

Second Regular Session of the 122nd General Assembly (2022)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2021 Regular Session of the General Assembly.

## HOUSE ENROLLED ACT No. 1062

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AN ACT to amend the Indiana Code concerning business and other associations.

*Be it enacted by the General Assembly of the State of Indiana:*

SECTION 1. IC 23-14-33-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 4. (a) The definitions set forth in this chapter apply to this chapter through IC 23-14-76.

(b) **A deed or license issued to a purchaser of a burial right in a cemetery before July 1, 2022, is considered a certificate of burial rights for the purposes of the statutes described in subsection (a).**

SECTION 2. IC 23-14-33-7.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: **Sec. 7.5. "Cemetery caretaker" means an individual appointed by a municipality, county, or township to care for and maintain a cemetery.**

SECTION 3. IC 23-14-33-9.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: **Sec. 9.5. "Certificate of burial rights" means a written instrument issued by the owner of a cemetery to a person purchasing a burial right in the cemetery.**

SECTION 4. IC 23-14-34-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 4. The owner of a cemetery shall issue a ~~deed~~, certificate ~~or license of burial rights~~ to each purchaser of a burial right in the cemetery. Each ~~deed~~, certificate ~~or license of burial rights~~ issued under this section must be properly

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signed and acknowledged before a notary public.

SECTION 5. IC 23-14-40-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 6. If an affidavit by a competent person that:

- (1) sets forth the fact of the death of one (1) joint tenant; and
- (2) establishes the identity of the surviving joint tenant, who is named in the ~~instrument of grant of burial right in certificate of burial rights for~~ a cemetery plot;

is filed with the cemetery in which the plot is located, the affidavit is complete authority to the cemetery to permit the use of the unoccupied portion of the plot in accordance with the direction of the surviving joint tenant or the successor in interest of the surviving joint tenant.

SECTION 6. IC 23-14-46-9 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: **Sec. 9. When selling commodities or services to a consumer, a cemetery owner or authorized representative of the cemetery owner shall give a consumer a written statement that includes an itemized price range of all commodities and services that the consumer may purchase. The written statement must contain the effective date of the itemized price range.**

SECTION 7. IC 23-14-47-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 1. **(a) Subject to subsection (b)**, a cemetery owner has the right to establish reasonable rules and regulations regarding the:

- (1) type;
- (2) material;
- (3) design;
- (4) composition; and
- (5) finish;

of any commodity to be used or installed in the cemetery.

**(b) After June 30, 2022, a cemetery owner may not do the following:**

- (1) Require a person purchasing burial rights in the cemetery under a contract subject to IC 30-2-13-12.5 to have a vault installed in the cemetery before the death of the purchaser.**
- (2) Allow any other person providing services or commodities to a person purchasing burial rights in the cemetery to install a vault in the cemetery before the death of the purchaser.**

SECTION 8. IC 23-14-47-3, AS AMENDED BY P.L.113-2007, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 3. The fee that a cemetery owner charges for services in connection with the installation or use of commodities in



the cemetery ~~shall~~ **must:**

- (1) be consistent with the written statement provided under IC 23-14-46-9; and**
- (2) be the same to all regardless of who furnishes the commodities.**

SECTION 9. IC 23-14-47-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 4. At the usual place for transacting the regular business of each cemetery, the cemetery owner shall maintain a complete schedule of all charges that the cemetery imposes for services in connection with the installation or use of commodities in the cemetery. The schedule must be:

- (1) plainly printed or typewritten; ~~and~~
- (2) subject to inspection and copying; ~~and~~
- (3) consistent with the written statement provided to each consumer under IC 23-14-46-9.**

SECTION 10. IC 23-14-65-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 6. (a) The legislative body of a municipality has control and management of a cemetery that is:

- (1) owned by the municipality; and
- (2) located within five (5) miles of the municipality.

(b) The powers and duties of the legislative body under this section include the following:

- (1) The collection, preservation, and payment of all money, funds, securities, obligations, and property of any kind related to cemetery purposes.
- (2) The protection of cemeteries and the sanctity of the dead.
- (3) The regulation or prohibition of the interment of bodies.
- (4) The authorization of the removal of buried bodies or whole cemeteries to some other place.

(c) The powers of the legislative body of a municipality under this section remain in effect by ordinance or resolution despite the repeal of Acts 1927, c. 7.

**(d) The legislative body must review the status of the control and management of a cemetery for which it is responsible under subsection (a) at least once every ten (10) years.**

SECTION 11. IC 23-14-65-12.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: **Sec. 12.5. A municipality may, by ordinance, transfer the control and management of a cemetery to which this chapter applies to a cemetery caretaker.**

SECTION 12. IC 23-14-65-13.5 IS ADDED TO THE INDIANA



CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: **Sec. 13.5. (a) This section applies to a municipality transferring the control and management of a cemetery under section 12.5 of this chapter.**

**(b) The executive of a municipality may nominate a person to serve as cemetery caretaker in a proposed ordinance. After a nomination is made, the legislative body of the municipality shall schedule a hearing at which the legislative body will hear any objections to the proposed ordinance. The legislative body shall publish notice of the hearing once each week for two (2) weeks in accordance with IC 5-3-1.**

**(c) The hearing required by subsection (b) must:**

**(1) be set for a date that is:**

**(A) at least two (2) weeks after the first publication of notice; and**

**(B) not later than sixty (60) days after the executive provides the legislative body with notice of the executive's nomination;**

**(2) be held at a designated location; and**

**(3) provide all taxpayers or owners of lots in the cemetery an opportunity to be heard.**

**(d) Not later than thirty (30) days after the hearing, the legislative body shall conduct a vote to adopt or defeat the proposed ordinance. For purposes of this subsection, a majority of the legislative body must vote to adopt the proposed ordinance for the ordinance to be adopted.**

**(e) If a proposed ordinance is adopted under this section, all papers and documents appropriate for the transfer of the control and management of the cemetery must be executed by the executive of the municipality.**

SECTION 13. IC 23-14-65-13.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: **Sec. 13.7. (a) If a cemetery caretaker is appointed under section 13.5 of this chapter and the position becomes vacant, the executive of the municipality shall nominate a new cemetery caretaker not later than ninety (90) days after the position becomes vacant.**

**(b) If the executive of a municipality fails to nominate a new cemetery caretaker in the time period specified in subsection (a), the legislative body of the municipality may nominate and vote on a new cemetery caretaker using the procedure set forth in section 13.5 of this chapter.**



SECTION 14. IC 23-14-67-5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: **Sec. 5. (a) The board of commissioners of a county may appoint a cemetery caretaker to control and manage a cemetery to which this chapter applies. For purposes of this subsection, a majority of the board of commissioners must vote to appoint the cemetery caretaker.**

**(b) If a cemetery caretaker is appointed under this section and the position becomes vacant, the board of commissioners shall appoint a new cemetery caretaker not later than ninety (90) days after the position becomes vacant.**

**(c) A cemetery caretaker appointed under this section has the same powers and duties of a county cemetery commission under this chapter.**

SECTION 15. IC 23-14-68-7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: **Sec. 7. (a) A township trustee may appoint a cemetery caretaker to control and manage a cemetery to which this chapter applies.**

**(b) If a cemetery caretaker is appointed under this section and the position becomes vacant, the township trustee shall appoint a new cemetery caretaker not later than ninety (90) days after the position becomes vacant.**

**(c) A cemetery caretaker appointed under this section has the same powers and duties of a township trustee under this chapter.**

SECTION 16. IC 25-15-9-10, AS AMENDED BY P.L.249-2019, SECTION 79, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: **Sec. 10. The board shall do the following:**

- (1) Determine compliance with IC 23-14 by cemetery owners.
- (2) Investigate a complaint alleging a violation of IC 23-14.
- (3) For a violation of IC 23-14 by a cemetery owner, if necessary, take any combination of the following actions:
  - (A) Issue an appropriate order to correct the violation.
  - (B) Suspend the seller's certificate of authority issued under IC 30-2-13.
  - (C) Censure the cemetery owner.
  - (D) Issue a letter of reprimand.
  - (E) Assess a civil penalty against the cemetery owner in an amount not to exceed ~~one five~~ **five** thousand dollars ~~(\$1,000)~~ **(\$5,000)** for each violation, except for a finding of incompetency due to a physical or mental disability. When imposing a civil penalty, the board shall consider a cemetery



owner's ability to pay the amount assessed.

(F) Refer the matter to the attorney general or prosecuting attorney for enforcement.



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Speaker of the House of Representatives

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President of the Senate

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President Pro Tempore

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Governor of the State of Indiana

Date: \_\_\_\_\_ Time: \_\_\_\_\_

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