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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 2.5. Cemetery Brokerage Regulations [7637 - 7638] (*Article 2.5 added by Stats. 2015, Ch. 395, Sec. 18.)*

7637. This article does not apply to the following cases or to the following persons:

- (a) A person acting with reference to an occasional sale of his or her own property.
- (b) The regular officers of a cemetery corporation holding a certificate of authority acting with reference to the corporation's property when they receive no special compensation therefor.
- (c) Persons making an occasional sale under a duly executed power of attorney from others.
- (d) The services rendered by an attorney at law in performing his or her duties in that capacity.
- (e) A receiver, trustee in bankruptcy, any person acting under orders of any court, or a trustee selling under a deed of trust.
- (f) A real estate broker or real estate salesperson, acting in that capacity in connection with the sale, lease, or exchange of real property, or interest therein, when the transfer of cemetery property is purely incidental to the sale, lease, or exchange of real property.

(*Added by Stats. 2015, Ch. 395, Sec. 18. (AB 180) Effective January 1, 2016.*)

7637.1. A person shall not engage in the business of, act in the capacity of, or advertise or assume to act as, a cemetery broker or cemetery salesperson in this state without first obtaining a license from the bureau.

(*Added by Stats. 2015, Ch. 395, Sec. 18. (AB 180) Effective January 1, 2016.*)

7637.2. Any act other than an occasional sale of buying or selling, leasing, or exchanging cemetery property or interment services of or for another or on his or her own account, or offering for another or for his or her own account to buy or sell, lease, or exchange cemetery property or interment services, or negotiating the purchase or sale, lease, or exchange of cemetery property or interment services, or negotiating the purchase or sale, lease, or exchange, or listing or soliciting, or negotiating a loan on or leasing of cemetery property or interment services constitutes the person making such offer, sale or purchase, lease, or exchange, or negotiating the loan, or listing or soliciting, a cemetery broker or cemetery salesperson.

(*Added by Stats. 2015, Ch. 395, Sec. 18. (AB 180) Effective January 1, 2016.*)

7637.3. A person engaged in the business or acting in the capacity of a cemetery broker or a cemetery salesperson within this state shall not bring or maintain any action in the courts of this state for the collection of compensation for the performance of any of the acts mentioned in this article without alleging and proving that he or she was a duly licensed cemetery broker or cemetery salesperson at the time the alleged cause of action arose.

(*Added by Stats. 2015, Ch. 395, Sec. 18. (AB 180) Effective January 1, 2016.*)

7637.4. (a) A cemetery broker shall not employ or compensate, directly or indirectly, any person for performing any of the acts within the scope of this article who is not a licensed cemetery broker, or a cemetery salesperson licensed under the cemetery broker employing or compensating him or her. A cemetery salesperson shall not be employed by or accept compensation from any person other than the cemetery broker under whom he or she is at the time licensed.

(b) A salesperson shall not pay any compensation for performing any of the acts within the scope of this article to any licensee except through the cemetery broker under whom he or she is at the time licensed.

(c) For a violation of any of the provisions of this section, the bureau may temporarily suspend or permanently revoke the license of the cemetery licensee in accordance with the provisions of this act relating to disciplinary proceedings.

(Added by Stats. 2015, Ch. 395, Sec. 18. (AB 180) Effective January 1, 2016.)

7637.5. (a) It is a misdemeanor, punishable by a fine not exceeding one hundred dollars (\$100) for each offense, for any person, whether obligor, escrowholder, or otherwise, to pay or deliver to anyone a compensation for performing any of the acts within the scope of this article who is not known to be or who does not present evidence to such payer that he or she is a licensed cemetery broker at the time compensation is earned.

(b) For violation of any of the provisions of this section, the bureau may temporarily suspend or permanently revoke the license of the cemetery licensee in accordance with the provisions of this act relating to disciplinary proceedings.

(Added by Stats. 2015, Ch. 395, Sec. 18. (AB 180) Effective January 1, 2016.)

7637.6. Any person acting as a cemetery broker or cemetery salesperson without a license, or who advertises so as to indicate he or she is a cemetery broker without being so licensed, is guilty of a misdemeanor. If that person is a corporation, it shall be punished by a fine not to exceed five thousand dollars (\$5,000).

(Added by Stats. 2015, Ch. 395, Sec. 18. (AB 180) Effective January 1, 2016.)

7637.7. (a) Any cemetery salesperson or cemetery broker who sells, causes to be sold, or offers for sale any cemetery property upon the promise, guarantee, or representation to the purchaser that the same may be resold or repurchased at a financial profit is guilty of a misdemeanor.

(b) For violation of any of the provisions of this section, the bureau may temporarily suspend or permanently revoke the license of the cemetery salesperson or cemetery broker in accordance with the provisions of this act relating to disciplinary proceedings.

(c) No violation of any of the provisions of this section by any cemetery salesperson or employee of any licensed cemetery broker shall cause the suspension or revocation of the license of the employer of the salesperson or employee unless it appears upon a hearing by the bureau that the employer had guilty knowledge of the violation.

(Added by Stats. 2015, Ch. 395, Sec. 18. (AB 180) Effective January 1, 2016.)

7637.8. Every officer, agent, or employee of any company, and every other person who knowingly authorizes, directs, or aids in the publication, advertisement, distribution, or circulation of any false statement or representation concerning any cemetery or cemetery brokerage business and every person who, with knowledge that any advertisement, pamphlet, prospectus, or letter concerning any cemetery brokerage business or any written statement that is false or fraudulent, issues, circulates, publishes, or distributes the same, or causes it to be issued, circulated, published, or distributed, or who in any other respect willfully violates or fails, omits, or neglects to obey, observe, or comply with any order, permit, decision, demand, or requirement of the bureau under the provisions of this act relating to cemetery brokerage, is guilty of a misdemeanor, and, if a cemetery licensee, he or she shall be held to trial by the bureau for a suspension or revocation of his or her cemetery license, as provided in the provisions of this act relating to disciplinary proceedings.

(Added by Stats. 2015, Ch. 395, Sec. 18. (AB 180) Effective January 1, 2016.)

7637.9. Each cemetery broker, other than a cemetery corporation holding a certificate of authority, and each cemetery salesperson shall include in any advertising a statement that he or she is acting as a cemetery broker or cemetery salesperson.

(Added by Stats. 2015, Ch. 395, Sec. 18. (AB 180) Effective January 1, 2016.)

7637.10. For violation of any of the provisions of Section 7637.9, the bureau may temporarily suspend or permanently revoke the license of the cemetery licensee in accordance with the provisions of this act relating to disciplinary proceedings.

(Added by Stats. 2015, Ch. 395, Sec. 18. (AB 180) Effective January 1, 2016.)

7638. Any person, other than a person making an occasional sale, who advertises cemetery property for sale or exchange, without being duly licensed as a cemetery broker or a cemetery salesperson, or without possessing a certificate of authority as a cemetery corporation, is guilty of a misdemeanor. If such person is a corporation, it shall be punished by a fine of not to exceed five thousand dollars (\$5,000).

(Added by Stats. 2015, Ch. 395, Sec. 18. (AB 180) Effective January 1, 2016.)