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Code: Section:

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BUSINESS AND PROFESSIONS CODE - BPC

DIVISION 3. PROFESSIONS AND VOCATIONS GENERALLY [5000 - 9998.11] (*Heading of Division 3 added by Stats. 1939, Ch. 30.)*

CHAPTER 12. Cemetery and Funeral Act [7600 - 7746] (*Heading of Chapter 12 amended by Stats. 2015, Ch. 395, Sec. 3.)*

ARTICLE 1.5. Definitions and Regulation of Cemeteries [7611 - 7614.9] (*Article 1.5 added by Stats. 2015, Ch. 395, Sec. 13.)*

7611. The definitions in this article govern the meaning of terms used in the act except as otherwise provided expressly or by necessary implication.

(*Added by Stats. 2015, Ch. 395, Sec. 13. (AB 180) Effective January 1, 2016.*)

7611.1. "Act" means the Cemetery and Funeral Bureau Act.

(*Added by Stats. 2015, Ch. 395, Sec. 13. (AB 180) Effective January 1, 2016.*)

7611.2. A "cemetery broker" is a person who, other than in reference to an occasional sale, sells or offers for sale, buys, or offers to buy, lists, leases or offers to lease, or solicits, or negotiates the purchase or sale, lease, or exchange of cemetery property or interment services, or interest therein, for his or her own account or for another.

(*Added by Stats. 2015, Ch. 395, Sec. 13. (AB 180) Effective January 1, 2016.*)

7611.3. A "cemetery salesperson" is a natural person who, other than in reference to an occasional sale, is employed by a cemetery broker to sell, or offer for sale, list or offer to list, or to buy, or to offer to buy, or to lease, or offer to lease, or to solicit, or to negotiate the purchase or sale or lease or exchange of cemetery property or interment services, or any interest therein, for his or her own account or for another.

(*Added by Stats. 2015, Ch. 395, Sec. 13. (AB 180) Effective January 1, 2016.*)

7611.4. (a) A "cemetery manager" is a person engaged in or conducting, or holding himself or herself out as engaged in those activities involved in, or incidental to, the maintaining, operating, or improving a cemetery licensed under this chapter, the interring of human remains, and the care, preservation, and embellishment of cemetery property.

(b) For persons licensed pursuant to Section 7637.1, a "cemetery manager" is a person engaged in or conducting, or holding himself or herself out as engaged in those activities involved in, or incidental to, the following:

- (1) The maintaining, operating, or improving of a cemetery licensed under this chapter.
- (2) The interment of human remains.
- (3) The care, preservation, and embellishment of cemetery property.
- (4) Activities described in Section 7637.2.

(*Added by Stats. 2015, Ch. 395, Sec. 13. (AB 180) Effective January 1, 2016.*)

7611.5. A "crematory manager" is a person engaged in or conducting, or holding himself or herself out as engaged in those activities involved in, or incidental to, the maintaining or operating of a crematory licensed under this chapter, and the cremation of human remains.

(*Added by Stats. 2015, Ch. 395, Sec. 13. (AB 180) Effective January 1, 2016.*)

7611.6. The definitions in Chapter 1 (commencing with Section 7000) of Part 1 of Division 7 of the Health and Safety Code are applicable to this act.

(Added by Stats. 2015, Ch. 395, Sec. 13. (AB 180) Effective January 1, 2016.)

7611.7. "Cemetery licensee" means any cemetery broker, cemetery salesperson, or cemetery manager.

(Added by Stats. 2015, Ch. 395, Sec. 13. (AB 180) Effective January 1, 2016.)

7611.8. "Crematory licensee" shall mean a corporation, partnership, or natural person licensed pursuant to Article 6.5 (commencing with Section 7712) and shall mean a cemetery licensee for purposes of disciplinary action under Article 6 (commencing with Section 7686).

(Added by Stats. 2015, Ch. 395, Sec. 13. (AB 180) Effective January 1, 2016.)

7611.9. (a) A "cremated remains disposer" is a person who, for their own account or for another, disposes of, or offers to dispose of, cremated human remains or hydrolyzed human remains by scattering over or on land or sea.

(b) This section shall remain in effect only until January 1, 2027, and as of that date is repealed.

(Amended by Stats. 2022, Ch. 399, Sec. 3. (AB 351) Effective January 1, 2023. Repealed as of January 1, 2027, by its own provisions. See later operative version added by Sec. 4 of Stats. 2022, Ch. 399.)

7611.9. (a) A "cremated remains disposer" is a person who, for the person's own account or for another, disposes of, or offers to dispose of, cremated human remains or hydrolyzed human remains by scattering over or on land or sea. A "cremated remains disposer" also includes a person who, for the person's own account or for another, integrates into the soil, or offers to integrate into the soil, reduced human remains.

(b) This section shall become operative on January 1, 2027.

(Repealed (in Sec. 3) and added by Stats. 2022, Ch. 399, Sec. 4. (AB 351) Effective January 1, 2023. Operative January 1, 2027, by its own provisions.)

7611.10. "Endowment care" or "endowed care" shall include both general and special care funds.

(Added by Stats. 2015, Ch. 395, Sec. 13. (AB 180) Effective January 1, 2016.)

7611.12. (a) "Licensed hydrolysis facility" means a corporation, partnership, or natural person licensed pursuant to Article 2.7 (commencing with Section 7639). A licensed hydrolysis facility shall be considered a cemetery licensee for purposes of disciplinary action pursuant to Article 6 (commencing with Section 7686).

(b) This section shall become operative on July 1, 2020.

(Added by Stats. 2017, Ch. 846, Sec. 3. (AB 967) Effective January 1, 2018. Section operative July 1, 2020, by its own provisions.)

7612. An "occasional sale" is a sale of cemetery property not acquired or held for purposes of resale or speculation, provided such sale is not one of a series of sales sufficient in number, scope, and character to constitute engaging in the business of selling or reselling or holding for speculation cemetery property.

(Added by Stats. 2015, Ch. 395, Sec. 13. (AB 180) Effective January 1, 2016.)

7612.1. "Public cemetery" means a cemetery owned and operated by a city, county, city and county, or public cemetery district.

(Added by Stats. 2015, Ch. 395, Sec. 13. (AB 180) Effective January 1, 2016.)

7612.2. This article does not apply to any of the following:

(a) A religious corporation, church, religious society or denomination, a corporation sole administering temporalities of any church or religious society or denomination, or any cemetery organized, controlled, and operated by any of them.

(b) A public cemetery.

(c) Any private or fraternal burial park not exceeding 10 acres in area, established prior to September 19, 1939; however, (1) those cemeteries shall be subject to the cemetery brokerage provisions of this act, and (2) any cemetery shall be subject to all of the provisions of this act if it collects a care, maintenance, or embellishment deposit or sets up a trust for burial purposes pursuant to Section 8775 of the Health and Safety Code, including funeral services such as mortuary, cremation, or other commodities or services furnished at the time of and in connection with that funeral or cremation.

7612.3. The bureau shall disclose on its Internet Web site, information about each cemetery subject to the jurisdiction of the bureau. In addition to the information required by Section 27, the bureau shall disclose the name of the owner of each cemetery, the name of the cemetery, the business address of the cemetery owner, and the physical address of the cemetery.

(Added by Stats. 2015, Ch. 395, Sec. 13. (AB 180) Effective January 1, 2016.)

7612.4. (a) Notwithstanding Section 8115 of the Health and Safety Code, in order to protect consumers, the bureau shall adopt regulations that establish minimum standards of maintenance for endowment care cemeteries under the jurisdiction of the bureau. The regulations shall consider differences in cemetery size, location, topography, and type of interments. The regulations shall also consider the extent to which funds are available from the cemetery's endowment care funds to perform maintenance.

(b) The standards established pursuant to this section shall not supersede any standards of a higher level of care established pursuant to Section 8115 of the Health and Safety Code.

(Added by Stats. 2015, Ch. 395, Sec. 13. (AB 180) Effective January 1, 2016.)

7612.5. (a) (1) Any person who holds or has held, or was named on, any license or registration under the jurisdiction of the bureau that has been, within the immediately preceding 10 years, revoked, suspended, placed on probation, or surrendered under a stipulated decision, and who is employed by, or who seeks employment with, a licensed cemetery, a licensed crematory, or a licensed cemetery broker in any capacity, shall inform the licensed cemetery manager, the licensed crematory manager, or the licensed cemetery broker of that revocation, suspension, probation, or surrender.

(2) A person subject to this subdivision shall inform the licensed cemetery manager, the licensed crematory manager, or the licensed cemetery broker upon application for employment by completing a form that shall be made available by the bureau.

(b) The cemetery manager, crematory manager, or cemetery broker who is informed pursuant to subdivision (a) shall notify the bureau by submitting the form within 30 days of being so informed. Failure of the cemetery manager, crematory manager, or cemetery broker to notify the bureau shall be a cause for a warning. A cemetery manager, crematory manager, or cemetery broker shall not be subject to a warning if his or her failure to notify the bureau is due to a false statement made by an employee.

(c) Any person required to notify the cemetery manager, crematory manager, or cemetery broker under subdivision (a) who fails to do so or who makes a false statement on the required form shall be subject to disciplinary action if that person is a licensee of the bureau, or that failure or false statement shall be cause for denial of a license under Section 480.

(d) For purposes of subdivision (a), the term "named on" applies to a person who was an owner, partner, or corporate officer of an entity that was licensed or registered under the act at the time that entity's license or registration under the act was revoked, suspended, placed on probation, or surrendered.

(Added by Stats. 2015, Ch. 395, Sec. 13. (AB 180) Effective January 1, 2016.)

7612.6. (a) Each cemetery authority shall file with the bureau annually, on or before June 1, or within five months after close of their fiscal year provided approval has been granted by the bureau as provided for in Section 7612.7, a written report in a form prescribed by the bureau setting forth the following:

(1) The number of square feet of grave space and the number of crypts and niches sold or disposed of under endowment care by specific periods as set forth in the form prescribed.

(2) The amount collected and deposited in both the general and special endowment care funds segregated as to the amounts for crypts, niches, and grave space by specific periods as set forth either on the accrual or cash basis at the option of the cemetery authority.

(3) A statement showing separately the total amount of the general and special endowment care funds invested in each of the investments authorized by law and the amount of cash on hand not invested, which statement shall actually show the financial condition of the funds.

(4) A statement showing separately the location, description, and character of the investments in which the special endowment care funds are invested. The statement shall show the valuations of any securities held in the endowment care fund as valued pursuant to Section 7614.7.

(5) A statement showing the transactions entered into between the corporation or any officer, employee, or stockholder thereof and the trustees of the endowment care funds with respect to those endowment care funds. The statement shall show the dates, amounts of the transactions, and shall contain a statement of the reasons for those transactions.

(b) The report shall be verified by the president or vice president and one other officer of the cemetery corporation. The information submitted pursuant to paragraphs (2), (3), (4), and (5) of subdivision (a) shall be accompanied by an annual audit report, prepared in accordance with generally accepted accounting principles, of the endowment care fund and special care fund signed by a certified public accountant or public accountant. The scope of the audit shall include the inspection, review, and audit of the general purpose financial statements of the endowment care fund and special care fund, which shall include the balance sheet, the statement of revenues, expenditures, and changes in fund balance.

(c) If a cemetery authority files a written request prior to the date the report is due, the bureau may, in its discretion, grant an extension for no more than an additional nine months within which to file the report.

(Amended by Stats. 2017, Ch. 750, Sec. 1. (AB 926) Effective January 1, 2018.)

7612.7. Each cemetery authority requesting a change of filing date of the endowment care fund report from a calendar year to a fiscal year or a change in fiscal year shall file a petition with the bureau prior to the close of the year of request. The bureau may approve such petition provided that no report shall be for a period of more than 12 months.

(Added by Stats. 2015, Ch. 395, Sec. 13. (AB 180) Effective January 1, 2016.)

7612.8. The report shall state the name of the trustee or trustees of the endowment care fund. Any change of trustee shall be reported to the bureau within a period of 30 days after the change is made.

(Added by Stats. 2015, Ch. 395, Sec. 13. (AB 180) Effective January 1, 2016.)

7612.9. A copy of each annual audit report shall be transmitted to the bureau and shall be a public record. It shall also be open for public inspection at the offices of the cemetery authority during normal business hours. If the cemetery authority does not maintain offices in the county in which its cemetery is located, it shall file a copy of the annual audit report with the county clerk of the county, which shall be subject to public inspection.

(Added by Stats. 2015, Ch. 395, Sec. 13. (AB 180) Effective January 1, 2016.)

7612.10. (a) Any cemetery authority that does not file its report within the time prescribed by Section 7612.6 may be assessed a fine by the bureau in an amount not to exceed four hundred dollars (\$400) per month for a maximum of five months. The amount of the fine shall be established by regulation in accordance with the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code). Failure to pay the fine within 15 days after receipt of written notification of the assessment or, where a timely request for waiver or reduction of the fine has been filed, within 15 days after receipt of written notification of the bureau's decision in the matter, shall be cause for disciplinary action.

(b) A cemetery authority may request waiver or reduction of a fine by making a written request therefor. The request shall be postmarked within the time specified above for payment of the fine and shall be accompanied by a statement showing good cause for the request.

(c) The bureau may waive or reduce the fine where a timely request is made and where it determines, in its discretion, that the cemetery authority has made a sufficient showing of good cause for the waiver or reduction.

(Added by Stats. 2015, Ch. 395, Sec. 13. (AB 180) Effective January 1, 2016.)

7612.11. (a) The bureau shall conduct a study to obtain information to determine if the endowment care fund levels of each licensee's cemetery are sufficient to cover the cost of future maintenance. The bureau shall also review the levels of endowment care funds that have previously been reported pursuant to this chapter by licensed cemeteries.

(b) For purposes of the report required in subdivision (a), each licensed cemetery authority shall provide the following information to the bureau on or before January 1, 2028:

- (1) The year the cemetery was established.
- (2) The total size of the developed and undeveloped acres of the cemetery.
- (3) The total acreage of the developed cemetery property that has been sold for interment, including preneed sales.
- (4) The total acreage of land sold for interment that contains spaces for which endowment care fees have been collected.
- (5) The total acreage of developed cemetery property remaining to be sold.
- (6) The total acreage of undeveloped cemetery property remaining to be sold.
- (7) The year the cemetery started collecting endowment care fees.

(8) The total number of spaces the cemetery has sold for interment, including preneed sales.

(9) Of the total spaces the cemetery has sold for interment, the total number of spaces that have contributed to the endowment care funds of the cemetery.

(10) The number of interment spaces remaining to be sold in all developed acreage.

(11) The number of interment spaces remaining to be sold in undeveloped acreage, to the extent known.

(c) The bureau shall report its findings and recommendations to the appropriate policy committees of the Legislature by January 1, 2029.

(d) (1) A report to be submitted pursuant to subdivision (b) shall be submitted in compliance with Section 9795 of the Government Code.

(2) Pursuant to Section 10231.5 of the Government Code, this section is repealed on January 1, 2033.

(Amended by Stats. 2024, Ch. 589, Sec. 3. (AB 3254) Effective January 1, 2025. Repealed as of January 1, 2033, by its own provisions.)

7612.12. (a) On or before July 1, 2027, the bureau shall convene a workgroup comprised of representatives from the cemetery industry, county government, and other interested stakeholders to discuss options for ensuring continued care, maintenance, and embellishment of abandoned cemeteries, including the possibility of requiring counties to assume responsibility for cemeteries located within their boundaries that become abandoned.

(b) In accordance with Section 9795 of the Government Code, the bureau shall submit a report to the Legislature summarizing the discussions of the workgroup, along with any recommendations, no later than January 1, 2028.

(c) This section shall remain in effect only until January 1, 2029, and as of that date is repealed.

(Added by Stats. 2024, Ch. 589, Sec. 4. (AB 3254) Effective January 1, 2025. Repealed as of January 1, 2029, by its own provisions.)

7613. The bureau shall examine the reports filed with it as to their compliance with the requirements of the Health and Safety Code as to the amount of endowment care funds collected and as to the manner of investment of those funds.

(Added by Stats. 2015, Ch. 395, Sec. 13. (AB 180) Effective January 1, 2016.)

7613.1. The bureau shall examine the endowment care funds of a cemetery authority:

(a) Whenever it deems necessary and at least once every five years.

(b) Whenever the cemetery authority in charge of endowment care funds fails to file the report required by this article.

(c) Whenever the accountant or auditor qualifies their certification of the report that is prepared and signed by a certified public accountant licensed in the state and prepared in accordance with Section 7612.6.

(d) Whenever the bureau receives a valid complaint alleging the authority has engaged in financial misconduct or neglect of duties.

(e) The reasonable and necessary cost of the examination performed under subdivision (b) or (c) shall be paid by the cemetery authority.

(f) A certified copy of the actual costs, or a good faith estimate of the costs where actual costs are not available, signed by the director or the director's designee, shall be prima facie evidence of the reasonable and necessary costs of the examination.

(g) The actual and necessary expense of the examination under subdivision (a) shall, in the discretion of the bureau, be paid by the cemetery authority whenever the examination requires more than one day and the need for continuing the examination is directly related to identified omissions and errors in the management of endowment care funds.

(Amended by Stats. 2021, Ch. 442, Sec. 2. (AB 651) Effective January 1, 2022.)

7613.2. (a) If any cemetery authority refuses to pay such expenses, the bureau shall refuse it a certificate of authority and shall revoke any existing certificate of authority. All examination expense moneys collected by the bureau shall be paid into the State Treasury to the credit of the Cemetery and Funeral Fund.

(b) This section shall become operative on July 1, 2016.

(Repealed and added by Stats. 2015, Ch. 395, Sec. 13 (2nd text). (AB 180) Effective January 1, 2016. Section operative July 1, 2016, by its own provisions.)

7613.3. (a) In making the examination, the bureau:

(1) Shall have free access to the books and records relating to the trust funds, their collection and investment, and the number of graves, crypts, and niches under endowment care.

(2) Shall inspect and examine the trust funds to determine their condition and the existence of the investments.

(3) Shall ascertain if the cemetery corporation has complied with all the laws applicable to trust funds.

(b) Upon request by the bureau, a cemetery authority shall provide records to substantiate the expenditures of the income of the trust funds. If a cemetery authority fails to reasonably comply with this request, the bureau may have access to books, records, and accounts of a cemetery authority for purposes of ascertaining compliance with applicable laws.

(Added by Stats. 2015, Ch. 395, Sec. 13. (AB 180) Effective January 1, 2016.)

7613.4. (a) Subject to subdivision (b), a limited liability company certificated as a cemetery authority pursuant to Section 7018 of the Health and Safety Code may provide services of licensed cemetery brokers, cemetery salespersons, cemetery managers, funeral directors, embalmers, crematorium licensees, and any other person licensed under this code to provide services relating to cemeteries and funerals by employing one or more of these licensed persons.

(b) At the time of certification, and at all times during which a limited liability company transacts intrastate business as a cemetery authority, the company shall be required to provide security for claims against it based upon acts, errors, or omissions of its licensed employees as described in subdivision (a) by complying with one, or a combination, of the following:

(1) (A) Maintaining a policy or policies of insurance against liability imposed on or against it by law for damages arising out of claims. However, the total aggregate limit of liability under the policy or policies of insurance for a limited liability company that employs five or fewer licensed persons shall not be less than one million dollars (\$1,000,000), and for a limited liability company that employs more than five licensees, an additional one hundred thousand dollars (\$100,000) of insurance shall be obtained for each additional licensee except that the maximum amount of insurance is not required to exceed five million dollars (\$5,000,000) in any one designated period, less amounts paid in defending, settling, or discharging claims as set forth in this paragraph. The policy or policies may be issued on a claims-made or occurrence basis, and shall cover:

(i) In the case of a claims-made policy, claims initially asserted in the designated period.

(ii) In the case of an occurrence policy, occurrences during the designated period.

(B) For purposes of this paragraph, "designated period" means a policy year or any other designated period in the policy that is not greater than 12 months.

(C) The impairment or exhaustion of the aggregate limit of liability by amounts paid under the policy in connection with the settlement, discharge, or defense of claims applicable to a designated period shall not require the limited liability company to acquire additional insurance coverage for that designated period. The policy or policies of insurance may be in a form reasonably available in the commercial insurance market and may be subject to those terms, conditions, exclusions, and endorsements that are typically contained in those policies. A policy or policies of insurance maintained pursuant to this paragraph may be subject to a deductible or self-insured retention.

(D) Upon the dissolution and winding up of the limited liability company, the company shall, with respect to any insurance policy or policies then maintained pursuant to this paragraph, maintain or obtain an extended reporting period endorsement or equivalent provision in the maximum aggregate limit of liability required to comply with this paragraph for a minimum of three years if reasonably available from the insurer.

(2) Maintaining in trust or bank escrow, cash, bank certificates of deposit, United States Treasury obligations, bank letters of credit, or bonds of insurance or surety companies as security for payment of liabilities imposed by law for damages arising out of all claims. However, the maximum amount of security for a limited liability company that employs five or fewer licensed persons shall not be less than one million dollars (\$1,000,000), and for a limited liability company that employs more than five licensees rendering professional services on behalf of the company, an additional one hundred thousand dollars (\$100,000) of security shall be obtained for each additional licensee except that the maximum amount of security is not required to exceed five million dollars (\$5,000,000). The limited liability company remains in compliance with this section during a calendar year notwithstanding amounts paid during that calendar year from the accounts, funds, Treasury obligations, letters of credit, or bonds in defending, settling, or discharging claims of the type described in this paragraph, provided that the amount of those accounts, funds, Treasury obligations, letters of credit, or bonds was at least the amount specified in the preceding sentence as of the first business day of that calendar year. Notwithstanding the pendency of other claims against the limited liability company, it shall be deemed to be in compliance with this paragraph as to a claim if within 30 days after the time that a claim is initially asserted through service of a summons, complaint, or comparable pleading in a judicial or administrative proceeding, the limited liability company has provided the required amount of security by designating and segregating funds in compliance with the requirements of this paragraph.

(3) Unless the limited liability company has satisfied paragraph (4), each member of a limited liability company certificated as a cemetery authority that provides professional services rendered by employees who are licensed professionals described in subdivision (a), by virtue of that person's status as a member, thereby automatically guarantees payment of the difference between the maximum amount of security required for the limited liability company by this subdivision and the security otherwise provided in accordance with paragraphs (1) and (2), provided that the aggregate amount paid by all members under these guarantees shall not exceed the difference. Neither withdrawal by a member nor the dissolution and winding up of the limited liability company shall affect the rights or obligations of a member arising prior to withdrawal or dissolution and winding up, and the guarantee provided for in this paragraph shall apply only to conduct that occurred prior to the withdrawal or dissolution and winding up. Nothing contained in this subdivision shall affect or impair the rights or obligations of the members among themselves, or the limited liability company, including, but not limited to, rights of contribution, subrogation, or indemnification.

(4) Confirming, pursuant to the procedure in subdivision (c) of Section 16956 of the Corporations Code, that, as of the most recently completed fiscal year of the limited liability company, it had a net worth equal to or exceeding ten million dollars (\$10,000,000). The limited liability company shall transmit evidence of this paragraph to the bureau in a form similar to the form submitted by a limited liability partnership providing alternative security provisions pursuant to subdivision (c) of Section 16956 of the Corporations Code.

(c) (1) A limited liability company may aggregate the security required pursuant to paragraphs (1) to (4), inclusive, of subdivision (b).

(2) For purposes of compliance with this section, the provisions of subdivision (d) of Section 16956 of the Corporations Code shall apply to a limited liability company certificated as a cemetery authority.

(Added by Stats. 2015, Ch. 395, Sec. 13. (AB 180) Effective January 1, 2016.)

7613.5. (a) A person licensed under this code as a cemetery broker, cemetery salesperson, cemetery manager, funeral director, embalmer, crematorium licensee, or other person licensed to provide services related to cemeteries and funerals shall not have any ownership interest as a member in a limited liability company certificated as a cemetery authority pursuant to Section 7018 of the Health and Safety Code.

(b) If a limited liability company admits, as a member with ownership interest, a licensed person described in subdivision (a), the limited liability company, by operation of law, shall be deemed in violation of subdivision (e) of Section 17701.04 of the Corporations Code, and the members shall be treated as partners with joint and several liability for claims made upon acts, errors, or omissions arising out of services provided by any licensed person described in subdivision (a).

(c) If the bureau determines that a licensed cemetery broker, cemetery salesperson, cemetery manager, funeral director, embalmer, crematorium licensee, or other person licensed to provide services related to cemeteries and funerals has an ownership interest as a member in the limited liability company, the bureau shall suspend the limited liability company's certificate of authority. The bureau shall reinstate the certificate of authority only upon finding that the licensed cemetery broker, cemetery salesperson, cemetery manager, funeral director, embalmer, crematorium licensee, or other person licensed to provide services related to cemeteries and funerals has been divested of his or her ownership interest in the limited liability company or has voluntarily surrendered his or her license.

(Added by Stats. 2015, Ch. 395, Sec. 13. (AB 180) Effective January 1, 2016.)

7613.6. The bureau may administer oaths and examine under oath any person relative to the endowment care fund. The examination shall be conducted in the principal office of the person or body in charge of the endowment care fund and shall be private.

(Added by Stats. 2015, Ch. 395, Sec. 13. (AB 180) Effective January 1, 2016.)

7613.7. If any examination made by the bureau, or any report filed with it, shows that there has not been collected and deposited in the endowment care funds the minimum amounts required by the Health and Safety Code since September 19, 1939, the bureau shall require a cemetery corporation to comply with Sections 8743 and 8744 of the Health and Safety Code.

(Added by Stats. 2015, Ch. 395, Sec. 13. (AB 180) Effective January 1, 2016.)

7613.8. Whenever the bureau finds, after notice and hearing, that any endowment care funds have been invested in violation of the Health and Safety Code, it shall by written order mailed to the person or body in charge of the fund require the reinvestment of the funds in conformity to that code within a period which shall be not less than two years if the investment was made prior to October 1, 1949, not less than six months if the investment was made on or after October 1, 1949, and before the effective date of the amendment of this section by the 1969 Regular Session of the Legislature, and not less than 30 days if the investment is made on or after the effective date of the amendment. The period may be extended by the bureau in its discretion.

(Added by Stats. 2015, Ch. 395, Sec. 13. (AB 180) Effective January 1, 2016.)

7613.9. The superior court of the county in which the principal office of the cemetery authority in charge of endowment care funds is located shall, upon the filing by the bureau of a verified application showing any of the following conditions hereinafter enumerated to exist, issue its order vesting title to any endowment care funds of a cemetery authority in the bureau, and directing the bureau forthwith to take possession of all necessary books, records, property, real and personal, and assets, and to conduct as conservator, the management of such endowment care funds, or so much thereof as to the bureau may seem appropriate:

- (a) That the cemetery authority has refused to submit its books, papers, accounts, or affairs to the reasonable examination of the bureau.
- (b) That the cemetery authority has neglected to observe an order of the bureau to make good within the time prescribed by law any deficiency in its investments of endowment care funds.
- (c) That the cemetery authority is found, after an examination, to be in such condition that its further management of its endowment care funds will be hazardous to its members, plotholders, or to the public.
- (d) That the cemetery authority has violated its articles of incorporation or any law of the state.
- (e) That any officer, director, agent, servant, or employee of the cemetery authority person refuses to be examined under oath relative to the endowment care funds thereof.
- (f) That any person has embezzled or otherwise wrongfully diverted any of the endowment care funds of the cemetery authority.
- (g) The order shall continue in force and effect until, on the application either of the bureau or of the cemetery authority, it shall, after a full hearing, appear to the court that the ground for the order does not exist or has been removed and that the cemetery authority can properly resume title and possession of its property and the management of its endowment care funds.

(Added by Stats. 2015, Ch. 395, Sec. 13. (AB 180) Effective January 1, 2016.)

7613.10. When it has been alleged by verified petition pursuant to Section 7613.1 or when the bureau on its own investigation determines that there is probable cause to believe that any of the conditions set forth in Section 7613.9 exist or that irreparable loss and injury to the endowment care funds of a cemetery authority has occurred or may occur unless the bureau so acts immediately, the bureau, without notice and before applying to the court for any order, may take possession of the endowment care funds and the books, records, and accounts relating thereto of the cemetery authority, and retain possession subject to the order of the court. Any person having possession of and refusing to deliver any assets, books, or records of a cemetery authority against which a seizure order has been issued by the bureau shall be guilty of a misdemeanor and punishable by a fine not exceeding one thousand dollars (\$1,000) or imprisonment not exceeding one year, or by both that fine and imprisonment.

(Added by Stats. 2015, Ch. 395, Sec. 13. (AB 180) Effective January 1, 2016.)

7613.11. (a) Notwithstanding Sections 7613.9 and 7613.10, 90 days following the cancellation, surrender, or revocation of a certificate of authority, the bureau shall take title of any endowment care funds of the cemetery authority, take possession of all necessary books, records, property, real and personal, and assets, and act as conservator over the management of the endowment care funds in a manner consistent with Article 2 (commencing with Section 8725) of Chapter 5 of Part 3 of Division 8 of the Health and Safety Code.

(b) The bureau shall appoint as sole trustee of the endowment care fund a bank or trust company authorized under Division 1 (commencing with Section 99) of the Financial Code to engage in the trust business. Notwithstanding Section 8733 of the Health and Safety Code, the sum paid to the bank or trust company appointed by the bureau may exceed 5 percent of the net income derived from the endowment care fund, special care fund, or both.

(c) This section shall not apply if ownership of the cemetery is transferred in accordance with Section 8585 of the Health and Safety Code within 90 days of the cancellation, surrender, or revocation of the certificate of authority.

(Added by Stats. 2024, Ch. 589, Sec. 5. (AB 3254) Effective January 1, 2025.)

7614. If any city, county, or city and county exercises its authority to address public health, safety, or welfare issues in connection with a cemetery within its jurisdiction and if the certificate of authority of the cemetery has been revoked or suspended or has not been renewed, and the bureau holds the endowment care fund of the certificate of authority under applicable provisions of this code, the costs of any action that constitutes care, maintenance, or embellishment of the cemetery within the meaning of Section 8726 of the Health and Safety Code shall be eligible for reimbursement from available income from any endowment care fund in existence for the cemetery. For purposes of this section, local jurisdiction action may be based on charter, ordinance, or inherent police powers. Any claim for money or damages for an act or omission by the local jurisdiction acting in accord with this section shall be subject to all otherwise applicable immunities contained in Division 3.6 (commencing with Section 810) of Title 1 of the Government Code.

(Added by Stats. 2015, Ch. 395, Sec. 13. (AB 180) Effective January 1, 2016.)

7614.1. Whenever the bureau makes any seizure as provided in Section 7613.10, it shall, on demand of the bureau, be the duty of the sheriff of any county of this state, and of the police department of any municipal corporation therein, to furnish the bureau with deputies, patrolmen, or officers as may be necessary to assist the bureau in making and enforcing that seizure.

(Added by Stats. 2015, Ch. 395, Sec. 13. (AB 180) Effective January 1, 2016.)

7614.2. Immediately after effecting a seizure pursuant to Section 7613.10, the bureau shall institute a proceeding as provided for in Section 7613.9.

(Added by Stats. 2015, Ch. 395, Sec. 13. (AB 180) Effective January 1, 2016.)

7614.3. Notwithstanding any other law, the bureau shall be the custodian of all moneys collected or surrendered pursuant to Sections 7613.9 and 7613.10. As custodian, the bureau may deposit those moneys, or any part thereof, without court approval, in any of the following: a bank or trust company legally authorized and empowered by the state to act as a trustee in the handling of trust funds; in a centralized State Treasury system bank account; or in funds administered by the State Treasurer.

(Added by Stats. 2015, Ch. 395, Sec. 13. (AB 180) Effective January 1, 2016.)

7614.4. The bureau shall maintain, regulate, operate, and control the property situated in the County of Amador, referred to as the Elkin Property in Judicial Council Coordination Proceedings Nos. 1814 and 1817, Order Re Proposed Neptune Memorial, Disposition of the Elkin Property, and Order Re Final Disposition of Ashes of the Sacramento Superior Court, and legally described as "Parcel 16-B as shown on the certain Record or Survey for Eugene S. Lowrance, et ux, filed for record May 17, 1971, in Book 17 of Maps and Plats at page 87, Amador County Records." The bureau shall administer and supervise endowment funds established by the court for the property. The bureau shall exercise the authority granted by this section for the sole purpose of protecting the human remains resting on the property and preserving the property in its natural state.

(Added by Stats. 2015, Ch. 395, Sec. 13. (AB 180) Effective January 1, 2016.)

7614.5. The bureau is authorized to bring action to enforce the provisions of the law subject to its jurisdiction, in which actions it shall be represented by the Attorney General.

(Added by Stats. 2015, Ch. 395, Sec. 13. (AB 180) Effective January 1, 2016.)

7614.6. The bureau shall enforce and administer Part 1 (commencing with Section 8100), Part 3 (commencing with Section 8250), and Part 5 (commencing with Section 9501) of Division 8 of the Health and Safety Code.

(Added by Stats. 2015, Ch. 395, Sec. 13. (AB 180) Effective January 1, 2016.)

7614.7. In any report to the bureau, all bonds, debentures, or other evidences of debt held by a cemetery corporation if amply secured and if not in default as to principal or interest may be valued as follows:

(a) If purchased at par at the par value.

(b) If purchased above or below par on the basis of the purchase price adjusted so as to bring the value to par at maturity and so as to yield the effective rate of interest on the basis at which the purchase was made.

(c) In such valuation, the purchase price shall in no case be taken at a higher figure than the actual market value at the time of purchase.

(Added by Stats. 2015, Ch. 395, Sec. 13. (AB 180) Effective January 1, 2016.)

7614.8. Any security or other evidence of debt if in default as to principal or interest or if not amply secured shall not be valued as an asset of the endowment care fund above its market value.

(Added by Stats. 2015, Ch. 395, Sec. 13. (AB 180) Effective January 1, 2016.)

7614.9. Notwithstanding any other law, every cemetery authority shall present to the survivor of the deceased who is handling the burial or cremation arrangements or the responsible party a copy of any preneed agreement that has been signed and paid in full, or in part, by or on behalf of the deceased and is in the possession of the cemetery authority. The copy may be presented in person, by certified mail, or by facsimile transmission, as agreed upon by the survivor of the deceased or the responsible party. A cemetery authority who knowingly fails to present the preneed agreement to the survivor of the deceased or the responsible party shall be liable for a civil fine equal to three times the cost of the preneed agreement, or one thousand dollars (\$1,000), whichever is greater.

(Added by Stats. 2015, Ch. 395, Sec. 13. (AB 180) Effective January 1, 2016.)