

**As Introduced**

**131st General Assembly**

**Regular Session**

**2015-2016**

**H. B. No. 395**

**Representative Pelanda**

**Cosponsors: Representatives Green, Grossman, Fedor, Ruhl, Hill, Sprague**

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**A BILL**

To amend sections 3705.17 and 4767.01 and to enact 1  
section 4767.09 of the Revised Code to establish 2  
the cemetery grant program and to make an 3  
appropriation. 4

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

**Section 1.** That sections 3705.17 and 4767.01 be amended 5  
and section 4767.09 of the Revised Code be enacted to read as 6  
follows: 7

**Sec. 3705.17.** The body of a person whose death occurs in 8  
this state shall not be interred, deposited in a vault or tomb, 9  
cremated, or otherwise disposed of by a funeral director until a 10  
burial permit is issued by a local registrar or sub-registrar of 11  
vital statistics. No such permit shall be issued by a local 12  
registrar or sub-registrar until a satisfactory death, fetal 13  
death, or provisional death certificate is filed with the local 14  
registrar or sub-registrar. When the medical certification as to 15  
the cause of death cannot be provided by the attending physician 16  
or coroner prior to burial, for sufficient cause, as determined 17  
by rule of the director of health, the funeral director may file 18

a provisional death certificate with the local registrar or sub-registrar for the purpose of securing a burial or burial-transit permit. When the funeral director files a provisional death certificate to secure a burial or burial-transit permit, the funeral director shall file a satisfactory and complete death certificate within five days after the date of death. The director of health, by rule, may provide additional time for filing a satisfactory death certificate. A burial permit authorizing cremation shall not be issued upon the filing of a provisional certificate of death.

When a funeral director or other person obtains a burial permit from a local registrar or sub-registrar, the registrar or sub-registrar shall charge a fee of three dollars for the issuance of the burial permit. Two dollars and fifty cents of each fee collected for a burial permit shall be paid into the state treasury to the credit of the division of real estate in the department of commerce to be used by the division in discharging its duties prescribed in Chapter 4767. of the Revised Code and the Ohio cemetery dispute resolution commission created by section 4767.05 of the Revised Code. A local registrar or sub-registrar shall transmit payments of that portion of the amount of each fee collected under this section to the treasurer of state on a quarterly basis or more frequently, if possible. The Upon receipt of each payment, the treasurer of state shall transfer to the credit of the cemetery grant fund one dollar of every two dollars and fifty cents that, under this section, was paid into the state treasury to the credit of the division of real estate in the department of commerce, to be used by the director of commerce in accordance with section 4767.09 of the Revised Code.

The director of health, by rule, shall provide for the

issuance of a burial permit without the payment of the fee 50  
required by this section if the total cost of the burial will be 51  
paid by an agency or instrumentality of the United States, the 52  
state or a state agency, or a political subdivision of the 53  
state. 54

The director of commerce may, by rule adopted in 55  
accordance with Chapter 119. of the Revised Code, reduce the 56  
total amount of the fee required by this section and that 57  
portion of the amount of the fee required to be paid to the 58  
credit of the division of real estate for the use of the 59  
division and the Ohio cemetery dispute resolution commission, if 60  
the director determines that the total amount of funds the fee 61  
is generating at the amount required by this section exceeds the 62  
amount of funds the division of real estate and the commission 63  
need to carry out their powers and duties prescribed in Chapter 64  
4767. of the Revised Code. 65

No person in charge of any premises in which interments or 66  
cremations are made shall inter or cremate or otherwise dispose 67  
of a body, unless it is accompanied by a burial permit. Each 68  
person in charge of a cemetery, crematory, or other place of 69  
disposal shall indorse upon a burial permit the date of 70  
interment, cremation, or other disposal and shall retain such 71  
permits for a period of at least five years. The person in 72  
charge shall keep an accurate record of all interments, 73  
cremations, or other disposal of dead bodies, made in the 74  
premises under the person's charge, stating the name of the 75  
deceased person, place of death, date of burial, cremation, or 76  
other disposal, and name and address of the funeral director. 77  
Such record shall at all times be open to public inspection. 78

**Sec. 4767.01.** As used in sections 4767.01 to ~~4767.08~~ 79

<u>4767.09</u> of the Revised Code:	80
(A) "Cemetery," "interment," "burial right," "entombment right," and "columbarium right" have the same meanings as in section 1721.21 of the Revised Code.	81 82 83
(B) "Political subdivision" means one or more municipal corporations, townships, or other bodies corporate and politic authorized to operate and maintain a cemetery under the law of this state.	84 85 86 87
(C) "Division of real estate" may be used interchangeably with, and for all purposes has the same meaning as, "division of real estate and professional licensing."	88 89 90
(D) "Superintendent" or "superintendent of the division of real estate" means the superintendent of the division of real estate and professional licensing of this state. Whenever the division or superintendent of real estate is referred to or designated in any statute, rule, contract, or other document, the reference or designation shall be deemed to refer to the division or superintendent of real estate and professional licensing, as the case may be.	91 92 93 94 95 96 97 98
<u>Sec. 4767.09. (A) As used in this section, "maintaining" or "maintenance" means the care of a cemetery and of the lots, graves, crypts, niches, mausoleums, memorials, and markers therein, including the cutting, trimming, and removal of trees; the repair of drains, water lines, roads, fences, and buildings; and the payment of expenses necessary for keeping records of lot ownership, transfers, and burials.</u>	99 100 101 102 103 104 105
<u>(B) The cemetery grant fund is hereby established in the state treasury. The fund shall consist of money transferred to the credit of the fund under section 3705.17 of the Revised Code</u>	106 107 108

and of money appropriated to it. Investment earnings on moneys 109  
credited to the fund shall be retained by the fund. 110

(C) (1) The director of commerce shall administer and use 111  
money in the fund exclusively to make grants to owners or 112  
persons responsible for the operation and maintenance of 113  
cemeteries registered under section 4767.03 of the Revised Code 114  
to defray the costs of operating and maintaining the cemeteries 115  
and to train cemetery personnel in the operation and maintenance 116  
of cemeteries. An owner or person responsible for the operation 117  
and maintenance of a for-profit cemetery is not eligible for a 118  
grant. 119

(2) The director of commerce shall adopt rules under 120  
Chapter 119. of the Revised Code that prescribe the form and 121  
content of applications for grants, that establish requirements 122  
for obtaining a grant, and that establish the procedures the 123  
director shall follow in awarding grants under this section. 124

(D) The director of commerce, by rule adopted under 125  
Chapter 119. of the Revised Code, may, each fiscal year, 126  
increase the dollar amount of each burial permit fee that is to 127  
be transferred to the credit of the cemetery grant fund under 128  
section 3705.17 of the Revised Code, if the director determines 129  
that the total amount of fees paid into the state treasury to 130  
the credit of the division of real estate under that section 131  
exceeds the amount of money the division needs to discharge its 132  
duties under this chapter. If the director increases the dollar 133  
amount transferred to the cemetery grant fund and later 134  
determines that the increase in the dollar amount depletes the 135  
amount of moneys the division of real estate needs to discharge 136  
its duties under this chapter, the director may lower the dollar 137  
amount that is to be transferred to the credit of the cemetery 138

grant fund to one dollar of every two dollars and fifty cents of 139  
each burial permit fee collected under section 3705.17 of the 140  
Revised Code. 141

**Section 2.** That existing sections 3705.17 and 4767.01 of 142  
the Revised Code are hereby repealed. 143

**Section 3.** All items in this section are hereby 144  
appropriated as designated out of any moneys in the state 145  
treasury to the credit of the Cemetery Grant Fund (Fund 5SE0). 146  
For all appropriations made in this section, those in the first 147  
column are for fiscal year 2016 and those in the second column 148  
are for fiscal year 2017. The appropriations made in this 149  
section are in addition to any other appropriations made for the 150  
FY 2016-FY 2017 biennium. 151

COM DEPARTMENT OF COMMERCE 152

Dedicated Purpose Fund Group 153

5SE0 800648	Cemetery Grant Program	\$100,000	\$0	154
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TOTAL DPF Dedicated Purpose Fund Group		\$100,000	\$0	155
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TOTAL ALL BUDGET FUND GROUPS		\$100,000	\$0	156
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CEMETERY GRANT PROGRAM 157

The foregoing appropriation item 800648, Cemetery Grant 158  
Program, shall be used by the Department of Commerce to award 159  
grants under section 4767.09 of the Revised Code. 160

**Section 4.** Within the limits set forth in this act, the 161  
Director of Budget and Management shall establish accounts 162  
indicating the source and amount of funds for each appropriation 163  
made in this act, and shall determine the form and manner in 164  
which appropriation accounts shall be maintained. Expenditures 165

from appropriations contained in this act shall be accounted for	166
as though made in Am. Sub. H.B. 64 of the 131st General	167
Assembly.	168
The appropriations made in this act are subject to all	169
provisions of Am. Sub. H.B. 64 of the 131st General Assembly	170
that are generally applicable to such appropriations.	171