

## Division of Real Estate & Professional Licensing

### *Ohio Cemetery Registration Guide*

#### **Cemetery Registration**

According to Ohio law, since 1993, 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 with the Ohio Department of Commerce, Division of Real Estate and Professional Licensing. Cemetery registration does not apply to or affect a family cemetery or a cemetery in which no interments have occurred during the previous 25 years. A family cemetery is defined as 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 the common ancestor.

There are three basic types of cemeteries that need to register. Cemetery registration affects each type differently:

#### **Political Subdivision/Government**

These cemeteries are typically operated by a township or municipality, or a combination of either or both. Although this type of cemetery must be registered, the registration never expires. There is no registration fee for political subdivisions.

#### **Religious/Fraternal/Benevolent**

Registration must be renewed every year with the Division of Real Estate and Professional Licensing.

#### **Cemetery Associations or Companies**

Registrations for cemeteries operated by corporations or not-for-profit cemetery associations must be renewed every year. At the time of renewal the cemetery operator is required to complete a form that reports the activity of the Endowment Care Trust and, if applicable, the Preneed Merchandise and Services Trust. The cemetery operator is also required to submit an affidavit acknowledging that these trusts have been established and maintained according to Ohio law.

#### **How Do I Register A New Cemetery?**

To register a cemetery, please complete the Cemetery Registration form and any additional forms as indicated in the instructions. Return your completed application to the Division of Real Estate along with the applicable fee.

#### **What Is An Endowment Care Trust?**

If a cemetery association or company sells interment rights, it is required to set aside at least 10% of the gross proceeds from the sale of interment rights into an Endowment Care Trust. Only interest or dividends may be withdrawn for perpetual care of the cemetery. Principal and capital gains must remain intact.

#### **What Is A Preneed Merchandise and Services Trust?**

If a cemetery association or company sells outer burial containers, monuments, markers, urns, other merchandise or opening and closing services on a preneed basis, it is required to set aside portions of the money received into a trust until the merchandise or services are needed or delivered.

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#### **Who Can Sell Interment Rights?**

All cemetery operators must provide a list of persons authorized to sell interment rights to the Division of Real Estate and Professional Licensing. This information constitutes the registration of those persons to sell interment rights.

More than one cemetery may sponsor and register the same independent contractor. If a person authorized to sell interment rights leaves the employment of the cemetery or a new person is hired to sell interment rights, the cemetery operator must provide the Division with a revised list of names within the calendar quarter of the change. Calendar quarters begin on January 1st, April 1st, July 1st and October 1st.

#### **Ohio Cemetery Dispute Resolution Commission**

If someone experiences a problem with a cemetery, they may file a complaint that will be heard before the Ohio Cemetery Dispute Resolution Commission. The Commission was established and vested with the authority to assist in resolving complaints against registered cemeteries and cemeteries that should be registered by using informal techniques of mediation, conciliation and persuasion. The Division of Real Estate and Professional Licensing provides administrative services to the Commission.

The nine members of the Commission are made up of seven cemetery operators representing the three types of cemeteries and two members who are representatives of the public with no interest in the death care industry. Commission members are not paid and each is appointed by the Governor.

All complaints must be submitted to the Division in writing on a form that is provided by the Division. A copy of the complaint will be sent to the cemetery operator for a response. If the complaint is not resolved, the complainant and the cemetery operator will receive a notice to appear before the Commission. The Commission has only the authority to make a

recommendation on ways to resolve a complaint or to either refer matters to the Ohio Attorney General for possible violations of the Ohio Consumer Sales Practices Act or a local prosecutor for possible violations of certain cemetery laws. Neither the Division nor the Commission is able to provide you with legal advice. You must consult with your own attorney.

To find out if a cemetery is registered or for more information about Cemetery Registration call the Ohio Department of Commerce, Division of Real Estate & Professional Licensing at (614) 466-4100, or search our website at [www.com.ohio.gov/real](http://www.com.ohio.gov/real)

#### **Minimum Maintenance Guidelines**

The Cemetery Dispute Resolution Commission annually adopts suggested maintenance guidelines for all cemeteries registered in the state of Ohio.

The guidelines cover items such as grounds maintenance and the management of a cemetery's rules, regulations and records. These guidelines provide very important information for any registered cemetery. They can be found on our website at [http://www.com.ohio.gov/documents/real\\_CemeterySuggestedMinimumMaintenanceGuidelines.pdf](http://www.com.ohio.gov/documents/real_CemeterySuggestedMinimumMaintenanceGuidelines.pdf).

#### **Forms**

All of the cemetery forms created by the Division can be found at [www.com.ohio.gov/real](http://www.com.ohio.gov/real).

#### **Cemetery Laws-Ohio Revised Code**

*(Major chapters and sections-not intended to be a complete list)*

Cemetery Registration-Chapter 4767

Cemetery Associations-Chapter 1721

Cemetery Endowment Care Trusts-Section 1721.21

Cemetery Preneed Merchandise and Services Trust-Section 1721.211

Townships - Chapter 517

Municipalities - Chapter 759