

As Introduced

**133rd General Assembly
Regular Session
2019-2020**

S. B. No. 32

Senator Roegner

A BILL

To amend sections 961.01, 961.04, and 961.05 and to
enact section 961.09 of the Revised Code to make
changes to the law governing pet cemeteries.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 961.01, 961.04, and 961.05 be
amended and section 961.09 of the Revised Code be enacted to
read as follows:

Sec. 961.01. As used in ~~sections 961.01 to 961.05 of the~~
~~Revised Code~~this chapter:

(A) "Burial right" means ~~the right of interment~~ an
interest in land assigned or granted by a pet cemetery land
owner or a pet cemetery land owner's authorized agent to a pet
owner or other member of the general public through a deed or
note in writing that includes a description of the terms of the
agreement and the description of the property that is being
conveyed.

(B) "Endowment care fund" means a fund created pursuant to
section 961.04 of the Revised Code to provide income to a pet
cemetery for care, maintenance, administration, and
embellishment of the pet cemetery.

(C) "Interment" means the disposition of pet remains by earth burial, entombment in a mausoleum, or inurnment in a columbarium.

"Interment" does not include either of the following:

(1) Scattering ashes on the ground surface or other dispersal;

(2) Burial of ashes in the ground unless the ashes are in an urn or similar nondegradable container.

~~(C)~~ (D) "Operate" means engaging in the business of selling or offering for sale any burial or interment right in a pet cemetery to the general public or conducting burials of pet remains for the general public.

(E) "Person" has the same meaning as in section 1.59 of the Revised Code.

~~(D)~~ (F) "Pet" means an animal that has been adapted or tamed to live in intimate association with or for the pleasure or advantage of people and includes but is not limited to dogs, cats, birds, rabbits, and hamsters.

~~(E)~~ (G) "Pet cemetery" means land, together with any structures, facilities, or buildings appurtenant thereto, provided to members of the general public for use or reservation for use for the individual interment, above or below ground, of pet remains.

"Pet cemetery" does not include land used exclusively for landfilling or the communal burial of pets, but does include a pet cemetery where a portion of the land is used for the communal burial of pets.

(H) "Pet cemetery purposes" and purposes that are "usual

and normal for the operation of a pet cemetery" mean any and all 48
business and purposes requisite to, necessary for, or incident 49
to establishing, maintaining, operating, improving, or 50
conducting a pet cemetery, interring pet remains, and the care, 51
preservation, and embellishment of pet cemetery property. The 52
terms include all of the following: 53

(1) Selling burial rights; 54

(2) Conducting burials and burial services; 55

(3) Maintaining grave sites; 56

(4) Maintaining cemetery common areas; 57

(5) Grounds keeping; 58

(6) Administration; 59

(7) Storage of equipment and supplies; 60

(8) Erecting, maintaining, modifying, and removing 61
cemetery buildings. 62

(I) "Pet remains" means any part of the body of a deceased 63
pet being in any stage of decomposition or state of preservation 64
or the remaining body fragments from a body of a deceased pet 65
that has been reduced by cremation or alternative disposition. 66
"Pet remains" do not include either of the following: 67

(1) Remains that are fully decomposed or not recognizable 68
apart from the soil into which they have been interred; 69

(2) Cremated ashes that have been scattered on the ground 70
surface or otherwise dispersed. 71

Sec. 961.04. (A) Any person desiring to operate any pet 72
cemetery which is organized or developed on or after ~~the~~ 73
~~effective date of this section~~ August 29, 1986, shall, before 74

selling or offering to sell any burial right in such pet 75
cemetery, establish an endowment care fund, as required by 76
division (B) of this section, and place a deposit in the fund of 77
at least twelve thousand dollars in cash, or in bonds of the 78
United States, this state, or any county or municipal 79
corporation of this state. 80

Whenever any such person has placed another twelve 81
thousand dollars in the endowment care fund from the maintenance 82
fee portion of the proceeds received from the sale of burial 83
rights, in addition to the deposit required in this division, 84
such person may withdraw the deposit of twelve thousand dollars 85
from the fund. 86

(B) No person shall operate or continue to operate any pet 87
cemetery in this state without establishing and maintaining an 88
endowment care fund segregated from other assets in accordance 89
with this section. 90

(C) Any person operating any pet cemetery after ~~the~~ 91
~~effective date of this section~~ August 29, 1986, shall place into 92
the endowment care fund required by division (B) of this section 93
a maintenance fee of not less than fifty dollars, which shall be 94
charged as part of the purchase price for the sale of any burial 95
right. This fee shall be placed in the endowment care fund no 96
later than thirty days following the month in which the entire 97
gross sales proceeds from the sale of the burial right are 98
received. 99

(D) The moneys of an endowment care fund shall be held and 100
invested in the manner in which trust funds are permitted to be 101
held and invested pursuant to sections 2109.37 and 2109.371 of 102
the Revised Code. 103

The income from the endowment care fund shall be used only 104
for the maintenance, supervision, improvement, and preservation 105
of the grounds, lots, markers, memorials, buildings, equipment, 106
statuary, and other real and personal property of the pet 107
cemetery and for the payment of real property taxes. Annual 108
reports of all the assets and investments of the endowment care 109
fund shall be prepared and maintained by the pet cemetery 110
operator, and shall be available for inspection at reasonable 111
times to any owner of a burial right in the pet cemetery. 112

(E) This section does not require a person owning land 113
with a pet cemetery restriction to establish an endowment care 114
fund if the person does not operate a pet cemetery or sell or 115
offer to sell a burial or interment right in relation to that 116
land. 117

Sec. 961.05. (A) After a declaration has been filed 118
pursuant to section 961.02 of the Revised Code, the land 119
described in the declaration shall be used for pet cemetery 120
purposes only unless the restriction for such use is removed by 121
order of the court of common pleas in the county where the land 122
is located in a proceeding brought by the pet cemetery property 123
owner or the owner's heirs or assigns. 124

(B) The court of common pleas may remove the restriction 125
on the land upon proof satisfactory to the court that either of 126
the following has occurred: 127

(1) No interments have been made in, or all pet remains 128
have been removed from, the ~~land~~ portion of the cemetery from 129
which the restriction is sought to be removed; 130

(2) ~~The~~ Both of the following apply: 131

(a) Notice has been sent by registered mail, return 132

receipt requested, to the last known address of each person who 133
owns a burial right within the portion of the cemetery from 134
which the restriction is sought to be removed. 135

(b) The owner of the pet cemetery property or the owner's 136
heirs or assigns have received, from ~~those persons~~ a person who 137
~~own-owns~~ burial rights in the pet cemetery within the portion 138
from which the restriction is sought to be removed, or their 139
that person's heirs or assigns, written authorization, 140
acknowledged before a notary public, to remove the restriction 141
from that portion of the land. 142

~~Any~~ If the cemetery property owner receives no response 143
within thirty days from the date the notice is sent, consent to 144
remove the restriction from that portion of the land shall be 145
presumed. If a person granting this authorization who wishes to 146
~~have a~~ has pet remains that is already ~~are~~ interred in the 147
portion of the pet cemetery from which the restriction is sought 148
to be removed, and the person wishes to have the remains removed 149
and reinterred elsewhere, the person shall so state on the 150
authorization and the ~~.~~ The pet cemetery property owner shall, 151
~~at the owner's expense, remove the pet remains and have them~~ 152
~~reinterred elsewhere and shall provide proof of this removal and~~ 153
reinterment. 154

A pet cemetery property owner need not obtain the 155
authorization described in division (B)(2) of this section from 156
a person who has purchased a burial right in the pet cemetery 157
but who has not yet used that right for the interment of a pet, 158
if the property owner refunds to the purchaser or the 159
purchaser's heirs or assigns all moneys taken for the burial 160
right, plus interest computed in the manner and at the rate 161
agreed upon between the cemetery owner and the owner of the 162

burial right. 163

(C) The authorization required by division (B) (2) of this section shall not be required for any portion of a pet cemetery used for the communal burial of pets. 164
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(D) The court of common pleas may remove the restriction on a portion of the land described in the declaration, if the portion of the land that remains subject to the restriction is not less than three acres in size, upon proof satisfactory to the court that the situations described in either division (B) (1) or (2) of this section have occurred with respect to that portion of the land from which the restriction is sought to be removed. 167
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~~(D)~~ (E) A holder of a lien on the restricted land may object to the removal of the restriction ~~and the~~. The court of common pleas shall consider any such objection before issuing an order to remove the restriction. 175
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~~(E)~~ (F) An order issued by the court of common pleas removing a restriction pursuant to this section shall be filed in the office of the county recorder of the county in which the land is located, who shall record it in the official records. 179
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(G) A person responding and withholding the authorization required by division (B) (2) of this section shall provide written proof or satisfactory documentation of ownership of a burial right and that a burial has occurred within the portion from which the restriction is sought to be removed. 183
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(H) It shall be the duty of a purchaser or owner of a burial right in a pet cemetery to notify the cemetery operator and the property owner of a change in address. 188
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Sec. 961.09. There is no private right of action for the 191

<u>enforcement of section 961.02, 961.03, or 961.04 of the Revised</u>	192
<u>Code.</u>	193
Section 2. That existing sections 961.01, 961.04, and	194
961.05 of the Revised Code are hereby repealed.	195