

AMENDED IN ASSEMBLY APRIL 16, 1996

CALIFORNIA LEGISLATURE—1995–96 REGULAR SESSION

ASSEMBLY BILL

No. 2234

Introduced by Assembly Member Willard Murray

February 13, 1996

An act to amend Sections 9650, 9650.4, ~~9751, 9752, 9753, 9754, 9755, 9756, 9757, 9758, 9759, 9760, 9760.5, 9760.6, 9761, 9762, 9763, 9764, and 9765~~ 9765, and 9786 of the Business and Professions Code, relating to cemeteries.

LEGISLATIVE COUNSEL'S DIGEST

AB 2234, as amended, W. Murray. Cemeteries: fees.

Existing law provides that the Department of Consumer Affairs succeeds to, and is vested with, all the duties, powers, purpose, responsibilities, and jurisdiction of the Cemetery Board as of January 1, 1996, in the absence of a consolidation of this board with the Funeral Directors and Embalmers Board or other restructuring of the boards.

The Cemetery Act provides for the regulation of certain private cemeteries and provides for reports and examinations of endowment care funds established by those cemeteries. Fees are established under the act for various cemetery licensees.

This bill would:

(1) ~~Provide that a cemetery must file the required annual report relative to endowment care funds on or before June 1 of each year, or within 2, rather than 5, months of the close of the cemetery's fiscal year, as specified.~~

~~(2)~~ Authorize the imposition of a fine of up to \$400, rather than \$200, for late endowment care reports.

~~(3) Double the existing level of fees for cemetery licensees~~

(2) Increase the amount of specified fees paid by a cemetery authority and a crematory licensee.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 9650 of the Business and
2 Professions Code is amended to read:

3 9650. Each cemetery authority shall file with the
4 board annually, on or before June 1, or within ~~two~~ five
5 months after close of its fiscal year provided approval has
6 been granted by the board as provided for in Section
7 9650.1, a written report in form prescribed by the board
8 setting forth:

9 (a) The number of square feet of grave space and the
10 number of crypts and niches sold or disposed of under
11 endowment care by specific periods as set forth in the
12 form prescribed.

13 (b) The amount collected and deposited in both the
14 general and special endowment care funds segregated as
15 to the amounts for crypts, niches and grave space by
16 specific periods as set forth either on the accrual or cash
17 basis at the option of the cemetery authority.

18 (c) A statement showing separately the total amount
19 of the general and special endowment care funds
20 invested in each of the investments authorized by law and
21 the amount of cash on hand not invested, which
22 statement shall actually show the financial condition of
23 the funds.

24 (d) A statement showing separately the location,
25 description, and character of the investments in which
26 the special endowment care funds are invested. The
27 statement shall show the valuations of any securities held
28 in the endowment care fund as valued pursuant to
29 Section 9659.



1 (e) A statement showing the transactions entered into
2 between the corporation or any officer, employee or
3 stockholder thereof and the trustees of the endowment
4 care funds with respect to those endowment care funds.
5 The statement shall show the dates, amounts of the
6 transactions, and shall contain a statement of the reasons
7 for those transactions.

8 The report shall be verified by the president or vice
9 president and one other officer of the cemetery
10 corporation and shall be certified by the accountant or
11 auditor preparing the report.

12 If a cemetery authority files a written request prior to
13 the date the report is due, the board may, in its discretion,
14 grant an additional 30 days within which to file the report.

15 SEC. 2. Section 9650.4 of the Business and Professions
16 Code is amended to read:

17 9650.4. (a) Any cemetery authority that does not file
18 its report within the time prescribed by Section 9650 may
19 be assessed a fine by the board in an amount not to exceed
20 four hundred dollars (\$400) per month for a maximum of
21 five months. The amount of the fine shall be established
22 by regulation in accordance with the Administrative
23 Procedure Act (Chapter 3.5 (commencing with Section
24 11340) of Part 1 of Division 3 of Title 2 of the Government
25 Code). Failure to pay the fine within 15 days after receipt
26 of written notification of the assessment or, where a
27 timely request for waiver or reduction of the fine has
28 been filed, within 15 days after receipt of written
29 notification of the board's decision in the matter, shall be
30 cause for disciplinary action.

31 (b) A cemetery authority may request waiver or
32 reduction of a fine by making a written request therefor.
33 The request shall be postmarked within the time
34 specified above for payment of the fine and shall be
35 accompanied by a statement showing good cause for the
36 request.

37 (c) The board may waive or reduce the fine where a
38 timely request is made and where it determines, in its
39 discretion, that the cemetery authority has made a



1 sufficient showing of good cause for the waiver or
2 reduction.

3 ~~SEC. 3. Section 9751 of the Business and Professions~~
4 ~~Code is amended to read:~~

5 ~~9751. The original cemetery broker's license fee shall~~
6 ~~be fixed by the board at not more than eight hundred~~
7 ~~dollars (\$800).~~

8 ~~SEC. 4. Section 9752 of the Business and Professions~~
9 ~~Code is amended to read:~~

10 ~~9752. The original cemetery broker's license fee is~~
11 ~~payable at the time of the filing of an application for an~~
12 ~~original cemetery broker's license.~~

13 ~~If the applicant fails the required written examination,~~
14 ~~he may be permitted to take another examination upon~~
15 ~~the filing of an application for reexamination and the~~
16 ~~payment of a reexamination fee. This reexamination fee~~
17 ~~shall be fixed by the board at not more than two hundred~~
18 ~~dollars (\$200).~~

19 ~~No part of any original cemetery broker's license fee or~~
20 ~~re-examination fee is refundable. It is deemed earned~~
21 ~~upon receipt by the board, whether the accompanying~~
22 ~~application for license is complete or incomplete.~~

23 ~~SEC. 5. Section 9753 of the Business and Professions~~
24 ~~Code is amended to read:~~

25 ~~9753. The annual renewal fee for a cemetery broker's~~
26 ~~license shall be fixed by the board at not more than six~~
27 ~~hundred dollars (\$600).~~

28 ~~SEC. 6. Section 9754 of the Business and Professions~~
29 ~~Code is amended to read:~~

30 ~~9754. If the licensee is a cemetery brokerage~~
31 ~~corporation, the license issued to it entitles one officer~~
32 ~~only, on behalf of the corporation, to engage in the~~
33 ~~business of a cemetery broker without the payment of~~
34 ~~further fee, that officer to be designated in the~~
35 ~~application of the corporation for a license. For each~~
36 ~~other officer of a licensed cemetery brokerage~~
37 ~~corporation, through whom it engages in the business of~~
38 ~~a cemetery broker, the annual renewal fee, in addition to~~
39 ~~the fee paid by the corporation, shall be fixed by the board~~
40 ~~at not more than two hundred dollars (\$200).~~



1 ~~SEC. 7. Section 9755 of the Business and Professions~~
2 ~~Code is amended to read:~~

3 ~~9755. If the licensee is a cemetery brokerage~~
4 ~~partnership, the license issued to it entitles one member~~
5 ~~only of the partnership to engage on behalf of the~~
6 ~~partnership in the business of a cemetery broker, which~~
7 ~~member shall be designated in the application of the~~
8 ~~partnership for a license. For each other member of the~~
9 ~~partnership who on behalf of the partnership engages in~~
10 ~~the business of a cemetery broker, the annual renewal~~
11 ~~fee, in addition to the fee paid by the partnership, shall be~~
12 ~~fixed by the board at not more than two hundred dollars~~
13 ~~(\$200).~~

14 ~~SEC. 8. Section 9756 of the Business and Professions~~
15 ~~Code is amended to read:~~

16 ~~9756. The cemetery salesperson's license fee shall be~~
17 ~~fixed by the board at not more than sixty dollars (\$60).~~

18 ~~SEC. 9. Section 9757 of the Business and Professions~~
19 ~~Code is amended to read:~~

20 ~~9757. A cemetery salesperson's license fee is payable~~
21 ~~on each filing of an application for a cemetery~~
22 ~~salesperson's license.~~

23 ~~If the applicant fails the required written examination,~~
24 ~~or she may be permitted to take another examination~~
25 ~~upon the filing of an application for reexamination and~~
26 ~~the payment of a reexamination fee which shall be fixed~~
27 ~~by the board at not more than thirty dollars (\$30).~~

28 ~~SEC. 10. Section 9758 of the Business and Professions~~
29 ~~Code is amended to read:~~

30 ~~9758. No part of any original or temporary cemetery~~
31 ~~salesperson's license fee is refundable. It is deemed~~
32 ~~earned upon receipt by the board, whether the~~
33 ~~accompanying application for license is complete or~~
34 ~~incomplete.~~

35 ~~SEC. 11. Section 9759 of the Business and Professions~~
36 ~~Code is amended to read:~~

37 ~~9759. The annual renewal fee for a cemetery~~
38 ~~salesperson's license shall be fixed by the board at not~~
39 ~~more than fifty dollars (\$50).~~



1 ~~SEC. 12. Section 9760 of the Business and Professions~~
2 ~~Code is amended to read:~~

3 ~~9760. For a branch office broker's license, the fee shall~~
4 ~~be fixed by the board at not more than two hundred~~
5 ~~dollars (\$200).~~

6 ~~SEC. 13. Section 9760.5 of the Business and~~
7 ~~Professions Code is amended to read:~~

8 ~~9760.5. The cremated remains disposer registration~~
9 ~~fee shall be two hundred dollars (\$200).~~

10 ~~SEC. 14. Section 9760.6 of the Business and~~
11 ~~Professions Code is amended to read:~~

12 ~~9760.6. The renewal fee for a cremated remains~~
13 ~~disposer registration shall be one hundred dollars (\$100).~~

14 ~~SEC. 15. Section 9761 of the Business and Professions~~
15 ~~Code is amended to read:~~

16 ~~9761. For change of name or of address of licensee on~~
17 ~~the records of the board, the fee shall be fixed by the~~
18 ~~board at not more than fifty dollars (\$50).~~

19 ~~SEC. 16. Section 9762 of the Business and Professions~~
20 ~~Code is amended to read:~~

21 ~~9762. For transfer of a salesperson's license on change~~
22 ~~of employer, the fee shall be fixed by the board at not~~
23 ~~more than fifty dollars (\$50).~~

24 ~~SEC. 17. Section 9763 of the Business and Professions~~
25 ~~Code is amended to read:~~

26 ~~9763. For a duplicate license the fee shall be fixed by~~
27 ~~the board at not more than fifty dollars (\$50).~~

28 ~~SEC. 18. Section 9764 of the Business and Professions~~
29 ~~Code is amended to read:~~

30 ~~9764. For reinstatement of a license within the fiscal~~
31 ~~year, the fee shall be fixed by the board at not more than~~
32 ~~fifty dollars (\$50).~~

33 ~~As used in this section, "reinstatement of a license"~~
34 ~~means the reissuance of a canceled cemetery broker's~~
35 ~~license, or a cemetery salesperson's license which was~~
36 ~~canceled during the year for which it was issued upon the~~
37 ~~salesperson's withdrawal from the employ of a cemetery~~
38 ~~broker.~~

39 ~~SEC. 19. Section 9765 of the Business and Professions~~
40 ~~Code is amended to read:~~



1 ~~9765. Every cemetery authority operating a~~
 2 ~~cemetery shall pay an annual regulatory charge for each~~
 3 ~~cemetery to be fixed by the board at not more than eight~~
 4 ~~hundred dollars (\$800), plus an additional charge of not~~
 5 ~~more than one dollar (\$1) for each burial, entombment,~~
 6 ~~or inurnment, and not more than two dollars (\$2) for each~~
 7 ~~cremation, made during the preceding full calendar year,~~
 8 ~~which charges shall be deposited in the Cemetery Fund.~~
 9 ~~If the cemetery authority performed the cremation and~~
 10 ~~either the burial, entombment, or inurnment, the total of~~
 11 ~~all additional charges shall be not more than two dollars~~
 12 ~~(\$2).~~

13 ~~SEC. 20.—~~

14 *SEC. 3. Section 9765 of the Business and Professions*
 15 *Code is amended to read:*

16 9765. Every cemetery authority operating a
 17 cemetery shall pay an annual regulatory charge for each
 18 cemetery to be fixed by the board at not more than four
 19 hundred dollars (\$400), ~~plus.~~ *In addition to an annual*
 20 *quarterly charge of not more than fifty cents (\$.50)*
 21 *twenty-four dollars (\$24) for each burial, entombment, or*
 22 *inurnment, and not more than one dollar (\$1)*
 23 *twenty-four dollars (\$24) for each cremation, made*
 24 *during the preceding full calendar year, which quarter*
 25 *shall be paid to the department and these charges shall be*
 26 *deposited in the Cemetery Fund. If the cemetery*
 27 *authority performed the cremation and either the burial,*
 28 *entombment, or inurnment, the total of all additional*
 29 *charges shall be not more than one dollar (\$1) forty-eight*
 30 *dollars (\$48).*

32 *SEC. 4. Section 9786 of the Business and Professions*
 33 *Code is amended to read:*

34 9786. Every crematory licensee operating a
 35 crematory pursuant to a license issued in compliance with
 36 this article shall pay an annual regulatory charge for each
 37 crematory, to be fixed by the board at not more than four
 38 hundred dollars (\$400), ~~plus.~~ *In addition to an annual*
 39 *regulatory charge for each crematory, every licensee*
 40 *operating a crematory pursuant to a license issued*



1 *pursuant to this article shall pay* an additional charge of
2 not more than ~~one dollar (\$1)~~ *twenty-four dollars (\$24)*
3 per cremation made during the preceding ~~full calendar~~
4 ~~year~~ *quarter*, which charges shall be deposited in the
5 Cemetery Fund.

6 *SEC. 5.* All references in this act to the Cemetery
7 Board shall be deemed to refer to the Department of
8 Consumer Affairs, pursuant to Section 102.1 of the
9 Business and Professions Code.

