

# SENATE BILL NO. 486

102ND GENERAL ASSEMBLY

INTRODUCED BY SENATOR WILLIAMS.

1845S.01H

KRISTINA MARTIN, Secretary

## AN ACT

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

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

Section A. Section 214.270, RSMo, is repealed and one new  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

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

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

7 (2) "Burial merchandise", a monument, marker,  
8 memorial, tombstone, headstone, urn, outer burial container,  
9 or similar article **[which]** **that** may contain specific  
10 lettering, shape, color, or design as specified by the  
11 purchaser;

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

15 (4) "Cemetery", property restricted in use for the  
16 interment of the human dead by formal dedication or  
17 reservation by deed but shall not include any of the  
18 foregoing held or operated by the state or federal

**EXPLANATION-Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

19 government or any political subdivision thereof, any  
20 incorporated city or town, any county, or any religious  
21 organization, cemetery association, or fraternal society  
22 holding the same for sale solely to members and their  
23 immediate families;

24 (5) "Cemetery association", any number of persons who  
25 shall have associated themselves by articles of agreement in  
26 writing as a not-for-profit association or organization,  
27 whether incorporated or unincorporated, formed for the  
28 purpose of ownership, preservation, care, maintenance,  
29 adornment, and administration of a cemetery. Cemetery  
30 associations shall be governed by a board of directors.  
31 Directors shall serve without compensation;

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

34 (7) "Cemetery prearranged contract", any contract with  
35 a cemetery or cemetery operator for burial merchandise or  
36 burial services covered by sections 214.270 to 214.410  
37 **[which] that** is entered into before the death of the  
38 individual for whom the burial merchandise or burial  
39 services are intended;

40 (8) "Cemetery service" or "burial service", those  
41 services performed by a cemetery owner or operator licensed  
42 as an endowed care or nonendowed cemetery including setting  
43 a monument or marker, setting a tent, excavating a grave,  
44 interment, entombment, inurnment, setting a vault, or other  
45 related services within the cemetery;

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

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

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

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

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

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

60 (15) "Endowed care", the maintenance, repair, and care  
61 of all burial space subject to the endowment within a  
62 cemetery, including any improvements made for the benefit of  
63 such burial space. Endowed care shall include the general  
64 overhead expenses needed to accomplish such maintenance,  
65 repair, care, and improvements. Endowed care shall include  
66 the terms perpetual care, permanent care, continual care,  
67 eternal care, care of duration, or any like term;

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

72 (17) "Endowed care fund", "endowed care trust", or  
73 "trust", any cash or cash equivalent, to include any income  
74 therefrom, impressed with a trust by the terms of any gift,  
75 grant, contribution, payment, devise, or bequest to an  
76 endowed care cemetery, or its endowed care trust, or funds  
77 to be delivered to an endowed care cemetery's trust received  
78 pursuant to a contract and accepted by any endowed care  
79 cemetery operator or [his] **the operator's** agent. This  
80 definition includes the terms endowed care funds,  
81 maintenance funds, memorial care funds, perpetual care  
82 funds, or any like term;

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

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

90           (20) "Escrow agreement", an agreement subject to  
91 approval by the office between an escrow agent and a  
92 cemetery operator or its agent or related party with common  
93 ownership[,] to receive and administer payments under  
94 cemetery prearranged contracts sold by the cemetery operator;

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

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

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

108           (24) "Government cemetery", or "municipal cemetery", a  
109 cemetery owned, operated, controlled, or managed by the  
110 federal government, the state, or a political subdivision of  
111 the state, including a county or municipality or  
112 instrumentality thereof;

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

116 (26) **"Human and pet cemetery"**, a tract of real estate  
117 **separate from a cemetery in which both human remains and the**  
118 **remains of creatures other than human may be interred and**  
119 **memorialized at the discretion of the lot holder and subject**  
120 **to the rules of the human and pet cemetery. Burial space in**  
121 **a human and pet cemetery shall have the same meaning as**  
122 **defined in this section but be applicable to pets as well as**  
123 **human dead. A human and pet cemetery shall be treated as a**  
124 **cemetery under sections 214.270 to 214.410 for purposes of**  
125 **licensing and endowed care;**

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

128 [(27)] (28) "Inurnment", placing an urn containing  
129 cremated remains in a burial space;

130 [(28)] (29) "Lawn crypt", a burial vault or other  
131 permanent container for a casket [which] **that** is permanently  
132 installed below ground prior to the time of the actual  
133 interment. A lawn crypt may permit single or multiple  
134 interments in a grave space;

135 [(29)] (30) "Mausoleum", a structure or building for  
136 the entombment of human remains in crypts;

137 [(30)] (31) "Niche", a space in a columbarium used or  
138 intended to be used for inurnment of cremated remains;

139 [(31)] (32) "Nonendowed care cemetery", or "nonendowed  
140 cemetery", a cemetery or a section of a cemetery for which  
141 no endowed care trust fund has been established in  
142 accordance with sections 214.270 to 214.410;

143 [(32)] (33) "Office", the office of endowed care  
144 cemeteries within the division of professional registration;

145 [(33)] (34) "Owner of burial space", a person to whom  
146 the cemetery operator or [his] **the operator's** authorized  
147 agent has transferred the right of use of burial space;

148 [(34)] (35) "Person", an individual, corporation,  
149 partnership, joint venture, association, trust, or any other  
150 legal entity;

151 [(35)] (36) "Registry", the list of cemeteries  
152 maintained in the division office for public review. The  
153 division may charge a fee for copies of the registry;

154 [(36)] (37) "Religious cemetery", a cemetery owned,  
155 operated, controlled, or managed by any church, convention  
156 of churches, religious order, or affiliated auxiliary  
157 thereof in which the sale of burial space is restricted  
158 solely to its members and their immediate families;

159 [(37)] (38) "Surface lawn crypt", a sealed burial  
160 chamber whose lid protrudes above the land surface;

161 [(38)] (39) "Total acreage", the entire tract [which]  
162 **that** is dedicated to or reserved for cemetery purposes;

163 [(39)] (40) "Trustee of an endowed care fund", the  
164 separate legal entity qualified under section 214.330  
165 appointed as trustee of an endowed care fund.

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