

State of South Dakota

EIGHTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2014

445V0539

HOUSE ENGROSSED NO. **SB 183** - 03/05/2014

Introduced by: Senator Novstrup (AI) and Representative Hoffman

1 FOR AN ACT ENTITLED, An Act to revise the trust fund requirements for perpetual
2 cemeteries, and to declare an emergency.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 55-12-6 be repealed.

5 ~~— 55-12-6. The initial perpetual care fund established for any cemetery shall remain in an~~
6 ~~irrevocable trust fund until such time as this fund has reached fifty thousand dollars, when it~~
7 ~~may be withdrawn at the rate of one thousand dollars from the original twenty-five thousand~~
8 ~~dollars for each additional three thousand dollars added to the fund, until all of the twenty-five~~
9 ~~thousand dollars has been withdrawn.~~

10 Section 2. That § 55-12-7 be repealed.

11 ~~— 55-12-7. The perpetual care and maintenance guarantee fund shall be permanently set aside~~
12 ~~in trust to be administered under the jurisdiction of the circuit court for the county wherein the~~
13 ~~cemetery is located. The circuit court so having jurisdiction shall have full jurisdiction over the~~
14 ~~approval of trustees, reports and accounting of trustees, amount of surety bond required, and~~
15 ~~investment of funds as provided by the rules of court relating to the administration of trust~~



1 ~~estates:~~

2 Section 3. That § 55-12-4 be amended to read as follows:

3 55-12-4. To continue to operate as a perpetual care cemetery, any such organization shall
4 set aside and deposit in the ~~perpetual care~~ cemetery principal fund not less than the following
5 amounts for lots of interment space thereafter sold or disposed of:

6 (1) A minimum of twenty percent of the gross selling price with a minimum of twenty
7 dollars for each adult burial space, whichever is the greater.

8 (2) A minimum of twenty percent of the gross selling price for each child's space with
9 a minimum of five dollars for each space up to forty-two inches in length or ten
10 dollars for each space up to sixty inches in length, whichever is the greater.

11 (3) A minimum of twenty percent of the gross selling price with a minimum of one
12 hundred dollars for each crypt in a public mausoleum, whichever is the greater.

13 (4) A minimum of twenty percent of the gross selling price with a minimum of ten
14 dollars for each inurnment niche in a public columbarium.

15 No amount of the principal in the principal cemetery fund may be withdrawn or transferred
16 out of the cemetery principal fund.

17 Section 4. That § 55-12-8 be amended to read as follows:

18 55-12-8. ~~Only the~~ The income from the perpetual care and maintenance guarantee cemetery
19 principal fund shall be may be transferred to an earnings fund established by the cemetery and
20 may be used for the care and maintenance of the cemetery for which it was established.

21 Section 5. That § 55-12-17 be amended to read as follows:

22 55-12-17. A perpetual cemetery, as defined in § 55-12-4, or a perpetual cemetery
23 corporation operating under chapter 47-29 shall file an annual financial report for the preceding
24 fiscal year with the secretary of state by July thirty-first of each year on a form prescribed by the

1 secretary of state if the cemetery has one hundred or more people buried in the cemetery.

2 Section 6. That chapter 55-12 be amended by adding thereto a NEW SECTION to read as
3 follows:

4 If a perpetual care cemetery has more than three thousand people buried in the cemetery, the
5 cemetery shall transfer all moneys from the perpetual care fund into the principal fund. The
6 principal fund and the earnings fund of a perpetual cemetery shall be administered by an
7 independent trustee and shall remain in the control of a licensed banking institution. No moneys
8 may be taken out of the principal fund to pay for the costs of administering the funds. The
9 principal fund and the earnings fund are open for public inspection. Each perpetual care
10 cemetery shall submit a report to the secretary of state that includes the name and address of the
11 licensed banking institution and the account numbers of the principal account and the earnings
12 account by April 1, 2014.

13 Section 7. Whereas, this Act is necessary for the immediate preservation of the public peace,
14 health, or safety, an emergency is hereby declared to exist, and this Act shall be in full force and
15 effect from and after its passage and approval.