



Department of Veterans Services

John R. Kasich, Governor
Timothy C. Gorrell, Director

Assistant Director Jason Dominguez Ohio Department of Veteran Services Ohio Cemetery Law Task Force

Members of the Ohio Cemetery Law Task Force, thank you for the opportunity to provide testimony on behalf of the Ohio Department of Veteran Services. Ohio has the 6th largest veterans' population in the nation and currently there are approximately 900,000 veterans residing within the state—not including their spouses. Without question, the proper burial, recognition and honor of all veterans is of paramount importance to our department and our partners at the county level.

The Ohio Department of Veteran Services, ODVS, maintains the Ohio Veterans Home Cemetery located onsite of our Sandusky Veterans Home in Erie County. Our Sandusky Cemetery is proud to be the final resting place of over 4,000 Ohio veterans. Any veteran residing in the state of Ohio can request a burial in the cemetery, and approximately 24 veterans are buried each year. While ODVS staff maintains the grounds, we do so in conjunction with federal cemetery standards and federal VA funding. Ohio has only one official veterans' cemetery, we predominantly rely on our County Veteran Service Officers in all 88 counties to provide for burial of neglected and indigent veterans within their county.

Ohio Revised Code section 5901 charges that County Veteran Service Officers shall:

- Provide for the burial of neglected and indigent veterans.
- Provide for the purchase and maintenance of those plots of ground for deceased veterans and their spouses.
- Care for and properly preserve the portions of cemeteries set apart for the burial of veterans.

County Veteran Service officers are employees of the county and are required to maintain accreditation by the ODVS. The activities of every County Veteran Service Office are funded by local inside millage county dollars. ODVS supports the efforts of the service officers and also responds to the questions and concerns of all Ohio veterans and their family members. Every county has its own unique challenges and history as it pertains to the burial of veterans. Many private family-run cemeteries have lost resources and funding over the years causing veterans gravesites to become vandalized or robbed. Creeks or rivers have eroded cemeteries with veterans' remains that were buried in the early 1900s.

ODVS does hear from County Veteran Service Officers and family members of deceased veterans, their frustration with providing funds for plot maintenance without the evidence of proper care of the cemetery grounds. ODVS also has stories of counties restoring the cemeteries of veterans and seeking national grants and local partnerships to cover the costs. The creation of the Ohio Cemetery Law Task Force has provided a new partnership opportunity we may have overlooked in our brief time as an agency. ODVS trains County Veteran Service Officers quarterly in many cases, and with appropriate materials from the Department of Commerce I believe we could give our county partners the tools they

need to hold private cemetery owners accountable. The Division of Real Estate & Professional Licensing can only investigate when they are aware of a potential issue, and we are committed to passing along all issues that come to our office relating to veterans cemeteries or veterans plots. The Federal Department of Veterans Affairs will cover the cost of a new headstone; but we will always rely on the local cemetery owner to provide for the care of the plot and surrounding land. ODVS will only be able to ensure proper care in partnership with the Department of Commerce.

ODVS is also proud to share that we partnered with Congressman Tiberi, Congressman Stivers and Senator Portman to pass the federal "Missing in America Act," which is working to bring about proper burial for veterans unclaimed remains that have been sitting on shelves in hospitals and funeral homes awaiting dignified burial. These burials will be occurring around the state are possible because of our local dedicated County Veteran Service Officers, veteran service organizations and committed local volunteers. One last issue we are aware of is the act of stolen grave markers for scrap metal across the state. We at ODVS would like to engage in discussion about the potential of increasing the penalty for stealing the grave markers from a veteran's tombstone.

Ohio Revised Code Provisions for Veteran Burial & Care

5901.16 Application or petition for veterans plot in cemetery.

Upon application in writing by a veterans organization in any municipal corporation or township, or upon a petition in writing by five or more veterans in any municipal corporation or township where no veterans organization exists, the veterans service commission of any county shall purchase or provide a veterans plot in any cemetery in such county or municipal corporation where no burial plot is provided, for the burial, removal, and reinterment of the bodies of neglected and indigent veterans.

The expense of such purchase shall be filed with and audited by the county auditor, who shall issue a warrant for it upon the county treasurer, who shall pay such warrant from the general fund of the county.

5901.22 Contracts with cemetery associations for purchase and maintenance of plots.

The board of county commissioners, the board of township trustees, or the legislative authority of a municipal corporation may enter into contracts with cemetery associations providing for the purchase and maintenance, in cemeteries within the county, of plots of ground for the burial of deceased veterans and the deceased spouses of veterans. Any such purchase may be made either by cash or by installment payments. The purchase price and maintenance cost of all such burial plots shall be paid from the treasury of the county, township, or municipal corporation contracting for such plots.

5901.24 Burial in cemetery not provided with plot.

If it is desired to bury the body or cremated remains of any deceased veteran in any cemetery not having a burial plot as provided by section 5901.22 of the Revised Code, the board of county commissioners, any board of township trustees, or the legislative authority of any municipal corporation in the county in which the cemetery is situated may purchase a space for the grave of the veteran or the veteran's cremated remains, provide for the care of the plot, and pay the amount of the purchase price and maintenance cost from the funds in the treasury of the county, township, or municipal corporation.

5901.37 Care of portion of cemetery set apart for burial of veterans.

In any county having a cemetery or part of it set apart for the burial of veterans, or containing a monument erected to their memory, or containing monuments and memorials erected by private or public expense to the memory of veterans, the board of county commissioners shall care for and properly preserve that portion of the cemetery so set apart for the burial of such veterans, and shall care for and properly preserve the monuments or memorials, and the board shall pay all expenses incident to such care and preservation from the general fund of the county.

Anne M. Petit
Superintendent
Ohio Department of Commerce
Division of Real Estate & Professional Licensing

February 13, 2014

Dear Ms. Petit,

The Foxfield Preserve nature preserve cemetery opened in the summer of 2008. It was founded by The Wilderness Center with the guidance of national leaders in the natural burial movement, along with a regulatory review by former Department of Commerce cemetery inspector Ted Hornyak. We were among the first nature preserve cemeteries in the country, and brought recognition to Ohio as the first nature preserve cemetery in the country to be operated by a nonprofit conservation organization.

At Foxfield Preserve we perform natural burials. Burials take place in biodegradable containers, such as simple pine caskets or burial shrouds. No embalming, vaults, or metal caskets are used. The goal is to encourage the body's natural return to the earth. Most importantly, we are providing families across the state of Ohio – and many from across the country – with a simple, respectful and meaningful burial alternative. Our families find a great deal of comfort in the thought that their burial will provide many benefits to the community. In this way they are able to make their last act a gift.

As a nature center and land conservancy, The Wilderness Center has a 50-year history of service to our community. Foxfield Preserve builds on that proud tradition. At Foxfield Preserve, 43 acres of abandoned farmland is being restored to a natural state. As a part of The Wilderness Center's conservation efforts, Foxfield provides our community with cleaner air, a cleaner watershed, wildlife habitat and public walking trails.

Foxfield Preserve is a nature preserve first. It does not look like a modern cemetery. There are no paved roads, stone monuments or mowed lawns. Visitors are greeted by tall prairie grasses and wildflowers, and a reforested hillside. While our cemetery is surveyed and plotted as any other cemetery in the state, families are provided with GPS coordinates to assist in locating a gravesite.

This unique setting requires a more modest maintenance approach. Healthy growth of our prairie is maintained through occasional prescribed fire. Natural reforestation is guided by naturalists. To the benefit of all involved, these maintenance techniques are comparatively low-cost because they simply assist natural processes. Our families understand and appreciate the science-based principles which govern the management of our cemetery. This fundamental difference should be taken into account by the Cemetery Law Task Force in considering any alteration to maintenance standards in our state laws.

The outlook for the future of natural burial is bright, and indicates that natural burial is here to stay. National polls by the AARP reflect that this alternative should be expected to increase in popularity in coming years. As leaders in this movement, Foxfield Preserve has been called on to consult with organizations in Ohio and across the nation to help establish other nature preserve cemeteries. Several variations of the natural burial cemetery model are being planned in Ohio.

As a burgeoning market emerges for natural burial, it has brought with it reports of consumers being misled by reportedly "green" services across the country. We were dismayed to hear of this reported 'greenwashing,' and are anxious to protect Ohio consumers. We have been working with a national nonprofit group, the Green Burial Council, to establish standards for independent certification of natural burial grounds across the country. This certification requires the cemetery to operate with a conservation easement, and establishes guidelines advising best practices in land restoration and management based on the recommendations of an independent professional in the field of biology/restoration ecology. We encourage the Cemetery Law Task Force to review the attached draft of standards under development by the Green Burial Council for guidance, as the emerging natural burial market in Ohio will only continue to grow in the future.

We would welcome a visit from any member of this Task Force, and would be pleased to offer you a tour of our facility. Thank you for the opportunity to share our concerns, and participate in this process. We look forward to answering any questions during the meeting on February 21, 2014.

Sincerely,

Sara Brink
Foxfield Preserve Steward
The Wilderness Center

The following standards are part of an ongoing review process by the Standards Review Committee, and have not yet been approved by the Green Burial Council's Board of Trustees.

- **Conduct a biological evaluation including baseline information on existing geology, hydrology, soils, and topography, and on both existing and potential vegetation and wildlife. This evaluation must be used by the facility designers and operators to ensure that existing site resources are not degraded, and that the potential for re-introducing native species is given appropriate consideration in design and planning.**
- **Conduct an assessment (to be done by an independent professional in the field of biology/restoration ecology) that identifies any issues related to endangered species of plants/animals, cultural resources, and hydrology.**
- **The land must represent a historic native/natural community of the region either through preservation, enhancement or restoration. Cemeteries that are contiguous to or that provide connectivity to other protected areas are preferable.**
- **Adherence to the certification requirements at any level (except for hybrids) must be guaranteed by deed restriction, conservation easement, or other legally binding and irrevocable agreement.**
- **Establish an endowment fund to ensure the long-term maintenance of the land and its trail system by setting aside at least 10% of all burial plot sales.**
- **The facility, or a designated portion of the facility, must be reserved for burial that does not require the use of a vault (partial, inverted, or otherwise), a vault lid, concrete box, slab or partitioned liner.**
- **Be owned by, or operated in conjunction with a government agency or a nonprofit conservation organization that is recognized by the Internal Revenue Service as a public charity and in business for at least five years (the "conservation partner"). The conservation partner must have legally binding responsibility for perpetual stewardship of the land, both in the operational facility and in the conservation area(s), and must set all conservation policies.**
- **Utilize a deed restriction (if operator is a nonprofit conservation organization that has been established for at least five years) or a conservation easement that incorporates these standards. A conservation easement must also conform to all provisions of the Internal Revenue Code Section 170(h) and provide for public access to and through the site, particularly to connect it to adjoining protected open space, to the extent public use of the property is compatible with.**

- **Adherence to the certification requirements at any level (except for hybrids) must be guaranteed by deed restriction, conservation easement, or other legally binding and irrevocable agreement. Such agreement(s) must run with the land and be enforceable in perpetuity, equivalent to the force of requirements for perpetual maintenance of conventional cemeteries. In some instances, the GBC will allow for nonprofit operators of to utilize cemetery "rules and regulations" as a means of memorializing the GBC approved protocols/practices.**

Name – Rich Finn

Title - Director of Cemeteries, Catholic Diocese of Columbus.

Representing Catholic Cemeteries of Ohio, an organization of small, medium and large Catholic Cemeteries within the six Catholic Diocese in the state of Ohio.

I would like to thank the Task Force Committee for the opportunity to provide testimony today on behalf of our organization.

Our Catholic faith teaches that the care and burial of the dead is a Corporal Work of Mercy. We view our work in helping families and caring for their burial places as more of a ministry rather than the operation of a business.

Many of our members are involved with our national organization, the Catholic Cemetery Conference, and have many years of experience in cemetery management.

The state of Ohio has been progressive in the regulation of cemeteries and the current structure seems to be working well. The Cemetery Dispute Resolution Commission has provided a valuable service to both consumers and cemeterians.

We have concerns regarding the vandalism and desecration of cemeteries and wish to look at ways to better deter those that enter our properties with bad intentions.

We offer our experience to the Task Force and hope to be able to provide input to the Task Force as your goals are formed.

Again, thank you for the opportunity.

**TESTIMONY OF
TIMOTHY C. LONG
ON BEHALF OF THE
OHIO CEMETERY ASSOCIATION, INC.
BEFORE THE
OHIO CEMETERY LAW TASK FORCE
FEBRUARY 21, 2014**

Chairman Petit, Chairman Noonan and members of the Ohio Cemetery Law Task Force, my name is Timothy C. Long. Since January 1, 2011, I have served as Legislative Agent and attorney for Ohio Cemetery Association, Inc. ("OCA"), a statewide trade association with all types of Ohio cemeteries comprising its membership. Prior to that time, I represented one of the OCA's constituent entities, the OACS&O, from 1994 through the end of 2010, when the OACS&O was merged into the newly formed OCA.

In connection with my representation of such cemetery trade associations, I have authored three legal guidebooks regarding Ohio cemetery law and have participated in every legislative effort involving cemeteries for the last two decades.

I am pleased to inform this body that the legislative effort during such time period which gave rise to the most pervasive embellishments to the statutes pertaining to cemeteries was brought about through the efforts of the cemetery industry itself. Such effort, which occurred in the late 1990s, expanded Ohio Revised Code 1721.211 to preclude sales of any type of cemetery merchandise and services, revised both ORC 1721.21 and 1721.211 to require that funds held pursuant to such sections be held in formal "Trusts" by qualified "Trustees" and greatly expanded the power and authority of the Ohio Cemetery Dispute Resolution Commission ("OCDRC").

I am also pleased to offer our opinion that the vast majority of Ohio cemetery laws accomplish their intended purposes very well. Ohio cemeteries are regulated where they need to be regulated. For instance, the Department of Commerce, Division of Real Estate, Cemetery Section oversees each cemetery's required Trust funds. Conversely, cemeteries all have broad rule making authority and, therefore, are not over regulated and can appropriately deal with "local" challenges and characteristics.

Similar to such balance, the Legislature has appropriately differentiated between cemeteries and funeral homes. Although such entities share space and responsibility in the overall "death industry", their differences far outnumber their similarities. Specifically, most cemeteries are nonprofit establishments while funeral homes are for profit businesses. Cemeteries must maintain their grounds in perpetuity, while funeral homes can and do, on occasion, simply close their doors forever. There are many other differences upon which the Legislature likely focused over time as it continued to treat these dissimilar businesses with the requisite degree of specificity.

Additionally, we would like to emphasize that from the OCA's perspective, the OCDRC is working well and is critical. While others here can provide the statistics on the number of cases opened and resolved per annum, our members routinely confirm that both consumers and the cemeteries benefit by the Commission's more cemetery specific handling and knowledge of any issues than they would via a general consumer protection vehicle. Specifically, many matters are closed simply after a third party with industry knowledge intervenes to explain some facet of the industry and serve as a line of communication.

While the OCA is generally pleased with the statutory environment within which its members operate, there are always areas that could be improved. In that regard, we have participated since last fall in efforts to discuss and revise the "Department Bill" and, subject to agreeing to precise language, support the many initiatives contained therein.

There is also an area where Ohio law pertaining to the death care industry is lagging behind many other states. The OCA believes that alkaline hydrolysis should be a sanctioned method of final disposition in Ohio.

Finally, there is one area where the Ohio laws are being unfairly applied to Ohio cemeteries. Ohio Cemetery salespersons are being wrongfully rated by the Ohio Bureau of Worker's Compensation. Specifically, if a cemetery salesperson shows any grave spaces to customers as part of his or her duties, the Bureau rates such person identical to a cemetery grounds worker. We know of no other industry where the salesperson is rated identical to a laborer. As you can see from the attached letter, which provides greater detail, we have been working on this issue from quite some time. This matter demands a legislative solution.

I would be pleased to address any questions.

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FILE COPY

June 15, 2007

Via Email

Marsha Ryan
Administrator/CEO
Ohio Bureau of Worker's Compensation
30 W. Spring Street, Level 29
Columbus, Ohio 43215-2256

Re: Reclassification of Cemetery Salespersons

Dear Administrator/CEO Ryan:

I am writing on behalf of my client, the Ohio Association of Cemetery Superintendents & Officials ("Association") to request that you review a situation which is having a detrimental impact on Ohio's cemetery industry and use your discretion as OBWC Administrator/CEO to remedy the situation.

The situation started in the fall of 2004 when the Bureau conducted several audits of cemetery properties (mostly larger properties were audited). Several of the audit reports indicted deficiencies due to what was claimed as improper reporting of cemetery salespersons. Specifically, the cemeteries were told that their salespersons must be reported under Scope 9220 if they show grave spaces as part of their job duties. Scope 9220 is applicable to cemetery maintenance personnel and carries a rate approximately ten times greater than that of the scope traditionally applicable to cemetery salespersons (Scope 8742).

Since the fall of 2004, I have been working through OBWC staff on behalf of the Association (mostly with Michael Glass) to come up with a solution to the situation. We have been told that the Bureau strictly adheres to NCCI's National Scopes. As such, we wrote to NCCI to request that they share their statistical or other basis for including salespersons in Scope 9220. NCCI responded to your staff that the "showing gravesites" clause was added to Scope 9220 as of January 1, 2002, but that they have no empirical data to support that the addition was justified from a risk standpoint *or any record at all as to why the change was made.*

Additionally, the experience of the Association's members indicates that there have been practically no claims by cemetery salespersons in Ohio. The Association conducted a survey of not only its members but of all cemeteries in Ohio known to have sales staffs with exclusive responsibility to the sales process (i.e. one or more persons with only sales duties and no maintenance duties). The survey indicated that over the last five years there were only two injuries to cemetery salespersons (only one of those involved an injury outside of a building!). This information was shared with the Bureau, was initially responded to favorably and led to a "field trip" to a Cincinnati cemetery property to further study the risk (again, initial positive comments and promises only to be followed-up with letter of denial).

As you undoubtedly have discovered, several cemeteries appealed the findings of their respective Audit Reports to the Adjudicating Committee and then appealed to the Administrator's Designee after the Adjudicating Committee blindly followed the language of Scope 9220 to uphold the Audit Report. Thereafter, the Administrator's Designees have been adhering to the black letter of the Scope at issue.

The gravity of this matter dictates that it will not simply disappear at this point. I have enclosed several financial summaries which were prepared in anticipation of our meeting. Each summary indicates the premium difference caused by the revision of Scope 9220 for a particular cemetery. Please take special note of the Spring Grove Cemetery summary. As you will see, Spring Grove's premiums have increased by more than \$195,000.00 over thirty months. Naturally, this has been more than devastating to one of the oldest cemeteries in Ohio.

Throughout the Bureau's handling of this matter, no one has bothered to look at this situation logically. In fact, we feel that the only goal of staff under the previous administration in dealing with us was to delay our member's from filing their respective appeals. Obviously, there are many routes left for my client's members to pursue. However, we truly believe that this is a situation that naturally lends itself to an administrative remedy as it was caused administratively. We understand that you have the power to avoid all of this by directing that a special exception to scope 9220 be enacted and look forward to your "fresh look" at this situation. I will look forward to meeting with you on June 20th to further elaborate on the information provided herein and explore the process to administratively rectify this situation.

Very truly yours,



Timothy C. Long

Cc: OACS&O Legislative Committee (via email)



Department of Commerce

Division of Real Estate &
Professional Licensing
John R. Kaulich, Governor
Andre T. Pirtaz, Director

Cemetery Registration

1. Process –
 - a. Registration form, list of persons authorized to sell interment rights, for CRCs endowment trust and maybe preneed merchandise and services trust
 - b. Fee – twenty-five dollars for one cemetery, forty dollars for two cemeteries, and fifty dollars for three or more cemeteries; except that no fee shall be required of any political subdivision
 - c. Current registration numbers – total number of cemeteries 3,619
 - i. Cemetery Associations – 282
 - ii. Religious/Benevolent/Fraternal – 575
 - iii. Governmental – 2,762
 - iv. Operators – 1,646

Ohio Cemetery Dispute Resolution Commission

1. 9 member commission – 7 representing the three types of cemeteries and 2 public members, that assist in resolving complaints against registered cemeteries using informal techniques of mediation.
2. Complaint process – currently registered cemeteries only
3. Authority
 - a. Review financial records (ORC 1721.21 and 1721.211) at renewal or upon proposed transfer of assets or stock of a cemetery;
 - b. Refer alleged violations of ORC 1721.19, 1721.20, 1721.21, 1721.211, 4767.02, 4767.03 to county prosecutor;
 - c. Refer alleged violations of Consumer Sales Practices Act to Attorney General
 - d. Minimum Maintenance Guidelines

Modernization of ORC 4767

1. See attached



Department of Commerce

Division of Real Estate &
Professional Licensing
John R. Kasich, Governor
Andrea T. Porter, Director

Cemetery Minimum Maintenance Guidelines By The Ohio Cemetery Dispute Resolution Commission

ORC Section 4767.06(H) Adopt and publish suggested maintenance guidelines for all cemeteries registered in the state of Ohio under ORC Chapter 4767

Definitions

- **"Person"** means any corporation, company, partnership, individual or other entity owning or operating a cemetery for the disposition of human remains.
- **"Cemetery"** means any one or a combination of more than one of the following: a burial ground for earth interments, a mausoleum for crypt entombments, a columbarium for the deposit of cremated remains, a scattering ground for the spreading of cremated remains.
- **"Interment"** means the disposition of human remains by earth burial, entombment or inurnment.
- **"Burial Right"** means the right of earth interment.
- **"Entombment right"** means the right of entombment in a mausoleum.
- **"Columbarium right"** means the right of inurnment in a columbarium for cremated remains.

Grounds and Structure

- Cut grass once per month during the growing season.
- Trim around markers and/or monuments three times a year.
- Remove underbrush, leaves, tree seedlings, and dead trees and flowers.
- Remove trash and funeral flowers once a month (artificial flowers once a year).
- Sod or seed graves as necessary within one year of interment.
- Foundations for new markers that have been ordered should be set within one calendar year.
- Roads, buildings, structures, and fencing should be maintained and repaired as needed.
- Cemetery perimeter should be marked.

Management/Maintenance of Rules, Regulations, and Records

- Electronic or paper cemetery records pertaining to interment, entombment or inurnment right owners and interment, entombment or inurnment records indicating the deceased name, place of death, date and location of the interment, entombment or inurnment should be maintained in the cemetery's office. Paper copies of records required for the verification of interment, entombment or inurnment rights and cemetery interment, entombment or inurnment records as indicated above should be maintained in a fireproof container within the cemetery office. If possible duplicate copies of all cemetery records should be maintained off-site. It is permissible to maintain records in an electronic format so long as the electronic copies are true copies of all the original documents.
- All graves or lots should be identified by a map that is stored in the office of the cemetery per Ohio Revised Code Section 1721.09.
- Each lot should be pinned and the owner's name should be recorded.
- Cemeteries should conduct all interments within seven days of the date of the order unless waived by the next of kin or other responsible party.
- Rules regarding flowers and decorations should be posted at the cemetery.
- The vault or any other burial container should be placed at least twelve inches below grade.
- The cemetery's rules and regulations should be provided upon request.
- Cemetery management contact information should be posted at the main public entrance of the cemetery and at the onsite office, if one exists.

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Chapter 4767: CEMETERY REGISTRATION

4767.01 Cemetery registration definitions.

As used in sections 4767.01 to ~~4767.08~~ 4767.89 of the Revised Code:

(A) "Cemetery," "interment," "burial right," "entombment right," and "columbarium right" have the same meanings as in section 1721.21 of the Revised Code.

(B) "Political subdivision" means one or more municipal corporations, townships, or other bodies corporate and politic authorized to operate and maintain a cemetery under the law of this state.

(C) "Division of real estate" may be used interchangeably with, and for all purposes has the same meaning as, "division of real estate and professional licensing."

(D) "Superintendent" or "superintendent of the division of real estate" means the superintendent of the division of real estate and professional licensing of this state. Whenever the division or superintendent of real estate is referred to or designated in any statute, rule, contract, or other document, the reference or designation shall be deemed to refer to the division or superintendent of real estate and professional licensing, as the case may be.

4767.02 Registration required - duties of ~~division of real estate in department of commerce~~ superintendent - confidentiality.

(A) Except as otherwise provided in ~~division (E)~~ (B) of this section, no person, church, religious society, established fraternal organization, or political subdivision of the state shall own, operate, or maintain a cemetery unless the cemetery is registered pursuant to section 4767.03 of the Revised Code.

~~(B)~~ (C) The ~~division of real estate in the department of commerce~~ superintendent shall perform all of the following duties:

(1) Administer this chapter;

(2) Issue all orders necessary to implement this chapter;

(3) Administer the cemetery grant program;

~~(1) Adopt, amend, and rescind rules in accordance with Chapter 119. of the Revised Code to carry out sections 4767.02 to 4767.04 of the Revised Code governing the registration of cemeteries;~~

~~(2)~~ (4) Prescribe the form and content of all applications to be used for registration and renewal of registration pursuant to section 4767.03 of the Revised Code;

(35) Review applications for registration and issue registration certificates to cemeteries that meet the qualifications for registration pursuant to sections 4767.03 and 4767.04 of the Revised Code;

(46) Collect all fees related to the registration and renewal of registration certificates for cemeteries;

(57) Maintain a written record of each cemetery registered with the division, which shall include such documentation as required in division (A) of section 4767.04 of the Revised Code. The record shall be available for inspection by the public and copies shall be made available pursuant to division (B) of section 149.43 of the Revised Code.

(68) Revoke the registration of any cemetery owner or operator convicted of a violation of section 1721.21 or 1721.211 of the Revised Code immediately upon receipt of notice of the conviction pursuant to section 119.06 of the Revised Code;

(79) Hire all division personnel necessary to implement this chapter;

~~(810) Prohibit the sale of the assets or stock of a cemetery by refusing to issue a registration certificate to the purchaser of management rights, assets, or stock of a cemetery until the dispute resolution commission has either received audited financial statements audited by a certified public accountant showing to the commission's satisfaction that all current funds required to be deposited and maintained pursuant to sections 1721.21 and 1721.211 of the Revised Code have been deposited and maintained on an agreed plan approved by the commission in accordance with section 4767.06(G) of the Revised Code;~~

~~(9) With the dispute resolution commission's advice and consent, subpoena cemetery personnel to attend hearings before the commission.~~

~~(11) Establish and maintain an investigation and audit section to conduct investigations pursuant to division (A) of section 4767.08 of the Revised Code and to audit the financial records of a cemetery to ensure compliance with sections 1721.21 and 1721.211 of the Revised Code whenever it deems necessary and at least once every five years. The investigators or auditors have the right to review and audit the business records of registrants during normal business hours.~~

(E) Sections 4767.02 to 4767.04 of the Revised Code do not apply to or affect a family cemetery or a cemetery in which there have been no interments during the previous twenty-five calendar years. As used in this division, "family cemetery" means a cemetery containing the human remains of persons, at least three-fourths of whom have a common ancestor or who are the spouse or adopted child of that common ancestor.

(D) All information that is obtained by investigators and auditors performing investigations or conducting inspections, audits, and other inquiries pursuant to division (C)(11) of this section, from registrants, complainants, or other persons, and all reports, documents, and other work products that arise from that information and that are prepared by the investigators, auditors or

other personnel of the department, shall be held in confidence by the superintendent, the investigators and auditors, and other personnel of the department.

4767.021 Subpoena power.

The Ohio cemetery dispute resolution commission or the superintendent of real estate may compel, by order or subpoena, the production of any book, paper, or document in relation to any matter over which the commission or superintendent has jurisdiction and which is the subject of inquiry and investigation by the commission or superintendent. The commission or superintendent may also compel, by order or subpoena, the attendance of witnesses to testify in a hearing held pursuant to section 4767.07 of the Revised Code.

For such purpose, the commission or superintendent shall have the same power as judges of courts of common pleas to administer oaths, compel the attendance of witnesses, and compel the production of any book, paper, or document. Service of the subpoena may be made by sheriffs or constables, or by certified mail, return receipt requested, and the subpoena shall be deemed served on the date delivery is made or the date the person refused to accept delivery. Witnesses shall receive, after their appearance before the commission or superintendent, the fees and mileage provided for under section 119.094 of the Revised Code. If two or more witnesses travel together in the same vehicle, the mileage fee shall be paid to only one of those witnesses, but the witnesses may agree to divide the fee among themselves in any manner.

In addition to the powers granted to the commission and superintendent under this section, in case any person fails to file any statement or report, obey any subpoena, give testimony, answer questions, or produce any books, records, or papers as required by the commission or superintendent under this chapter, the court of common pleas of any county in the state, upon application made to it by the commission or superintendent setting forth such failure, may make an order awarding process of subpoena or subpoena duces tecum for the person to appear and testify before the commission or superintendent, and may order any person to give testimony and answer questions, and to produce books, records, or papers, as required by the commission or superintendent. Upon the filing of such order in the office of the clerk of the court of common pleas, the clerk, under the seal of the court, shall issue process of subpoena for the person to appear before the commission or superintendent at a time and place named in the subpoena, and each day thereafter until the examination of such person is completed. The subpoena may contain a direction that the witness bring with the witness to the examination any books, records, or papers mentioned in the subpoena. The clerk shall also issue, under the seal of the court, such other orders, in reference to the examination, appearance, and production of books, records, or papers, as the court directs. If any person so summoned by subpoena fails to obey the subpoena, to give testimony, to answer questions as required, or to obey an order of the court, the court, on motion supported by proof, may order an attachment for contempt to be issued against the person charged with disobedience of any order or injunction issued by the court under this chapter. If the person is brought before the court by virtue of the attachment, and if upon a hearing the disobedience appears, the court may order the offender to be committed and kept in close custody.

4767.03 Applying for registration.

(A)

(1) The owner or the person responsible for the operation and maintenance of a cemetery shall apply to the division of real estate in the department of commerce to register the cemetery on forms prescribed by the division. With the application, the applicant shall submit the documentation required in division (A) of section 4767.04 of the Revised Code and a registration fee of twenty-five dollars for one cemetery, forty dollars for two cemeteries, ~~and fifty-five dollars for three or more~~ to nine cemeteries, and seventy dollars for ten or more cemeteries except that no fee shall be required of any political subdivision.

(2) The director of commerce, by rule adopted in accordance with Chapter 119. of the Revised Code, may reduce the amount of the registration fee required by this section in any year if the director determines that the total amount of funds the fee is generating at the amount specified by this section exceeds the amount of funds the division of real estate and the Ohio cemetery dispute resolution commission created by section 4767.05 of the Revised Code need to carry out their powers and duties under this chapter. If the director so reduces the amount of the registration fee, the director shall reduce it for all owners or other persons required to pay the fee under division (A)(1) of this section and shall require that the reduced fee be paid according to the number of cemeteries owned, operated, or maintained as required under that division. If the director has reduced the fee under division (A)(2) of this section, the director may later raise it up to the amounts specified in division (A)(1) of this section if, in any year, the director determines that the total amount of funds the fee is generating at the reduced amount is insufficient for the division of real estate and the Ohio cemetery dispute resolution commission to carry out their powers and duties under this chapter.

(B) Upon receipt of the completed application form, documentation, and, if required, registration fee, the division of real estate shall issue a certificate of registration to the applicant. The applicant shall display the certificate in a conspicuous place on the premises of the cemetery for which the registration was obtained, except that, if the applicant is the governing body of a political subdivision or person acting on behalf of that governing body, the certificate shall be kept on file and be available for public inspection at the office of the governing body.

(C) Except as otherwise provided in this division, each registration issued pursuant to this section shall expire annually on the ~~thirtieth day of June~~ September and ~~may~~ shall be renewed. The renewal fee shall be the same as the initial registration fees prescribed in division (A) of this section. The registration of a cemetery operated and maintained by a political subdivision shall not expire unless the political subdivision ceases to operate and maintain the cemetery. A political subdivision operating and maintaining a cemetery is not required to renew or update the registration of that cemetery unless there is a change in the information required under division (A) of section 4767.04 of the Revised Code or unless additional land is acquired to increase the size of the cemetery.

(D) The Division shall impose upon any cemetery that fails to file a complete renewal on or before the thirtieth day of September a penalty of five dollars for each and every day the

cemetery remains delinquent in submitting the annual renewal. The penalty incurred shall be no more than three hundred dollars and the Superintendent or Commission may abate all or part of the penalty for good cause shown. A failure to renew may result in an investigation pursuant to section 4767.08 of the Revised Code.

(DE) All registration and renewal fees collected pursuant to this section shall be paid into the state treasury to the credit of the division of real estate in the department of commerce to be used by the division to carry out its powers and duties under this chapter and by the Ohio cemetery dispute resolution commission created by section 4767.05 of the Revised Code.

4767.031 Registration of persons engaged to sell interment rights.

(A) The owner or the person responsible for the operation of each cemetery required to register under section 4767.03 of the Revised Code shall provide the division of real estate in the department of commerce, on a form prescribed by the division, at the same time the owner or other person applies for registration or renewal of registration as required by section 4767.03 of the Revised Code, a list of the names and residence addresses of all persons employed or otherwise engaged by the cemetery to sell interment rights. The provision of this information constitutes the registration of these persons to sell interment rights. In order for an independent contractor to sell interment rights for a cemetery, the cemetery shall sponsor and register the independent contractor with the division. More than one cemetery may sponsor and register the same independent contractor.

(B) The owner or the person responsible for the operation of each cemetery required to register under section 4767.03 of the Revised Code shall provide the division with a revised list of the names and residence addresses of all persons employed or otherwise engaged by the cemetery to sell interment rights within the calendar quarter immediately following the date of the termination of the cemetery's relationship with an existing salesperson or the commencement of a relationship with a new salesperson. As used in this division, "calendar quarter" means the three-month period that commences on the first day of each January, April, July, and October.

4767.04 Qualifications of registrants.

(A) To qualify a cemetery for a certificate of registration, the applicant shall submit to the division of real estate the following information:

- (1) The name of the cemetery;
- (2) The street address, city, village, or township, and county where the cemetery is located, and the mailing address if different from the street address;
- (3) The name and address of the person who owns the cemetery;
- (4) The name and address of the person responsible for the operation and maintenance of the cemetery;

(5) A copy of the ~~most recent annual report~~ financial statement for the previous fiscal year of the cemetery if required by the division of real estate pursuant to section 1721.211 of the Revised Code or if required by the Ohio cemetery dispute resolution commission. If the cemetery is owned by a cemetery company or association, a copy of the ~~annual report~~ financial statement for the previous fiscal year of all of the assets and investments of the endowment care trust of the company or association as prepared pursuant to section 1721.21 of the Revised Code shall be submitted to the division;

(6) A copy of the cemetery's current rules and regulations in either written or electronic format.

(7) A copy of the cemetery's trust agreement or proof of bonding as required in sections 1721.21 or 1721.211 of the Revised Code. Such cemetery need only submit revised trust agreements or proof of bonding with the cemetery's next annual renewal.

(B) If any of the information required in division (A) of this section changes at any time, the owner or the person responsible for the operation and maintenance of the cemetery shall submit written notification of the change to the division within thirty days of the change occurring provided, however, that the owner or other person responsible for the operation and maintenance of the cemetery need only submit revised rules and regulations with the cemetery's next annual renewal.

(C) In addition to satisfying the requirements set forth in divisions (A) and (B) of this section, if a political subdivision intends to acquire additional land to increase the size of an existing cemetery that it is operating and maintaining or intends to open a new cemetery, its governing body shall notify the division at least thirty days before the acquisition or opening to renew the registration of the existing cemetery or to register the new cemetery.

4767.05 Ohio cemetery dispute resolution commission.

(A) There is hereby created the Ohio cemetery dispute resolution commission, which shall consist of nine members to be appointed by the governor with the advice and consent of the senate as follows:

(1) One member shall be the management authority of a municipal, township, or union cemetery and shall be selected from a list of four names submitted to the governor. Two of the four names shall be submitted by the Ohio township association and two names shall be submitted by the Ohio municipal league.

(2) Four members shall be individuals employed in a management position by a cemetery company or cemetery association and shall be selected from a list of names submitted to the governor by the Ohio Cemetery Association. ~~Two of the four members shall be selected from a list of four names submitted to the governor by the Ohio association of cemeteries and two shall be selected from a list of four names submitted by the Ohio association of cemetery superintendents and officials.~~

(3) Two members shall be employed in a management position by a cemetery that is owned or operated by a religious, fraternal, or benevolent society and shall be selected from a list of four names submitted by the ~~Ohio association of cemetery superintendents and officials~~ Ohio Cemetery Association.

(4) Two members, at least one of whom shall be at least sixty-five years of age, shall be representatives of the public with no financial interest in the death care industry.

Each member of the commission, except for the two members who represent the public, shall, at the time of appointment, have had a minimum of five consecutive years of experience in the active administration and management of a cemetery in this state.

(B) Within ninety days after the effective date of this section, the governor shall make initial appointments to the commission. Of the initial appointments, two shall be for terms ending one year after the effective date of this section, two shall be for terms ending two years after that date, two shall be for terms ending three years after that date, and three shall be for terms ending four years after that date. Thereafter, terms of office shall be for four years, with each term ending on the same day of the same month as did the term that it succeeds. Each member shall hold office from the date of appointment until the end of the term for which the member was appointed. Vacancies shall be filled in the manner provided for original appointments, with each appointee, other than a representative of the public, being appointed from a list of two names submitted to the governor by the association or organization that was required to nominate candidates for initial appointment to the position that has become vacant. Any member appointed to fill a vacancy occurring prior to the expiration date of the term for which the member's predecessor was appointed shall hold office for the remainder of that term. A member shall continue in office subsequent to the expiration date of the member's term until the member's successor takes office or until a period of ~~sixty~~ ninety days has elapsed, whichever occurs first. No person shall serve as a member of the commission for more than two consecutive terms, excluding any term served to fill an initial appointment to a term of less than four years or an unexpired term caused by a vacancy.

(C) The commission annually shall elect from among its members a chairperson, vice-chairperson, and secretary, each of whom shall serve a term of one year in that office. The commission shall meet at least four times a year. Additional meetings may be called by the chairperson, or by the vice-chairperson when the chairperson is disabled, or by a majority of the members of the commission. A majority of the members constitutes a quorum to transact and vote on business of the commission.

The chairperson or vice-chairperson may:

- (1) Administer oaths;
- (2) Issue subpoenas;
- (3) Summon witnesses;
- (4) Compel the production of books, papers, records, and other forms of evidence;
- (5) Fix the time and place for hearing any matter related to compliance with sections 1721.19, 1721.20, 1721.21, 1721.211, 4735.02, and 4767.02, 4767.03 and 4767.09 of the Revised Code.

The chairperson shall designate three members of the commission to serve on the crematory review board in accordance with section 4717.03 of the Revised Code for such time as the chairperson finds appropriate. Members designated to serve on the crematory review board shall perform all functions

necessary to carry out the duties of the board as described in section 4717.03 of the Revised Code. Members who serve on the crematory review board shall receive no compensation for such service.

(D) Before entering upon the duties of office, each member of the commission shall take the oath pursuant to section 3.22 of the Revised Code. The governor may remove any member for misconduct, neglect of duty, incapacity, or malfeasance in accordance with section 3.04 of the Revised Code.

(E) Members of the commission shall receive no compensation but shall be reimbursed for their actual and necessary expenses incurred in the performance of their duties as members of the commission.

(F) The division of real estate in the department of commerce shall provide the commission with meeting space, staff services, and other technical assistance required by the commission in carrying out its duties pursuant to sections 4767.05 to 4767.08 of the Revised Code.

4767.06 Duties of commission.

The Ohio cemetery dispute resolution commission shall perform all of the following duties:

(A) Adopt, amend, and rescind such rules in accordance with Chapter 119. of the Revised Code as are necessary in carrying out sections 4767.05 to 4767.08, 4767.02 to 4767.13 of the Revised Code, including rules relative to the following:

- (1) Transacting the commission's business and managing its affairs;
- (2) Establishing procedures for receiving, reviewing, and responding to complaints filed pursuant to section 4767.07 of the Revised Code;
- (3) Conducting investigations in response to complaints filed pursuant to division (A) of section 4767.07 of the Revised Code;
- (4) Resolving complaints by using informal techniques of mediation, conciliation, and persuasion, including requiring the parties involved in a complaint to be given prompt notice of any offers to resolve disputes and responses thereto;
- (5) Advising all parties making a complaint, or who are the subject of a complaint, of any recommendations or findings of fact made by the commission with respect to the complaint;
- (6) Requesting the party who has filed a complaint or is the subject of a complaint, and is affected by recommendations of the commission made with respect to the complaint, to notify the commission within a time specified by the commission of any action the party has taken in response to the commission's recommendations;
- (7) Conducting nonpublic hearings and maintaining commission proceedings and records as confidential, notwithstanding sections 121.22 and 149.43 of the Revised Code when the commission determines that the nature of the complaints merits that action;

(8) Determining the method to be used in serving notices as required by section 4767.07 of the Revised Code.

(9) Conducting audits of the financial records of a cemetery to ensure compliance with sections 1721.21 and 1721.211 of the Revised Code;

(10) Establishing procedures for registrations and renewals;

(B) Publicize information concerning the existence and duties of the commission and the procedure for filing complaints pursuant to section 4767.07 of the Revised Code;

(C) Conduct hearings on complaints pursuant to section 4767.07 of the Revised Code;

(D) Submit at least annually by the thirty-first day of March a report on the commission's activities of the immediately preceding calendar year to the governor and the majority and minority leaders of the senate and house of representatives. The report shall indicate the total number of complaints received, initiated, and investigated under sections 4767.07 and 4767.08 of the Revised Code; the total number of complaints for which hearings were held; and the total number of referrals made to prosecuting attorneys, the attorney general, and the real estate commission pursuant to section 4767.08 of the Revised Code.

(E) Review, at least once each year, all actions taken by the prosecuting attorneys, the attorney general, and the real estate commission in response to referrals made to them by the cemetery dispute resolution commission or by the superintendent of the division of real estate in the department of commerce. The commission shall include in the report required in division (D) of this section information regarding the nature of the inappropriate conduct alleged in each referral and the status or disposition made of each referral occurring during the preceding two years.

(F) Perform all functions as are necessary in administering and enforcing sections 4767.05 to 4767.08, ~~4767.13~~ of the Revised Code, including the rendering of all advice necessary under divisions ~~(B)(6) to (12)~~ (C)(8) to (11) of section 4767.02 of the Revised Code;

(G) Review all proposed transfers that would transfer substantially all of the management rights, assets or stock of a cemetery; require an audit of the cemetery's funds on deposit under sections 1721.21 and 1721.211 of the Revised Code; and formulate an agreed plan pursuant to which the buyer and the seller of the cemetery will cause those funds to be properly funded;

(H) Adopt and publish suggested maintenance guidelines for all cemeteries registered in the state of Ohio under Chapter 4767. of the Revised Code.

4767.07 Complaints.

(A) Any person may file a complaint regarding the activity, practice, policy, or procedure of, or regarding an alleged violation of section 1721.19, 1721.20, 1721.21, 1721.211, 4735.02, 4767.09 or 4767.02 of the Revised Code by, any person operating or maintaining a cemetery registered pursuant to section 4767.03 of the Revised Code or that should be registered pursuant to section 4767.02 of the Revised Code that adversely affects or may adversely affect the interest of an owner or family member of

the owner of a cemetery lot or burial, entombment, or columbarium right. All complaints shall be in writing and submitted to the division of real estate in the department of commerce on forms provided by the division.

(B) With respect to complaints filed pursuant to division (A) of this section, the division of real estate shall do all of the following:

(1) Acknowledge receipt of the complaint by sending written notice to the person who filed the complaint not more than twenty days after receipt of the complaint;

(2) Send written notice of the complaint within seven days after receipt of the complaint to the person responsible for the operation and maintenance of the cemetery that is the subject of the complaint;

(3) Before taking further action, allow the owner or the person responsible for the operation and maintenance of the cemetery that is the subject of a complaint thirty days after the date the division sends notice of the complaint to respond to the division with respect to the complaint.

(C) The cemetery dispute resolution commission shall hear each complaint filed pursuant to division (A) of this section within one hundred eighty days after its filing, unless it has been resolved by the parties to the complaint.

4767.08 Conduct of investigations.

(A) The ~~superintendent or the~~ Ohio cemetery dispute resolution commission, on its own motion or as a result of a complaint received pursuant to section 4767.07 of the Revised Code and with good cause shown, shall investigate or cause to be investigated alleged violations of sections 1721.19, 1721.20, 1721.21, 1721.211, 4735.02, 4767.02, 4767.09 and 4767.03 of the Revised Code. If the commission or the superintendent of the division of real estate in the department of commerce believes that a violation has occurred, the commission or superintendent shall do all of the following:

(1) Review the financial records of the cemetery to ensure compliance with sections 1721.21 and 1721.211 of the Revised Code;

(2) Request the prosecuting attorney of the county in which the alleged violation occurred to initiate such proceedings as are appropriate.

(B) If, as a result of an investigation, the commission or the superintendent believes that a person has violated Chapter 1345. of the Revised Code, the commission or superintendent shall report the findings to the attorney general.

(C) The commission, at any time, may dismiss a complaint if it determines there is not good cause shown for the complaint. If the commission dismisses a complaint, it shall notify the person who filed the complaint within twenty days of reaching its decision and identify the reason why the complaint was dismissed.

(D) When necessary for the division of real estate to perform the duties required by sections 4767.07 and 4767.08 of the Revised Code, the superintendent of the division, after consultation with at least a majority of the members of or the cemetery dispute resolution commission, may issue subpoenas and compel the production of books, papers, records, and other forms of evidence. If, as a result of an investigation or after a hearing held pursuant to 4767.07, the commission or the superintendent finds a violation of section 4767.09 of the Revised Code, an advisory letter shall be issued. If a cemetery is advised of a second violation within nine consecutive months, the cemetery shall be fined \$100. Each additional violation found within the nine consecutive months shall result in a fine of \$100. For purposes of this section, multiple complaints concerning maintenance within the same ten day period shall constitute a single violation. All fines collected pursuant to this section shall be credited to the cemetery grant program, created in the state treasury under section 4767.18 of the Revised Code.

4767.09 Maintenance and record keeping

(A) The owner or person responsible for the operation of the registered cemetery shall provide reasonable maintenance of the cemetery property and of all lots, graves, mausoleums, scattering grounds and columbariums in the cemetery based on the type and size of the cemetery, topographic limitations, and contractual commitments with consumers.

(B) In determining whether the owner or person responsible for the operation of the registered cemetery provides reasonable maintenance of the cemetery property, the Division or commission may consider:

- (1) the size of the cemetery;
- (2) the type of cemetery;
- (3) the extent and use of the financial resources available;
- (4) the contractual obligations for care and maintenance of the owner or person responsible for the operation of the registered cemetery;
- (5) the standard of maintenance of one or more similarly situated cemeteries; in determining whether a cemetery is similarly situated, the division shall consider the cemetery's size, type, location, topography, and financial resources;
- (6) the minimum maintenance guidelines;
- (7) other relevant sections of the Revised Code related to cemetery maintenance;
- (8) any advisory letters or fines previously issued pursuant to section 4767.08(D) of the Revised Code.

(C) Reasonable maintenance by the owner or person responsible for the operation of the registered cemetery shall not preclude the exercise of lawful rights by the owner of an interment, inurnment, or entombment right, or by the decedent's immediate family or other heirs, in accordance with the rules and regulations of the cemetery or other agreement of the cemetery authority.

(D) In the case of a cemetery dedicated as a nature preserve, reasonable maintenance by the owner or person responsible for the operation of the registered cemetery shall be in accordance with the rules and regulations of the cemetery and/or the master plan governing the cemetery.

(E) Electronic or paper cemetery records pertaining to interment, entombment or inurnment right owners and interment, entombment or inurnment records indicating the deceased name, place of death, date and location of the interment, entombment or inurnment shall be maintained in the cemetery's office. Records may be maintained in an electronic format so long as the electronic copies are true copies of all the original documents.

4767.10 Statement

Every cemetery shall include a statement in the cemetery's rules and regulations that contains the Division's phone number, address, and information on how to file a complaint with the Ohio Cemetery Dispute Resolution Commission.

4767.12 Cemetery ceasing to operate, division's duties

When the division has information that the owner or person responsible for the operation of a registered cemetery has ceased operation, the division may investigate the cemetery to determine the cemetery's current status. If the division finds evidence that the cemetery has ceased operation and a municipality or township has not taken control of such cemetery, the division may apply to the appropriate court of common pleas for appointment of a temporary receiver or trustee. The order appointing the temporary receiver or trustee shall order the trustee or trustees of the endowment care trust of the cemetery to make distributions in accordance with this section.

The receiver shall be compensated by the owner or person responsible for the operation of the cemetery as indicated in Division records. If the owner or person responsible for the operation of the cemetery has no assets available to pay the receiver, the receiver shall only be paid from the income of interest and dividends in the endowment care trust being held pursuant to section 1721.21 of the Revised Code. The receiver may not invade the principal or capital gains of the trust.

4767.13 Grant program

(A) There is hereby created in the state treasury a cemetery grant fund. The general assembly shall initially appropriate to the cemetery grant fund one hundred thousand dollars from the Cemetery Program operating fund balance. Thereafter, one dollar of every two dollars and fifty cents of each fee collected for a burial permit by the division shall be credited to the cemetery grant fund. The Division shall use it in advancing grants to registered cemeteries, except for for-profit cemeteries, to defray the costs of the maintenance of the cemetery or the training of cemetery personnel in the maintenance and operation of cemeteries. Such grants shall be made according to rules established by the commission under the procedures of Chapter 119. Of the Revised Code. No more than eighty percent shall be paid out of that fiscal year's appropriation made for the purpose of the cemetery grant fund.

(B) The director of commerce, by rule adopted in accordance with Chapter 119. of the Revised Code, may increase the amount of total grants paid out in any one fiscal year if the director

determines that the total amount of funds generated exceeds the amount of funds the division needs to carry out its powers and duties under this section. If the director has increased the total grants paid out in a fiscal year under division (A) of this section, the director may later lower it down to the amount specified in division (A) of this section if, in any year, the director determines that the total amount of total grants paid out at the increased amount depletes the amount of funds the division needs to carry out its powers and duties under this chapter.

(C) For the purposes of this section "maintenance" means the care of a cemetery and of the lots, graves, crypts, niches, mausoleums, memorials, and markers therein, outside of the reasonable maintenance standard set forth in section 4767.09 of the Revised Code, to include but not limited to: (a) the cutting, trimming and removal of trees; (b) repair of drains, water lines, roads, fences, and buildings; and (c) payment of expenses necessary for maintaining necessary records of lot ownership, transfers, and burials.

4767.99 Penalty.

Whoever violates division (A) of section 4767.02 of the Revised Code is guilty of a misdemeanor of the ~~third~~ first degree.

DRAFT

From: Linda Jean Limes Ellis [mailto:llellis_2000@yahoo.com]
Sent: Sunday, February 02, 2014 4:52 PM
To: Petit, Anne; corynoonan12@gmail.com
Subject: RE: Exploring almost forgotten gravesites in Ohio

To Anne and Cory,

I am writing to you both, as co-chairs of the Ohio Cemetery Law Task Force, on behalf of Ohio's inactive and abandoned cemeteries.

Ohio's earliest cemeteries have become the state's most endangered burial grounds due to their age. So many have fallen victim to vandalism, and neglect of care to the point that they are hardly recognizable as cemeteries today.

Unfortunately, inactive and abandoned cemeteries are not granted the same status as active cemeteries and are not registered in Ohio under the current laws. As I am sure you both know, complaints can only be filed to the Ohio Cemetery Dispute Resolution Commission regarding registered cemeteries; which leaves the rest of Ohio's cemeteries out of the process. Surely, changes can be made to include them as well so all of Ohio's cemeteries are afforded the same protection.

Too much Ohio history has been lost and what is left needs to be preserved and saved.

Thank you for reading my message. I appreciate your consideration of my appeal on behalf of Ohio's inactive and abandoned cemeteries for the reasons cited above.

I would be pleased to hear from you. I wish you both and the Ohio Cemetery Law Task Force great success with its work and ultimate recommendations.

Sincerely,

Linda Ellis

Linda Jean (Limes) Ellis
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