is to assure the public of the adequacy of business and professional competence and conduct.

It is also the intent of the legislature that all businesses and professions newly credentialed by the state and regulated by the department of licensing come under this chapter. [2007 c 256 § 10; 2002 c 86 § 101.]

18.235.010 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Board" means those boards specified in RCW 18.235.020(2)(b).

(2) "Department" means the department of licensing.

(3) "Director" means the director of the department or director's designee.

(4) "Disciplinary action" means sanctions identified in RCW 18.235.110.

(5) "Disciplinary authority" means the director, board, or commission having the authority to take disciplinary action against a holder of, or applicant for, a professional or busi-

ness license upon a finding of a violation of this chapter or a chapter specified under RCW 18.235.020.

(6) "License," "licensing," and "licensure" are deemed equivalent to the terms "license," "licensing," "licensure," "certificate," "certification," and "registration" as those terms are defined in RCW 18.118.020. Each of these terms, and the term "appointment" under chapter 42.44 RCW, are interchangeable under the provisions of this chapter.

(7) "Unlicensed practice" means:

(a) Practicing a profession or operating a business identified in RCW 18.235.020 without holding a valid, unexpired, unrevoked, and unsuspended license to do so; or

(b) Representing to a person, through offerings, advertisements, or use of a professional title or designation, that the individual or business is qualified to practice a profession or operate a business identified in RCW 18.235.020 without holding a valid, unexpired, unrevoked, and unsuspended license to do so. [2007 c 256 § 11; 2002 c 86 § 102.]

18.235.020 Application of chapter—Director's authority—Disciplinary authority. (1) This chapter applies only to the director and the boards and commissions having jurisdiction in relation to the businesses and professions licensed under the chapters specified in this section. This chapter does not apply to any business or profession not licensed under the chapters specified in this section.

(2)(a) The director has authority under this chapter in relation to the following businesses and professions:

(i) Auctioneers under chapter 18.11 RCW;

(ii) Bail bond agents and bail bond recovery agents under chapter 18.185 RCW;

(iii) Camping resorts' operators and salespersons under chapter 19.105 RCW;

(iv) Commercial telephone solicitors under chapter 19.158 RCW;

(v) Cosmetologists, barbers, manicurists, and estheticians under chapter 18.16 RCW;

(vi) Court reporters under chapter 18.145 RCW;

(vii) Driver training schools and instructors under chapter 46.82 RCW;

(viii) Employment agencies under chapter 19.31 RCW;

(ix) For hire vehicle operators under chapter 46.72 RCW;

(x) Limousines under chapter 46.72A RCW;

(xi) Notaries public under chapter 42.44 RCW;

(xii) Private investigators under chapter 18.165 RCW;

(xiii) Professional boxing, martial arts, and wrestling under chapter 67.08 RCW;

(xiv) Real estate appraisers under chapter 18.140 RCW;

(xv) Real estate brokers and salespersons under chapters 18.85 and 18.86 RCW;

(xvi) Security guards under chapter 18.170 RCW;

- (xvii) Sellers of travel under chapter 19.138 RCW;
- (xviii) Timeshares and timeshare salespersons under chapter 64.36 RCW;
- (xix) Whitewater river outfitters under chapter 79A.60 RCW;
- (xx) Home inspectors under chapter 18.280 RCW;
- (xxi) Body artists, body piercers, and tattoo artists, and body art, body piercing, and tattooing shops and businesses, under chapter 18.300 RCW; and
- (xxii) Appraisal management companies under chapter 18.310 RCW.

(b) The boards and commissions having authority under this chapter are as follows:

- (i) The *state board of registration for architects established in chapter 18.08 RCW;
- (ii) The Washington state collection agency board established in chapter 19.16 RCW;
- (iii) The state board of registration for professional engineers and land surveyors established in chapter 18.43 RCW governing licenses issued under chapters 18.43 and 18.210 RCW;
- (iv) The funeral and cemetery board established in chapter 18.39 RCW governing licenses issued under chapters 18.39 and 68.05 RCW;
- (v) The state board of licensure for landscape architects established in chapter 18.96 RCW; and
- (vi) The state geologist licensing board established in chapter 18.220 RCW.

(3) In addition to the authority to discipline license holders, the disciplinary authority may grant or deny licenses based on the conditions and criteria established in this chapter and the chapters specified in subsection (2) of this section. This chapter also governs any investigation, hearing, or proceeding relating to denial of licensure or issuance of a license conditioned on the applicant's compliance with an order entered under RCW 18.235.110 by the disciplinary authority. [2010 c 179 § 18. Prior: 2009 c 412 § 22; 2009 c 370 § 20; 2009 c 102 § 5; 2008 c 119 § 21; 2007 c 256 § 12; 2006 c 219 § 13; 2002 c 86 § 103.]

*Reviser's note: The "state board of registration for architects" was changed to "the state board for architects" by 2010 c 129 § 3.

Severability—Effective date—2010 c 179: See RCW 18.310.900 and 18.310.901.

Short title—Implementation—2009 c 412: See RCW 18.300.900 and 18.300.902.

Effective date—2009 c 370 §§ 1-16, 18, 20, and 21: See note following RCW 18.96.010.

Finding—2009 c 370: See note following RCW 18.96.010.

Funeral directors and embalmers account and cemetery account abolished, moneys transferred to funeral and cemetery account—2009 c 102: See note following RCW 18.39.810.

Effective date—2006 c 219: See note following RCW 46.82.285.

18.235.030 Disciplinary authority—Powers. The disciplinary authority has the power to:

- (1) Adopt, amend, and rescind rules as necessary to carry out the purposes of this chapter, including, but not limited to, rules regarding standards of professional conduct and practice;
- (2) Investigate complaints or reports of unprofessional conduct and hold hearings as provided in this chapter;

(3) Issue subpoenas and administer oaths in connection with any investigation, hearing, or proceeding held under this chapter;

(4) Take or cause depositions to be taken and use other discovery procedures as needed in an investigation, hearing, or proceeding held under this chapter;

(5) Compel attendance of witnesses at hearings;

(6) Conduct practice reviews in the course of investigating a complaint or report of unprofessional conduct, unless the disciplinary authority is authorized to audit or inspect applicants or licensees under the chapters specified in RCW 18.235.020;

(7) Take emergency action ordering summary suspension of a license, or restriction or limitation of the licensee's practice or business pending proceedings by the disciplinary authority;

(8) Appoint a presiding officer or authorize the office of administrative hearings, as provided in chapter 34.12 RCW, to conduct hearings. The disciplinary authority may make the final decision regarding disposition of the license unless the disciplinary authority elects to delegate, in writing, the final decision to the presiding officer;

(9) Use individual members of the boards and commissions to direct investigations. However, the member of the board or commission may not subsequently participate in the hearing of the case;

(10) Enter into contracts for professional services determined to be necessary for adequate enforcement of this chapter;

(11) Grant or deny license applications, secure the return of a license obtained through the mistake or inadvertence of the department or the disciplinary authority after providing the person so licensed with an opportunity for an adjudicative proceeding, and, in the event of a finding of unprofessional conduct by an applicant or license holder, impose any sanction against a license applicant or license holder provided by this chapter;

(12) Designate individuals authorized to sign subpoenas and statements of charges;

(13) Establish panels consisting of three or more members of the board or commission to perform any duty or authority within the board's or commission's jurisdiction under this chapter; and

(14) Contract with licensees, registrants, endorsement or permit holders, or any other persons or organizations to provide services necessary for the monitoring or supervision of licensees, registrants, or endorsement or permit holders who are placed on probation, whose professional or business activities are restricted, or who are for an authorized purpose subject to monitoring by the disciplinary authority. If the subject licensee, registrant, or endorsement or permit holders may only practice or operate a business under the supervision of another licensee, registrant, or endorsement or permit holder under the terms of the law regulating that occupation or business, the supervising licensee, registrant, or endorsement or permit holder must consent to the monitoring or supervision under this subsection, unless the supervising licensee, registrant, or endorsement or permit holder is, at the time, the subject of a disciplinary order. [2002 c 86 § 104.]

18.235.040 Director's authority. The director has the following additional authority:

(1) To employ investigative, administrative, and clerical staff as necessary for the enforcement of this chapter, except as provided otherwise by statute;

(2) Upon request of a board or commission, to appoint not more than three pro tem members as provided in this subsection. Individuals appointed as pro tem members of a board or commission must meet the same minimum qualifications as regular members of the board or commission. While serving as a pro tem board or commission member, a person so appointed has all the powers, duties, and immunities, and is entitled to the entitlements, including travel expenses in accordance with RCW 43.03.050 and 43.03.060, of a regular member of the board or commission; and

(3) To establish fees to be paid for witnesses, expert witnesses, and consultants used in any investigation or adjudicative proceedings as authorized by RCW 34.05.446. [2007 c 256 § 13; 2002 c 86 § 105.]

18.235.050 Statement of charges—Hearing. (1) If the disciplinary authority determines, upon investigation, that there is reason to believe that a license holder or applicant for a license has violated RCW 18.235.130 or has not met a minimum eligibility criteria for licensure, the disciplinary authority may prepare and serve the license holder or applicant a statement of charge, charges, or intent to deny. A notice that the license holder or applicant may request a hearing to contest the charge, charges, or intent to deny must accompany the statement. The license holder or applicant must file a request for a hearing with the disciplinary authority within twenty days after being served the statement of charges or statement of intent to deny. The failure to request a hearing constitutes a default, whereupon the disciplinary authority may enter a decision on the facts available to it.

(2) If a license holder or applicant for a license requests a hearing, the disciplinary authority must fix the time of the hearing as soon as convenient, but not earlier than thirty days after the service of charge, charges, or intent to deny. The disciplinary authority may hold a hearing sooner than thirty days only if the disciplinary authority has issued a summary suspension or summary restriction. [2007 c 256 § 14; 2002 c 86 § 106.]

18.235.060 Procedures governing adjudicative proceedings. The procedures governing adjudicative proceedings before agencies under chapter 34.05 RCW, the administrative procedure act, govern all hearings before the disciplinary authority. The disciplinary authority has, in addition to the powers and duties set forth in this chapter, all of the powers and duties under chapter 34.05 RCW, which include, without limitation, all powers relating to the administration of oaths, the receipt of evidence, the issuance and enforcing of subpoenas, and the taking of depositions. [2002 c 86 § 107.]

18.235.070 Previous denial, revocation, or suspension of license. The department shall not issue a license to any person whose license has been previously denied, revoked, or suspended by the disciplinary authority for that profession or business, except in conformity with the terms

and conditions of the certificate or order of denial, revocation, or suspension, or in conformity with any order of reinstatement issued by the disciplinary authority, or in accordance with the final judgment in any proceeding for review instituted under this chapter. [2002 c 86 § 108.]

18.235.080 Orders. An order pursuant to proceedings authorized by this chapter, after due notice and findings in accordance with this chapter and chapter 34.05 RCW, or an order of summary suspension entered under this chapter, takes effect immediately upon its being served. The final order, if appealed to the court, may not be stayed pending the appeal unless the disciplinary authority or court to which the appeal is taken enters an order staying the order of the disciplinary authority, which stay shall provide for terms necessary to protect the public. [2007 c 256 § 15; 2002 c 86 § 109.]

18.235.090 Appeal. A person who has been disciplined or has been denied a license by a disciplinary authority may appeal the decision as provided in chapter 34.05 RCW. [2007 c 256 § 16; 2002 c 86 § 110.]

18.235.100 Reinstatement. A person whose license has been suspended or revoked under this chapter may petition the disciplinary authority for reinstatement after an interval of time and upon conditions determined by the disciplinary authority in the order suspending or revoking the license. The disciplinary authority shall act on the petition in accordance with the adjudicative proceedings provided under chapter 34.05 RCW and may impose such conditions as authorized by RCW 18.235.110. The disciplinary authority may require successful completion of an examination as a condition of reinstatement. [2007 c 256 § 17; 2002 c 86 § 111.]

18.235.110 Unprofessional conduct—Finding. (1) Upon finding unprofessional conduct, the disciplinary authority may issue an order providing for one or any combination of the following:

- (a) Revocation of the license for an interval of time;
- (b) Suspension of the license for a fixed or indefinite term;
- (c) Restriction or limitation of the practice;
- (d) Satisfactory completion of a specific program of remedial education or treatment;
- (e) Monitoring of the practice in a manner directed by the disciplinary authority;
- (f) Censure or reprimand;
- (g) Compliance with conditions of probation for a designated period of time;
- (h) Payment of a fine for each violation found by the disciplinary authority, not to exceed five thousand dollars per violation. The disciplinary authority must consider aggravating or mitigating circumstances in assessing any fine. Funds received must be deposited in the related program account;
- (i) Denial of an initial or renewal license application for an interval of time; or
- (j) Other corrective action.

(2) The disciplinary authority may require reimbursement to the disciplinary authority for the investigative costs incurred in investigating the matter that resulted in issuance

of an order under this section, but only if any of the sanctions in subsection (1)(a) through (j) of this section is ordered.

(3) Any of the actions under this section may be totally or partly stayed by the disciplinary authority. In determining what action is appropriate, the disciplinary authority must first consider what sanctions are necessary to protect the public health, safety, or welfare. Only after these provisions have been made may the disciplinary authority consider and include in the order requirements designed to rehabilitate the license holder or applicant. All costs associated with compliance with orders issued under this section are the obligation of the license holder or applicant.

(4) The licensee or applicant may enter into a stipulated disposition of charges that includes one or more of the sanctions of this section, but only after a statement of charges has been issued and the licensee has been afforded the opportunity for a hearing and has elected on the record to forego such a hearing. The stipulation shall either contain one or more specific findings of unprofessional conduct or a statement by the licensee acknowledging that evidence is sufficient to justify one or more specified findings of unprofessional conduct. The stipulations entered into under this subsection are considered formal disciplinary action for all purposes. [2007 c 256 § 18; 2002 c 86 § 112.]

18.235.120 Payment of a fine. Where payment of a fine is required as a result of a disciplinary action under RCW 18.235.060 or 18.235.150 and timely payment is not made as directed in the final order, the disciplinary authority may enforce the order for payment in the superior court in the county in which the hearing was held. This right of enforcement is in addition to any other rights the disciplinary authority may have as to any licensee ordered to pay a fine but may not be construed to limit a licensee's ability to seek judicial review under RCW 18.235.090. In any action for enforcement of an order of payment of a fine, the disciplinary authority's order is conclusive proof of the validity of the order of a fine and the terms of payment. [2002 c 86 § 113.]

18.235.130 Unprofessional conduct—Acts or conditions that constitute. The following conduct, acts, or conditions constitute unprofessional conduct for any license holder or applicant under the jurisdiction of this chapter:

(1) The commission of any act involving moral turpitude, dishonesty, or corruption relating to the practice of the person's profession or operation of the person's business, whether the act constitutes a crime or not. At the disciplinary hearing a certified copy of a final holding of any court of competent jurisdiction is conclusive evidence of the conduct of the license holder or applicant upon which a conviction or the final holding is based. Upon a conviction, however, the judgment and sentence is conclusive evidence at the ensuing disciplinary hearing of the guilt of the license holder or applicant of the crime described in the indictment or information, and of the person's violation of the statute on which it is based. For the purposes of this subsection, conviction includes all instances in which a plea of guilty or nolo contendere is the basis for the conviction and all proceedings in which the sentence has been deferred or suspended. Except as specifically provided by law, nothing in this subsection abrogates the provisions of chapter 9.96A RCW. However,

RCW 9.96A.020 does not apply to a person who is required to register as a sex offender under RCW 9A.44.130;

(2) Misrepresentation or concealment of a material fact in obtaining or renewing a license or in reinstatement thereof;

(3) Advertising that is false, deceptive, or misleading;

(4) Incompetence, negligence, or malpractice that results in harm or damage to another or that creates an unreasonable risk of harm or damage to another;

(5) The suspension, revocation, or restriction of a license to engage in any business or profession by competent authority in any state, federal, or foreign jurisdiction. A certified copy of the order, stipulation, or agreement is conclusive evidence of the revocation, suspension, or restriction;

(6) Failure to cooperate with the disciplinary authority in the course of an investigation, audit, or inspection authorized by law by:

(a) Not furnishing any papers or documents requested by the disciplinary authority;

(b) Not furnishing in writing an explanation covering the matter contained in a complaint when requested by the disciplinary authority;

(c) Not responding to a subpoena issued by the disciplinary authority, whether or not the recipient of the subpoena is the accused in the proceeding; or

(d) Not providing authorized access, during regular business hours, to representatives of the disciplinary authority conducting an investigation, inspection, or audit at facilities utilized by the license holder or applicant;

(7) Failure to comply with an order issued by the disciplinary authority;

(8) Violating any of the provisions of this chapter or the chapters specified in RCW 18.235.020(2) or any rules made by the disciplinary authority under the chapters specified in RCW 18.235.020(2);

(9) Aiding or abetting an unlicensed person to practice or operate a business or profession when a license is required;

(10) Practice or operation of a business or profession beyond the scope of practice or operation as defined by law or rule;

(11) Misrepresentation in any aspect of the conduct of the business or profession;

(12) Failure to adequately supervise or oversee auxiliary staff, whether employees or contractors, to the extent that consumers may be harmed or damaged;

(13) Conviction of any gross misdemeanor or felony relating to the practice of the person's profession or operation of the person's business. For the purposes of this subsection, conviction includes all instances in which a plea of guilty or nolo contendere is the basis for conviction and all proceedings in which the sentence has been deferred or suspended. Except as specifically provided by law, nothing in this subsection abrogates the provisions of chapter 9.96A RCW. However, RCW 9.96A.020 does not apply to a person who is required to register as a sex offender under RCW 9A.44.130;

(14) Interference with an investigation or disciplinary action by willful misrepresentation of facts before the disciplinary authority or its authorized representatives, or by the use of threats or harassment against any consumer or witness to discourage them from providing evidence in a disciplinary action or any other legal action, or by the use of financial inducements to any consumer or witness to prevent or

attempt to prevent him or her from providing evidence in a disciplinary action; and

(15) Engaging in unlicensed practice as defined in RCW 18.235.010. [2007 c 256 § 19; 2002 c 86 § 114.]

18.235.140 Final order issued under RCW 18.235.130—Failure to comply. If a person or business regulated by this chapter violates or fails to comply with a final order issued under RCW 18.235.130, the attorney general, any prosecuting attorney, the director, the board or commission, or any other person may maintain an action in the name of the state of Washington to enjoin the person from violating the order or failing to comply with the order. The injunction does not relieve the offender from criminal prosecution, but the remedy by injunction is in addition to the liability of the offender to criminal prosecution and disciplinary action. [2002 c 86 § 115.]

18.235.150 Investigation of complaint—Cease and desist order/notice of intent to issue—Final determination—Fine—Temporary cease and desist order—Action/who may maintain—Remedies not limited. (1) The disciplinary authority may investigate complaints concerning practice by unlicensed persons of a profession or business for which a license is required by the chapters specified in RCW 18.235.020. In the investigation of the complaints, the director has the same authority as provided the disciplinary authority under RCW 18.235.030.

(2) The disciplinary authority may issue a notice of intent to issue a cease and desist order to any person whom the disciplinary authority has reason to believe is engaged or is about to engage in the unlicensed practice of a profession or operation of a business for which a license is required by the chapters specified in RCW 18.235.020.

(3) The disciplinary authority may issue a notice of intent to issue a cease and desist order to any person whom the disciplinary authority has reason to believe is engaged or is about to engage in an act or practice constituting a violation of this chapter or the chapters specified in RCW 18.235.020(2) or a rule adopted or order issued under those chapters.

(4) The person to whom such a notice is issued may request an adjudicative proceeding to contest the allegations. The notice shall include a brief, plain statement of the alleged unlicensed activities, act, or practice constituting a violation of this chapter or the chapters specified in RCW 18.235.020(2) or a rule adopted or order issued under those chapters. The request for hearing must be filed within twenty days after service of the notice of intent to issue a cease and desist order. The failure to request a hearing constitutes a default, whereupon the disciplinary authority may enter a permanent cease and desist order, which may include a civil fine. All proceedings shall be conducted in accordance with chapter 34.05 RCW.

(5) If the disciplinary authority makes a final determination that a person has engaged or is engaging in unlicensed practice or other act or practice constituting a violation of this chapter or the chapters specified in RCW 18.235.020(2) or a rule adopted or order issued under those chapters, the disciplinary authority may issue a permanent cease and desist order. In addition, the disciplinary authority may impose a

civil fine in an amount not exceeding one thousand dollars for each day upon which the person engaged in the unlicensed practice of a profession or operation of a business for which a license is required by one or more of the chapters specified in RCW 18.235.020. The proceeds of such a fine shall be deposited in the related program account.

(6) The disciplinary authority may issue a temporary cease and desist order if a person is engaged or is about to engage in unlicensed practice or other act or practice constituting a violation of this chapter or the chapters specified in RCW 18.235.020(2) or a rule adopted or order issued under those chapters if the disciplinary authority makes a written finding of fact that the public interest will be irreparably harmed by delay in issuing an order. The person receiving a temporary cease and desist order shall be provided an opportunity for a prompt hearing. A temporary cease and desist order shall remain in effect until further order of the disciplinary authority. The failure to request a prompt or regularly scheduled hearing constitutes a default, whereupon the disciplinary authority may enter a permanent cease and desist order, which may include a civil fine.

(7) The cease and desist order is conclusive proof of unlicensed practice or other act or practice constituting a violation of this chapter or the chapters specified in RCW 18.235.020(2) or a rule adopted or order issued under those chapters and may be enforced under RCW 7.21.060. This method of enforcement of the cease and desist order or civil fine may be used in addition to, or as an alternative to, any provisions for enforcement of agency orders set out in chapter 34.05 RCW.

(8) The attorney general, a county prosecuting attorney, the director, a board or commission, or any person may, in accordance with the laws of this state governing injunctions, maintain an action in the name of the state of Washington to enjoin any person practicing a profession or business without a license for which a license is required by the chapters specified in RCW 18.235.020. All fees, fines, forfeitures, and penalties collected or assessed by a court because of a violation of this section shall be deposited in the related program account.

(9) The civil remedies in this section do not limit the ability to pursue criminal prosecution as authorized in any of the acts specified in RCW 18.235.020 nor do the civil remedies limit any criminal sanctions. [2007 c 256 § 20; 2002 c 86 § 116.]

18.235.160 Violation of injunction—Contempt of court—Civil penalty. A person or business that violates an injunction issued under this chapter may be found in contempt of court under RCW 7.21.010. Upon a finding by a court of competent jurisdiction that the person or business is in contempt, the court may order any remedial sanction as authorized by RCW 7.21.030. Further, the court may, in addition to the remedial sanctions available under RCW 7.21.030, order the person or business to pay a civil penalty to the state in an amount not to exceed twenty-five thousand dollars, which shall be deposited in the related program account. For the purposes of this section, the superior court issuing any injunction retains jurisdiction and the cause shall be continued, and in such cases the attorney general acting in the name

of the state may petition for the recovery of civil penalties. [2002 c 86 § 117.]

18.235.170 Misrepresentation—Gross misdemeanor.

A person who attempts to obtain, obtains, or attempts to maintain a license by willful misrepresentation or fraudulent representation is guilty of a gross misdemeanor. [2002 c 86 § 118.]

18.235.180 Crime or violation by license holder—Disciplinary authority may give notification. If the disciplinary authority has reason to believe that a license holder has committed a crime, or violated the laws of another regulatory body, the disciplinary authority may notify the attorney general or the county prosecuting attorney in the county in which the act took place, or other responsible official of the facts known to the disciplinary authority. [2002 c 86 § 119.]

18.235.190 Immunity from suit. The director, members of the boards or commissions, or individuals acting on their behalf are immune from suit in any action, civil or criminal, based on any disciplinary actions or other official acts performed in the course of their duties. [2002 c 86 § 120.]

18.235.200 Use of records—Exchange of information—Chapter does not affect or limit. This chapter does not affect the use of records, obtained from the director or the disciplinary authorities, in any existing investigation or action by any public agency. Nor does this chapter limit any existing exchange of information between the director or the disciplinary authorities and other public agencies. [2002 c 86 § 121.]

18.235.210 Application of chapter—January 1, 2003.

(1) This chapter applies to any conduct, acts, or conditions occurring on or after January 1, 2003.

(2) This chapter does not apply to or govern the construction of and disciplinary action for any conduct, acts, or conditions occurring prior to January 1, 2003. The conduct, acts, or conditions must be construed and disciplinary action taken according to the provisions of law existing at the time of the occurrence in the same manner as if this chapter had not been enacted.

(3) Notwithstanding subsection (2) of this section, this chapter applies to applications for licensure made on or after January 1, 2003. [2007 c 256 § 21; 2002 c 86 § 122.]

18.235.900 Short title. This chapter may be known and cited as the uniform regulation of business and professions act. [2002 c 86 § 123.]

18.235.901 Effective date—2002 c 86 §§ 101-123.

Sections 101 through 123 of this act take effect January 1, 2003. [2002 c 86 § 124.]

18.235.902 Part headings not law—2002 c 86. Part headings used in this act are not any part of the law. [2002 c 86 § 402.]

18.235.903 Severability—2002 c 86. If any provision of this act or its application to any person or circumstance is

held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [2002 c 86 § 404.]