

AMENDED IN SENATE JUNE 16, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 124

Introduced by Assembly Member Galgiani
(Coauthor: Senator Denham)

January 15, 2009

An act to add Section 9723.3 to the Business and Professions Code, relating to cemeteries, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 124, as amended, Galgiani. Cemeteries: temporary manager.

Existing law, the Cemetery Act, provides for the licensing and regulation of certain private cemeteries by the Cemetery and Funeral Bureau. Existing law requires all cemeteries for which a certificate of authority is required to be supervised by a licensed cemetery manager, and prohibits a person from engaging in the business of, acting as, or advertising as, a cemetery manager without a license from the bureau and without being employed by, or a corporate officer of, a licensed cemetery.

This bill would, notwithstanding any other provision of law, authorize a court of competent jurisdiction, based upon the court's finding that a ~~licensed~~ cemetery manager *of a private cemetery* has ceased to perform his or her duties due to a lapse, suspension, surrender, abandonment, or revocation of his or her license, to appoint a temporary manager to manage the property of, and certain services provided by, the ~~licensed~~ *private* cemetery, as provided, for a limited term of 6 months or until a new licensed *cemetery* manager is hired. The bill would permit the court to authorize the payment of reasonable compensation for the

temporary manager's services, to be paid by the trustees from available income from the cemetery's endowment care fund, and, if appropriate, available income from the cemetery's special care funds, as provided.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. 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 9723.3 is added to the Business and
2 Professions Code, to read:

3 9723.3. (a) Notwithstanding any other provision of law, based
4 upon a finding by a court of competent jurisdiction that a cemetery
5 manager *of a private cemetery* has ceased to perform his or her
6 duties, as described in subdivision (a) of Section 9605.1, due to a
7 lapse, suspension, surrender, abandonment, or revocation of his
8 or her license, the court may appoint a temporary manager to
9 manage the cemetery property and to service the prepaid interments
10 of the ~~licensed private~~ cemetery. The court shall appoint a licensed
11 cemetery manager as the temporary manager.

12 (b) The appointed temporary manager shall have the same
13 powers over the care and maintenance of the ~~licensed private~~
14 cemetery as a licensed cemetery manager, as described in
15 subdivision (a) of Section 9605.1. The temporary manager shall
16 serve for a limited term not to exceed six months, or until a new
17 licensed manager has been hired, at which time the court shall
18 terminate *the* appointment of the temporary manager.

19 (c) The court may authorize the payment of reasonable
20 compensation for the temporary manager's services, which shall
21 be paid by the trustees from available income from the cemetery's
22 endowment care fund, and, if appropriate, from available income
23 from the cemetery's special care funds. In exercising its discretion
24 pursuant to this subdivision, the court shall give due consideration
25 to the ability of the trust fund income to otherwise pay for care
26 and maintenance of the cemetery.

27 SEC. 2. This act is an urgency statute necessary for the
28 immediate preservation of the public peace, health, or safety within
29 the meaning of Article IV of the Constitution and shall go into
30 immediate effect. The facts constituting the necessity are:

1 In order to prevent the prolonged absence of management of
2 certain private cemeteries, and to ensure the public health and
3 safety of the communities in which those private cemeteries are
4 located at the earliest possible time, it is necessary that this act
5 take effect immediately.

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