

**As Introduced**

**132nd General Assembly**

**Regular Session**

**2017-2018**

**H. B. No. 168**

**Representative Stein**

**Cosponsors: Representatives Bocchieri, Brenner, Hambley, LaTourette, Seitz**

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**A BILL**

To amend sections 1721.21, 1721.211, 4767.01, 1  
4767.02, 4767.03, 4767.04, 4767.05, 4767.06, 2  
4767.07, and 4767.08 and to enact sections 3  
4767.021, 4767.09, and 4767.10 of the Revised 4  
Code to modify duties of the Division of Real 5  
Estate in the Department of Commerce regarding 6  
cemetery registration, to specify cemetery 7  
owners must reasonably maintain cemeteries, to 8  
establish the Cemetery Grant Program, and to 9  
make an appropriation. 10

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

**Section 1.** That sections 1721.21, 1721.211, 4767.01, 11  
4767.02, 4767.03, 4767.04, 4767.05, 4767.06, 4767.07, and 12  
4767.08 be amended and sections 4767.021, 4767.09, and 4767.10 13  
of the Revised Code be enacted to read as follows: 14

**Sec. 1721.21.** (A) As used in this section: 15

(1) "Person" means any corporation, company, partnership, 16  
individual, or other entity owning or operating a cemetery for 17  
the disposition of human remains. 18

(2) "Cemetery" means any one or a combination of more than 19  
one of the following: 20

(a) A burial ground for earth interments; 21

(b) A mausoleum for crypt entombments; 22

(c) A columbarium for the deposit of cremated remains; 23

(d) A scattering ground for the spreading of cremated 24  
remains. 25

(3) "Interment" means the disposition of human remains by 26  
earth burial, entombment, or inurnment. 27

(4) "Burial right" means the right of earth interment. 28

(5) "Entombment right" means the right of entombment in a 29  
mausoleum. 30

(6) "Columbarium right" means the right of inurnment in a 31  
columbarium for cremated remains. 32

(7) "Human remains" means any part of the body of a 33  
deceased human being, in any stage of decomposition or state of 34  
preservation, or the remaining bone fragments from the body of a 35  
deceased human being that has been reduced by cremation or 36  
alternative disposition. 37

(B) No person shall operate or continue to operate any 38  
cemetery in this state unless an endowment care trust is 39  
established and maintained as required by this section. 40

(C) Any person desiring to operate any cemetery that is 41  
organized or developed after July 1, 1970, before offering to 42  
sell or selling any burial lot, burial right, entombment right, 43  
or columbarium right in that cemetery, shall first establish an 44  
endowment care trust, segregated from other assets, and place in 45

that fund a minimum of fifty thousand dollars in cash or in 46  
bonds of the United States, this state, or any county or 47  
municipal corporation of this state. 48

Whenever any person described in this division has placed 49  
another fifty thousand dollars in the endowment care trust out 50  
of gross sales proceeds, in addition to the deposit required by 51  
this division, that person, after submitting proof of this fact 52  
to the trustees of the endowment care trust, may be paid a 53  
distribution in the sum of fifty thousand dollars from the 54  
endowment care trust. 55

(D) Any person desiring to operate or to continue to 56  
operate any cemetery after July 1, 1970, shall place into the 57  
endowment care trust as required by this section not less than 58  
ten per cent of the gross sales proceeds received from the sale 59  
of any burial lot, burial right, entombment right, or 60  
columbarium right. This percentage shall be placed in the 61  
endowment care trust no later than thirty days following the 62  
month in which the entire gross sales are received. 63

(E) The trustees of the endowment care trust shall consist 64  
of at least three individuals who have been residents of the 65  
county in which the cemetery is located for at least one year, 66  
or a trust company licensed under Chapter 1111. of the Revised 67  
Code or a national bank or federal savings association that has 68  
securities pledged in accordance with section 1111.04 of the 69  
Revised Code. If the trustees are not a financial institution or 70  
trust company, the trustees shall be bonded by a ~~corporate~~ 71  
~~surety or fidelity bond, or insured under an insurance policy~~ 72  
less any deductible, in an aggregate amount of not less than one 73  
hundred per cent of the funds held by the trustees. The trustees 74  
or their agent shall, on a continuous basis, keep exact records 75

as to the amount of funds under any joint account or trust 76  
instrument being held for the individual beneficiaries showing 77  
the amount paid, the amount deposited and invested, and accruals 78  
and income. 79

The funds of the endowment care trust shall be held and 80  
invested in the manner in which trust funds are permitted to be 81  
held and invested pursuant to sections 2109.37 and 2109.371 of 82  
the Revised Code or, if provided for in the instrument creating 83  
the trust, pursuant to the Ohio Uniform Prudent Investor Act. 84

(F) Any person offering to sell or selling any burial lot, 85  
burial right, entombment right, or columbarium right shall give 86  
to the purchaser of the lot or right, at the time of sale, a 87  
written agreement that identifies and unconditionally guarantees 88  
to the purchaser the specific location of the lot or the 89  
specific location to which the right applies. 90

(G) No person shall open or close any grave, crypt, or 91  
niche for the interment of human remains in a cemetery without 92  
the permission of the cemetery association or other entity 93  
having control and management of the cemetery. 94

(H) Except as provided in division (G) of this section, 95  
this section does not apply to a family cemetery as defined in 96  
section 4767.02 of the Revised Code, to any cemetery that is 97  
owned and operated entirely and exclusively by churches, 98  
religious societies, established fraternal organizations, 99  
municipal corporations, or other political subdivisions of the 100  
state, or to a national cemetery. 101

(I) The dividend and interest income from the endowment 102  
care trust shall be used only for the cost and expenses incurred 103  
to establish, manage, and administer the trust and for the 104

maintenance, supervision, improvement, and preservation of the 105  
grounds, lots, buildings, equipment, statuary, and other real 106  
and personal property of the cemetery. 107

(J) (1) Annual reports of all the assets and investments of 108  
the endowment care trust shall be prepared and maintained, and 109  
shall be available for inspection at reasonable times by any 110  
owner of interment rights in the cemetery. 111

(2) Every cemetery required to establish and maintain an 112  
endowment care trust shall ~~file an affidavit annually with the~~ 113  
~~division of real estate of the department of commerce, in a form~~ 114  
~~prescribed by the division, certifying under oath~~ ensure each of 115  
the following: 116

(a) That the cemetery has deposited, at the time specified 117  
in division (D) of this section, the amounts required by that 118  
division in the cemetery's endowment care trust; 119

(b) That only dividend and interest income have been paid 120  
from the endowment care trust, and the cemetery used the amounts 121  
withdrawn only for the purposes specified in division (I) of 122  
this section; 123

(c) That all principal and capital gains have remained in 124  
the endowment care trust; 125

(d) That the endowment care trust has not been used to 126  
collateralize or guarantee loans and has not otherwise been 127  
subjected to any consensual lien; 128

(e) That the endowment care trust is invested in 129  
compliance with the investing standards set forth in sections 130  
2109.37 and 2109.371 of the Revised Code, or, if provided for in 131  
the instrument creating the trust, the Ohio Uniform Prudent 132  
Investor Act. 133

(3) Every cemetery required to establish and maintain an 134  
endowment care trust shall file an affidavit annually with the 135  
division of real estate of the department of commerce, in a form 136  
prescribed by the division, certifying under oath the cemetery 137  
satisfied division (J) (2) of this section. 138

**Sec. 1721.211.** (A) As used in this section, "preneed 139  
cemetery merchandise and services contract" means a written 140  
agreement, contract, or series of contracts to sell or otherwise 141  
provide an outer burial container, monument, marker, urn, other 142  
type of merchandise customarily sold by cemeteries, or opening 143  
and closing services to be used or provided in connection with 144  
the final disposition of a dead human body, where payment for 145  
the container, monument, marker, urn, other type of merchandise 146  
customarily sold by cemeteries, or opening and closing services 147  
is made either outright or on an installment basis, prior to the 148  
death of the person so purchasing or for whom so purchased. 149  
"Preneed cemetery merchandise and services contract" does not 150  
include any preneed funeral contract or any agreement, contract, 151  
or series of contracts pertaining to the sale of any burial lot, 152  
burial or interment right, entombment right, or columbarium 153  
right with respect to which an endowment care trust is 154  
established or is exempt from establishment pursuant to section 155  
1721.21 of the Revised Code. 156

(B) Subject to the limitations and restrictions contained 157  
in Chapters 1101. to 1127. of the Revised Code, a trust company 158  
licensed under Chapter 1111. of the Revised Code or a national 159  
bank or federal savings association that pledges securities in 160  
accordance with section 1111.04 of the Revised Code or the 161  
individuals described in division (C) (2) of this section have 162  
the power as trustee to receive moneys under a preneed cemetery 163  
merchandise and services contract and to hold and invest such 164

moneys in accordance with sections 2109.37 and 2109.371 of the 165  
Revised Code ~~moneys under a preneed cemetery merchandise and~~ 166  
~~services contract~~ or, if provided for in the instrument creating 167  
the trust, in accordance with the Ohio Uniform Prudent Investor 168  
Act. 169

(C) (1) The greater of one hundred ten per cent of the 170  
seller's actual cost or thirty per cent of the seller's retail 171  
price of the merchandise and seventy per cent of the seller's 172  
retail price of the services to be provided under a preneed 173  
cemetery merchandise and services contract shall remain intact 174  
as a fund and held in a preneed cemetery merchandise and 175  
services trust until the death of the person for whose benefit 176  
the contract is made or the merchandise is delivered as set 177  
forth in division (K) of this section. However, any moneys held 178  
pursuant to this section shall be released upon demand of the 179  
person for whose benefit the contract was made or upon the 180  
demand of the seller for its share of the moneys held and earned 181  
interest if the contract has been canceled as set forth in 182  
division (G) of this section. 183

(2) The trustee of the ~~fund described in division (C) (1)~~ 184  
~~of this section~~ preneed cemetery merchandise and services trust 185  
shall be a trust company licensed under Chapter 1111. of the 186  
Revised Code or a national bank or federal savings association 187  
that pledges securities in accordance with section 1111.04 of 188  
the Revised Code or at least three individuals who have been 189  
residents of the county in which the seller is located for at 190  
least one year, each of whom shall be bonded by a ~~corporate~~ 191  
~~surety fidelity bond, or insured under an insurance policy less~~ 192  
any deductible, in an amount that is at least equal to the 193  
amount deposited in the ~~fund trust~~ of which those persons serve 194  
as trustee. Amounts in the ~~fund trust~~ shall be held and invested 195

in the manner in which trust funds are permitted to be held and 196  
invested pursuant to sections 2109.37 and 2109.371 of the 197  
Revised Code or, if provided for in the instrument creating the 198  
trust, in accordance with the Ohio Uniform Prudent Investor Act. 199

(3) Every preneed cemetery and merchandise contract 200  
entered into on or after ~~the effective date of this amendment~~ 201  
October 12, 2006, shall include a provision in substantially the 202  
following form: 203

NOTICE: Under Ohio law, the person holding the right of 204  
disposition of the remains of the beneficiary of this contract 205  
pursuant to section 2108.70 or 2108.81 of the Revised Code will 206  
have the right to purchase cemetery merchandise and services 207  
inconsistent with the merchandise and services set forth in this 208  
contract. However, the beneficiary is encouraged to state his or 209  
her preferences as to the manner of final disposition in a 210  
declaration of the right of disposition pursuant to section 211  
2108.72 of the Revised Code, including that the arrangements set 212  
forth in this contract shall be followed. 213

(D) Within thirty days after the last business day of the 214  
month in which the seller of cemetery merchandise or services 215  
receives final contractual payment under a preneed cemetery 216  
merchandise and services contract, the seller shall deliver the 217  
greater of one hundred ten per cent of the seller's actual cost 218  
or thirty per cent of the seller's retail price of the 219  
merchandise and seventy per cent of the seller's current retail 220  
price of the services as of the date of the contract to a 221  
trustee or to trustees as described in division (C) (2) of this 222  
section, and the moneys and accruals or income on the moneys 223  
shall be held in a fund in a preneed cemetery merchandise and 224  
services trust and designated for the person for whose benefit 225



the fund was established as a preneed cemetery merchandise and 226  
services contract fund. 227

(E) The moneys received from more than one preneed 228  
cemetery merchandise and services contract may, at the option of 229  
the persons for whose benefit the contracts are made, be placed 230  
in a common or pooled trust fund in this state under a single 231  
trust instrument. If three individuals are designated as the 232  
trustees as provided in division (C) (2) of this section, they 233  
shall be bonded by a ~~corporate surety or fidelity bond, or~~ 234  
insured under an insurance policy less any deductible, in an 235  
aggregate amount of not less than one hundred per cent of the 236  
funds held by them as trustees. The trustees or their agent 237  
shall, on a continuous basis, keep exact records as to the 238  
amount of funds under a single trust instrument being held for 239  
the individual beneficiaries showing the amount paid, the amount 240  
deposited and invested, and accruals and income. 241

(F) (1) ~~Except as provided in division (F) (2) of this~~ 242  
~~section, the~~ The seller of merchandise or services under a 243  
preneed cemetery merchandise and services contract shall 244  
~~annually submit to the division of real estate of the department~~ 245  
~~of commerce an affidavit in a form prescribed by the division,~~ 246  
~~sworn under oath, specifying~~ ensure each of the following: 247

(a) That, within the time specified in division (D) of 248  
this section, the amounts required by that division were 249  
deposited in an appropriate fund in a preneed cemetery 250  
merchandise and services trust; 251

(b) That the ~~fund~~ preneed cemetery merchandise and 252  
services trust has not been used to collateralize or guarantee 253  
loans and has not otherwise been subjected to any consensual 254  
lien; 255

(c) That the ~~fund~~preneed cemetery merchandise and 256  
services trust is invested in compliance with the investing 257  
standards set forth in sections 2109.37 and 2109.371 of the 258  
Revised Code or, if provided for in the instrument creating the 259  
trust, in accordance with the Ohio Uniform Prudent Investor Act; 260

(d) That no moneys have been removed from the ~~fund~~preneed 261  
cemetery merchandise and services trust, except as provided for 262  
in this section. 263

(2) Except as provided in division (F) (3) of this section, 264  
the seller of merchandise or services under a preneed cemetery 265  
merchandise and services contract shall annually submit to the 266  
division of real estate of the department of commerce an 267  
affidavit in a form prescribed by the division, certifying under 268  
oath the seller satisfied division (F) (1) of this section. 269

(3) A licensed funeral director who sells preneed funeral 270  
contracts and who also sells merchandise or services under a 271  
preneed cemetery merchandise and services contract shall be 272  
deemed to have met the requirement in division (F) ~~(1)~~ (2) of 273  
this section by submitting the annual preneed cemetery 274  
merchandise and services contract affidavit to the board of 275  
embalmers and funeral directors along with or as part of the 276  
annual preneed funeral contract report required under divisions 277  
(I) and (J) of section 4717.31 of the Revised Code. 278

(G) This division is subject to division (I) of this 279  
section. 280

Any person upon initially entering into a preneed cemetery 281  
merchandise and services contract may, within seven days, cancel 282  
the contract and request and receive from the seller one hundred 283  
per cent of all payments made under the contract. After the 284

expiration of the above period, any person who has entered into 285  
a preneed cemetery merchandise and services contract may, on not 286  
less than fifteen days' notice, cancel the contract and request 287  
and receive from the seller sixty per cent of the payments made 288  
under the contract which have been paid up to the time of 289  
cancellation; except that, if a preneed cemetery merchandise and 290  
services contract stipulates a firm or fixed or guaranteed price 291  
for the merchandise or services for future use at a time 292  
determined by the death of the person on behalf of whom payments 293  
are made, the person who has entered into the contract may, if 294  
the merchandise has not been delivered or the services have not 295  
been performed as set forth in division (K) or (L) of this 296  
section, on not less than fifteen days' notice, cancel the 297  
contract and receive from the seller sixty per cent of the 298  
principal paid pursuant to the contract and not less than eighty 299  
per cent of any interest paid, up to the time of cancellation, 300  
and not less than eighty per cent of any accrual or income 301  
earned while the moneys have been held pursuant to divisions (C) 302  
and (D) of this section, up to the time of cancellation. Upon 303  
cancellation, after the moneys have been distributed to the 304  
beneficiary pursuant to this division, all remaining moneys 305  
being held pursuant to divisions (C) and (D) of this section 306  
shall be paid to the seller. If more than one person enters into 307  
the contract, all of those persons must request cancellation for 308  
it to be effective under this division. In such a case, the 309  
seller shall refund to each person only those moneys that each 310  
person has paid under the contract. 311

(H) Upon receipt of a certified copy of the certificate of 312  
death or evidence of delivery of the merchandise or performance 313  
of the services pursuant to division (K) or (L) of this section, 314  
the trustee described in division (C)(2) of this section or its 315

agent, shall forthwith pay the fund and accumulated interest, if 316  
any, to the person entitled to them under the preneed cemetery 317  
merchandise and services contract. The payment of the fund and 318  
accumulated interest pursuant to this section, either to a 319  
seller or person making the payments, shall relieve the trustee 320  
of any further liability on the fund or accumulated interest. 321

(I) Notwithstanding any other provision of this section, 322  
any preneed cemetery merchandise and services contract may 323  
specify that it is irrevocable. All irrevocable preneed cemetery 324  
merchandise and services contracts shall include a clear and 325  
conspicuous disclosure of irrevocability in the contract and any 326  
person entering into an irrevocable preneed cemetery merchandise 327  
and services contract shall sign a separate acknowledgment of 328  
the person's waiver of the right to revoke. If a contract 329  
satisfies the requirements of this division, division (G) of 330  
this section does not apply to that contract. 331

(J) Any preneed cemetery merchandise and services contract 332  
that involves the payment of money shall be in writing and in 333  
compliance with the laws and rules of this state. 334

(K) For purposes of this section, the seller is considered 335  
to have delivered merchandise pursuant to a preneed cemetery 336  
merchandise and services contract when either of the following 337  
occur: 338

(1) The seller makes actual delivery of the merchandise to 339  
the beneficiary, or the seller pays for the merchandise and 340  
identifies it as being stored for the benefit of the beneficiary 341  
at a manufacturer's warehouse. 342

(2) The seller receives delivery of the merchandise on 343  
behalf of the beneficiary, and all of the following occur: 344

(a) The merchandise is permanently affixed to or stored 345  
upon the real property of a cemetery located in this state. 346

(b) The seller notifies the beneficiary of receipt of the 347  
merchandise and identifies the specific location of the 348  
merchandise. 349

(c) The seller at the time of the beneficiary's final 350  
payment provides the beneficiary with evidence of ownership in 351  
the beneficiary's name showing the merchandise to be free and 352  
clear of any liens or other encumbrances. 353

(L) For purposes of this section, a seller is considered 354  
to have performed services pursuant to a preneed cemetery 355  
merchandise and services contract when the beneficiary's next of 356  
kin signs a written statement that the services have been 357  
performed or, if no next of kin of the beneficiary can be 358  
located through reasonable diligence, when the owner or other 359  
person responsible for the operation of the cemetery signs a 360  
statement of that nature. 361

(M) Notwithstanding any other provision of this chapter, 362  
any trust may be charged a trustee's fee, which is to be 363  
deducted from the earned income or accruals on that trust. The 364  
fee shall not exceed the amount that is regularly or usually 365  
charged for similar services rendered by the trustee described 366  
in division (C)(2) of this section when serving as a trustee. 367

(N) The general assembly intends that this section be 368  
construed as a limitation upon the manner in which a person is 369  
permitted to accept moneys in prepayment for merchandise and 370  
services to be delivered or provided in the future, or 371  
merchandise and services to be used or provided in connection 372  
with the final disposition of human remains, to the end that at 373

all times members of the public may have an opportunity to 374  
arrange and pay for merchandise and services for themselves and 375  
their families in advance of need while at the same time 376  
providing all possible safeguards whereunder the prepaid moneys 377  
cannot be dissipated, whether intentionally or not, so as to be 378  
available for the payment for merchandise and services and the 379  
providing of merchandise and services used or provided in 380  
connection with the final disposition of dead human bodies. 381

(O) This section does not apply to the seller or provider 382  
of merchandise or services under a preneed cemetery merchandise 383  
and services contract if the contract pertains to a cemetery 384  
that is owned and operated entirely and exclusively by an 385  
established and legally cognizable church or denomination that 386  
is exempt from federal income taxation under section 501(c)(3) 387  
of the "Internal Revenue Code of 1954," 26 U.S.C.A. 501, an 388  
established fraternal organization, or a municipal corporation 389  
or other political subdivision of the state, to a cemetery that 390  
is a national cemetery, or to a cemetery that is a family 391  
cemetery as defined in section 4767.02 of the Revised Code; 392  
provided that, on a voluntary basis, rules and other measures 393  
are adopted to safeguard and secure all moneys received under a 394  
preneed cemetery merchandise and services contract. 395

(P) This section does not prohibit persons other than 396  
cemetery corporations or associations from selling outer burial 397  
containers, monuments, markers, urns, or other types of 398  
merchandise customarily sold by cemeteries pursuant to a preneed 399  
cemetery merchandise and services contract; however all sellers 400  
of merchandise pursuant to a preneed cemetery merchandise and 401  
services contract shall comply with this section unless the 402  
seller is specifically exempt from this section. 403

(Q) Any contract for preneed services or merchandise 404  
entered into with a cemetery not registered under section 405  
4767.03 of the Revised Code is voidable. 406

**Sec. 4767.01.** As used in sections 4767.01 to ~~4767.08~~ 407  
4767.10 of the Revised Code: 408

(A) "Cemetery," "interment," "burial right," "entombment 409  
right," ~~and~~ "columbarium right," and "human remains" have the 410  
same meanings as in section 1721.21 of the Revised Code. 411

(B) "Political subdivision" means one or more municipal 412  
corporations, townships, or other bodies corporate and politic 413  
authorized to operate and maintain a cemetery under the law of 414  
this state. 415

(C) "Division of real estate" may be used interchangeably 416  
with, and for all purposes has the same meaning as, "division of 417  
real estate and professional licensing." 418

(D) "Superintendent" or "superintendent of the division of 419  
real estate" means the superintendent of the division of real 420  
estate and professional licensing of this state. Whenever the 421  
division or superintendent of real estate is referred to or 422  
designated in any statute, rule, contract, or other document, 423  
the reference or designation shall be deemed to refer to the 424  
division or superintendent of real estate and professional 425  
licensing, as the case may be. 426

**Sec. 4767.02.** (A) Except as otherwise provided in division 427  
~~(C)~~ (D) of this section, no person, church, religious society, 428  
established fraternal organization, or political subdivision of 429  
the state shall own, operate, or maintain a cemetery unless the 430  
cemetery is registered pursuant to section 4767.03 of the 431  
Revised Code. 432

(B) The superintendent of the division of real estate in 433  
the department of commerce shall perform all of the following 434  
duties: 435

~~(1) Adopt, amend, and rescind rules in accordance with~~ 436  
~~Chapter 119. of the Revised Code to carry out sections 4767.02-~~ 437  
~~to 4767.04 of the Revised Code governing the registration of~~ 438  
~~cemeteries; Administer this chapter;~~ 439

(2) Issue orders necessary to implement this chapter; 440

(3) Administer the cemetery grant program established 441  
under section 4767.10 of the Revised Code; 442

(4) Prescribe the form and content of all applications to 443  
be used for registration and renewal of registration pursuant to 444  
section 4767.03 of the Revised Code; 445

~~(3)-(5)~~ Review applications for registration and issue 446  
registration certificates to cemeteries that meet the 447  
qualifications for registration pursuant to sections 4767.03 and 448  
4767.04 of the Revised Code; 449

~~(4)-(6)~~ Collect all fees related to the registration and 450  
renewal of registration certificates for cemeteries; 451

~~(5)-(7)~~ Maintain a written record of each cemetery 452  
registered with the division, which shall include such 453  
documentation as required in division (A) of section 4767.04 of 454  
the Revised Code. The record shall be available for inspection 455  
by the public and copies shall be made available pursuant to 456  
division (B) of section 149.43 of the Revised Code. 457

~~(6)-(8)~~ Revoke the registration of any cemetery owner or 458  
operator convicted of a violation of section 1721.21 or 1721.211 459  
of the Revised Code immediately upon receipt of notice of the 460



conviction pursuant to section 119.06 of the Revised Code; 461

~~(7)~~ (9) Hire all division personnel necessary to implement 462  
this chapter; 463

~~(8) Prohibit the sale of the assets or stock of a cemetery~~ 464  
~~by refusing~~ (10) Refuse to issue a registration certificate to 465  
the purchaser of management rights, assets, or stock of a 466  
cemetery until the dispute resolution commission has received 467  
audited financial ~~either of the following:~~ 468

(a) Financial statements audited by a certified public 469  
accountant showing to the commission's satisfaction that all 470  
current funds required to be deposited and maintained pursuant 471  
to sections 1721.21 and 1721.211 of the Revised Code have been 472  
deposited and maintained; 473

~~(9) With the dispute resolution commission's advice and~~ 474  
~~consent, subpoena cemetery personnel to attend hearings before~~ 475  
~~the commission; or~~ 476

(b) A plan agreed to by the parties and approved by the 477  
commission in accordance with division (G) of section 4767.06 of 478  
the Revised Code. 479

(11) Establish and maintain an investigation and audit 480  
section within the division of real estate in the department of 481  
commerce to conduct investigations pursuant to division (A) of 482  
section 4767.08 of the Revised Code and to audit the financial 483  
records of a cemetery to ensure compliance with sections 1721.21 484  
and 1721.211 of the Revised Code at least every five years, or 485  
more often as the section deems necessary. The investigators or 486  
auditors of the section may review and audit the business 487  
records of cemeteries during normal business hours. 488

(C) Investigators, auditors, and other personnel of the 489

division or commission shall maintain the confidentiality of 490  
information obtained from cemeteries, complainants, or other 491  
persons during an investigation or while conducting an 492  
inspection, audit, and other inquiry under division (B)(11) of 493  
this section, and of all other reports, documents, and work 494  
product that result from that information and that are prepared 495  
by the investigators, auditors, or other personnel of the 496  
division or commission. Such information and other reports, 497  
documents, and work product are not a public record for purposes 498  
of section 149.43 of the Revised Code. 499

(D) Sections 4767.02 to 4767.04 of the Revised Code do not 500  
apply to or affect a family cemetery or a cemetery in which 501  
there have been no interments during the previous twenty-five 502  
calendar years. As used in this division, "family cemetery" 503  
means a cemetery containing the human remains of persons, at 504  
least three-fourths of whom have a common ancestor or who are 505  
the spouse or adopted child of that common ancestor. 506

**Sec. 4767.021.** The Ohio cemetery dispute resolution 507  
commission or the superintendent of the division of real estate 508  
in the department of commerce may compel, by order or subpoena, 509  
the production of any book, paper, or document in relation to 510  
any matter over which the commission or superintendent has 511  
jurisdiction and which is the subject of inquiry and 512  
investigation by the commission or superintendent. The 513  
commission or superintendent may also compel, by order or 514  
subpoena, the attendance of witnesses to testify in a hearing 515  
held under section 4767.07 of the Revised Code. 516

For such purpose, the commission or superintendent shall 517  
have the same power as judges of county courts to administer 518  
oaths, compel the attendance of witness, and compel the 519

production of any book, paper, or document. Service of the 520  
subpoena may be made by sheriffs or constables, or by certified 521  
mail, return receipt requested, and the subpoena shall be deemed 522  
served on the date delivery is made or the date the person 523  
refused to accept delivery. Witnesses shall receive, after their 524  
appearance before the commission or superintendent, the fees and 525  
mileage provided for under section 119.094 of the Revised Code. 526  
If two or more witnesses travel together in the same vehicle, 527  
the mileage fee shall be paid to only one of those witnesses, 528  
but the witnesses may agree to divide the fee among themselves 529  
in any manner. 530

In addition to the powers granted to the commission and 531  
superintendent under this section, in case any person fails to 532  
file any statement or report, obey any subpoena, give testimony, 533  
answer questions, or produce any books, records, or papers as 534  
required by the commission or superintendent under this chapter, 535  
the court of common pleas of any county in the state, upon 536  
application made to it by the commission or superintendent 537  
setting forth such failure, may make an order awarding process 538  
of subpoena or subpoena duces tecum for the person to appear and 539  
testify before the commission or superintendent, and may order 540  
any person to give testimony and answer questions, and to 541  
produce books, records, or papers, as required by the commission 542  
or superintendent. Upon the filing of such order in the office 543  
of the clerk of the court of common pleas, the clerk, under the 544  
seal of the court, shall issue process of subpoena for the 545  
person to appear before the commission or superintendent at a 546  
time and place named in the subpoena, and each day thereafter 547  
until the examination of such person is completed. The subpoena 548  
may contain a direction that the witness bring with the witness 549  
to the examination any books, records, or papers mentioned in 550

the subpoena. The clerk shall also issue, under the seal of the 551  
court, such other orders, in reference to the examination, 552  
appearance, and production of books, records, or papers, as the 553  
court directs. If any person so summoned by subpoena fails to 554  
obey the subpoena, to give testimony, to answer questions as 555  
required, or to obey an order of the court, the court, on motion 556  
supported by proof, may order an attachment for contempt to be 557  
issued against the person charged with disobedience of any order 558  
or injunction issued by the court under this chapter. If the 559  
person is brought before the court by virtue of the attachment, 560  
and if upon a hearing the disobedience appears, the court may 561  
order the offender to be committed and kept in close custody. 562

**Sec. 4767.03.** (A) (1) The owner or the person responsible 563  
for the operation and maintenance of a cemetery shall apply to 564  
the division of real estate in the department of commerce to 565  
register the cemetery on forms prescribed by the division. With 566  
the application, the applicant shall submit the documentation 567  
required in division (A) of section 4767.04 of the Revised Code 568  
and a registration fee of twenty-five dollars for one cemetery, 569  
forty dollars for two cemeteries, and fifty dollars for three or 570  
more cemeteries, except that no fee shall be required of any 571  
political subdivision. 572

(2) The director of commerce, by rule adopted in 573  
accordance with Chapter 119. of the Revised Code, may reduce the 574  
amount of the registration fee required by this section in any 575  
year if the director determines that the total amount of funds 576  
the fee is generating at the amount specified by this section 577  
exceeds the amount of funds the division of real estate and the 578  
Ohio cemetery dispute resolution commission created by section 579  
4767.05 of the Revised Code need to carry out their powers and 580  
duties under this chapter. If the director so reduces the amount 581

of the registration fee, the director shall reduce it for all 582  
owners or other persons required to pay the fee under division 583  
(A) (1) of this section and shall require that the reduced fee be 584  
paid according to the number of cemeteries owned, operated, or 585  
maintained as required under that division. If the director has 586  
reduced the fee under division (A) (2) of this section, the 587  
director may later raise it up to the amounts specified in 588  
division (A) (1) of this section if, in any year, the director 589  
determines that the total amount of funds the fee is generating 590  
at the reduced amount is insufficient for the division of real 591  
estate and the Ohio cemetery dispute resolution commission to 592  
carry out their powers and duties under this chapter. 593

(B) Upon receipt of the completed application form, 594  
documentation, and, if required, registration fee, the division 595  
of real estate shall issue a certificate of registration to the 596  
applicant. The applicant shall display the certificate in a 597  
conspicuous place on the premises of the cemetery for which the 598  
registration was obtained, except that, if the applicant is the 599  
governing body of a political subdivision or person acting on 600  
behalf of that governing body, the certificate shall be kept on 601  
file and be available for public inspection at the office of the 602  
governing body. 603

(C) Except as otherwise provided in this division, each 604  
registration issued pursuant to this section shall expire 605  
annually on the thirtieth day of ~~June-September~~ and ~~may~~ shall be 606  
renewed by the owner or the person responsible for the operation 607  
and maintenance of the cemetery for the continued operation of 608  
the cemetery. The renewal fee shall be the same as the initial 609  
registration fees prescribed in division (A) of this section. 610

The registration of a cemetery operated and maintained by 611

a political subdivision shall not expire unless the political 612  
subdivision ceases to operate and maintain the cemetery. A 613  
political subdivision operating and maintaining a cemetery is 614  
not required to renew or update the registration of that 615  
cemetery unless there is a change in the information required 616  
under division (A) of section 4767.04 of the Revised Code or 617  
unless additional land is acquired to increase the size of the 618  
cemetery. 619

(D) All registration and renewal fees collected pursuant 620  
to this section shall be paid into the state treasury to the 621  
credit of the division of real estate in the department of 622  
commerce to be used by the division to carry out its powers and 623  
duties under this chapter and by the Ohio cemetery dispute 624  
resolution commission created by section 4767.05 of the Revised 625  
Code. 626

**Sec. 4767.04.** (A) To qualify a cemetery for a certificate 627  
of registration, the applicant shall submit to the division of 628  
real estate the following information: 629

(1) The name of the cemetery; 630

(2) The street address, city, village, or township, and 631  
county where the cemetery is located, and the mailing address if 632  
different from the street address; 633

(3) The name and address of the person who owns the 634  
cemetery; 635

(4) The name and address of the person responsible for the 636  
operation and maintenance of the cemetery; 637

(5) A copy of the ~~most recent annual report of the~~ 638  
~~cemetery if required by the division of real estate pursuant to~~ 639  
~~section 1721.211 of the Revised Code or cemetery's financial~~ 640

statement for the previous fiscal year if required by the Ohio 641  
cemetery dispute resolution commission. If the cemetery is owned 642  
by a cemetery company or association, a copy of the ~~annual~~ 643  
~~report~~ financial statement for the previous fiscal year of all 644  
of the assets and investments of the endowment care trust of the 645  
company or association as prepared pursuant to division (J) (1) 646  
of section 1721.21 of the Revised Code shall be submitted to the 647  
division. 648

(6) A copy of the cemetery's current rules and regulations 649  
provided in written or electronic format; 650

(7) A copy of the cemetery's endowment care trust fund 651  
agreement required under section 1721.21 of the Revised Code and 652  
preneed cemetery merchandise and services trust fund agreement 653  
required under section 1721.211 of the Revised Code; 654

(8) If required under section 1721.21 or 1721.211 of the 655  
Revised Code, proof that trustees who are individuals are bonded 656  
or insured as required. 657

(B) If any of the information required in ~~division~~ 658  
divisions (A) (1) to (A) (5) of this section changes at any time, 659  
the owner or the person responsible for the operation and 660  
maintenance of the cemetery shall submit written notification of 661  
the change to the division within thirty days of the change 662  
occurring. The owner or the person responsible for the operation 663  
and maintenance of the cemetery shall submit to the division 664  
annually with the cemetery's registration renewal any revised 665  
rules and regulations, revised trust agreements, or revised 666  
proof of bonding or insurance. 667

(C) In addition to satisfying the requirements set forth 668  
in divisions (A) and (B) of this section, if a political 669

subdivision intends to acquire additional land to increase the 670  
size of an existing cemetery that it is operating and 671  
maintaining or intends to open a new cemetery, its governing 672  
body shall notify the division at least thirty days before the 673  
acquisition or opening to renew the registration of the existing 674  
cemetery or to register the new cemetery. 675

**Sec. 4767.05.** (A) There is hereby created the Ohio 676  
cemetery dispute resolution commission, which shall consist of 677  
nine members to be appointed by the governor with the advice and 678  
consent of the senate as follows: 679

(1) One member shall be the management authority of a 680  
municipal, township, or union cemetery and shall be selected 681  
from a list of four names submitted to the governor. Two of the 682  
four names shall be submitted by the Ohio township association 683  
and two names shall be submitted by the Ohio municipal league. 684

(2) Four members shall be individuals employed in a 685  
management position by a cemetery company or cemetery 686  
association. ~~Two of the four members shall be~~ selected from a 687  
list of at least four names submitted to the governor by the 688  
Ohio cemetery association of cemeteries and ~~two shall be~~ 689  
~~selected from a list of four names submitted by the Ohio~~ 690  
~~association of cemetery superintendents and officials.~~ 691

(3) Two members shall be employed in a management position 692  
by a cemetery that is owned or operated by a religious, 693  
fraternal, or benevolent society and shall be selected from a 694  
list of four names submitted by the Ohio cemetery association of 695  
~~cemetery superintendents and officials.~~ 696

(4) Two members, at least one of whom shall be at least 697  
sixty-five years of age, shall be representatives of the public 698



with no financial interest in the death care industry.

Each member of the commission, except for the two members who represent the public, shall, at the time of appointment, have had a minimum of five consecutive years of experience in the active administration and management of a cemetery in this state.

(B) Within ninety days after ~~the effective date of this section~~ July 1, 1993, the governor shall make initial appointments to the commission. Of the initial appointments, two shall be for terms ending ~~one year after the effective date of this section~~ July 1, 1994, two shall be for terms ending ~~two years after that date~~ July 1, 1995, two shall be for terms ending ~~three years after that date~~ July 1, 1996, and three shall be for terms ending ~~four years after that date~~ July 1, 1997. Thereafter, terms of office shall be for four years, with each term ending on the same day of the same month as did the term that it succeeds. Each member shall hold office from the date of appointment until the end of the term for which the member was appointed. Vacancies shall be filled in the manner provided for original appointments, with each appointee, other than a representative of the public, being appointed from a list of two names submitted to the governor by the association or organization that was required to nominate candidates for initial appointment to the position that has become vacant. Any member appointed to fill a vacancy occurring prior to the expiration date of the term for which the member's predecessor was appointed shall hold office for the remainder of that term. A member shall continue in office subsequent to the expiration date of the member's term until the member's successor takes office or until a period of sixty days has elapsed, whichever occurs first. No person shall serve as a member of the

commission for more than two consecutive terms, excluding any 730  
term served to fill an initial appointment to a term of less 731  
than four years or an unexpired term caused by a vacancy. 732

(C) The commission annually shall elect from among its 733  
members a chairperson, vice-chairperson, and secretary, each of 734  
whom shall serve a term of one year in that office. The 735  
commission shall meet at least four times a year. Additional 736  
meetings may be called by the chairperson, or by the vice- 737  
chairperson when the chairperson is disabled, or by a majority 738  
of the members of the commission. A majority of the members 739  
constitutes a quorum to transact and vote on business of the 740  
commission. 741

The chairperson or vice-chairperson may: 742

(1) Administer oaths; 743

(2) Issue subpoenas; 744

(3) Summon witnesses; 745

(4) Compel the production of books, papers, records, and 746  
other forms of evidence; 747

(5) Fix the time and place for hearing any matter related 748  
to compliance with sections 1721.19, 1721.20, 1721.21, 1721.211, 749  
4735.02, and 4767.02 of the Revised Code. 750

The chairperson shall designate three members of the 751  
commission to serve on the crematory review board in accordance 752  
with section 4717.03 of the Revised Code for such time as the 753  
chairperson finds appropriate. Members designated to serve on 754  
the crematory review board shall perform all functions necessary 755  
to carry out the duties of the board as described in section 756  
4717.03 of the Revised Code. Members who serve on the crematory 757

review board shall receive no compensation for such service. 758

(D) Before entering upon the duties of office, each member 759  
of the commission shall take the oath pursuant to section 3.22 760  
of the Revised Code. The governor may remove any member for 761  
misconduct, neglect of duty, incapacity, or malfeasance in 762  
accordance with section 3.04 of the Revised Code. 763

(E) Members of the commission shall receive no 764  
compensation but shall be reimbursed for their actual and 765  
necessary expenses incurred in the performance of their duties 766  
as members of the commission. 767

(F) The division of real estate in the department of 768  
commerce shall provide the commission with meeting space, staff 769  
services, and other technical assistance required by the 770  
commission in carrying out its duties pursuant to sections 771  
4767.05 to 4767.08 of the Revised Code. 772

**Sec. 4767.06.** The Ohio cemetery dispute resolution 773  
commission shall perform all of the following duties: 774

(A) Adopt, amend, and rescind such rules in accordance 775  
with Chapter 119. of the Revised Code as are necessary in 776  
carrying out sections 4767.05 to 4767.08 of the Revised Code, 777  
including rules relative to the following: 778

(1) Transacting the commission's business and managing its 779  
affairs; 780

(2) Establishing procedures for receiving, reviewing, and 781  
responding to complaints filed pursuant to section 4767.07 of 782  
the Revised Code; 783

(3) Conducting investigations in response to complaints 784  
filed pursuant to division (A) of section 4767.07 of the Revised 785

Code; 786

(4) Resolving complaints by using informal techniques of 787  
mediation, conciliation, and persuasion, including requiring the 788  
parties involved in a complaint to be given prompt notice of any 789  
offers to resolve disputes and responses thereto; 790

(5) Advising all parties making a complaint, or who are 791  
the subject of a complaint, of any recommendations or findings 792  
of fact made by the commission with respect to the complaint; 793

(6) Requesting the party who has filed a complaint or is 794  
the subject of a complaint, and is affected by recommendations 795  
of the commission made with respect to the complaint, to notify 796  
the commission within a time specified by the commission of any 797  
action the party has taken in response to the commission's 798  
recommendations; 799

(7) Conducting nonpublic hearings and maintaining 800  
commission proceedings and records as confidential, 801  
notwithstanding sections 121.22 and 149.43 of the Revised Code 802  
when the commission determines that the nature of the complaints 803  
merits that action; 804

(8) Determining the method to be used in serving notices 805  
as required by section 4767.07 of the Revised Code. 806

(B) Publicize information concerning the existence and 807  
duties of the commission and the procedure for filing complaints 808  
pursuant to section 4767.07 of the Revised Code; 809

(C) Conduct hearings on complaints pursuant to section 810  
4767.07 of the Revised Code; 811

(D) Submit at least annually by the thirty-first day of 812  
March a report on the commission's activities of the immediately 813

preceding calendar year to the governor and the majority and 814  
minority leaders of the senate and house of representatives. The 815  
report shall indicate the total number of complaints received, 816  
initiated, and investigated under sections 4767.07 and 4767.08 817  
of the Revised Code; the total number of complaints for which 818  
hearings were held; and the total number of referrals made to 819  
prosecuting attorneys, the attorney general, and the real estate 820  
commission pursuant to section 4767.08 of the Revised Code. 821

(E) Review, at least once each year, all actions taken by 822  
the prosecuting attorneys, the attorney general, and the real 823  
estate commission in response to referrals made to them by the 824  
cemetery dispute resolution commission or by the superintendent 825  
of the division of real estate in the department of commerce. 826  
The commission shall include in the report required in division 827  
(D) of this section information regarding the nature of the 828  
inappropriate conduct alleged in each referral and the status or 829  
disposition made of each referral occurring during the preceding 830  
two years. 831

(F) Perform all functions as are necessary in 832  
administering and enforcing sections 4767.05 to 4767.08 of the 833  
Revised Code, including the rendering of all advice necessary 834  
under divisions ~~(B) (6)~~ (B) (8) to ~~(12)~~ (10) of section 4767.02 of 835  
the Revised Code; 836

(G) Review all proposed transfers that would transfer 837  
substantially all of the assets or stock of a cemetery, require 838  
an audit of the cemetery's funds on deposit under sections 839  
1721.21 and 1721.211 of the Revised Code, and formulate an 840  
agreed plan pursuant to which the buyer and the seller of the 841  
cemetery will cause those funds to be properly funded; 842

(H) Adopt and publish suggested maintenance guidelines for 843

all cemeteries registered in the state of Ohio under Chapter 844  
4767. of the Revised Code. 845

**Sec. 4767.07.** (A) Any person may file a complaint 846  
regarding the activity, practice, policy, or procedure of, or 847  
regarding an alleged violation of section 1721.19, 1721.20, 848  
1721.21, 1721.211, 4735.02, ~~or~~ 4767.02, or 4767.09 of the 849  
Revised Code by, any person operating or maintaining a cemetery 850  
registered pursuant to section 4767.03 of the Revised Code that 851  
adversely affects or may adversely affect the interest of an 852  
owner or family member of the owner of a cemetery lot or burial, 853  
entombment, or columbarium right. All complaints shall be in 854  
writing and submitted to the division of real estate in the 855  
department of commerce on forms provided by the division. 856

(B) With respect to complaints filed pursuant to division 857  
(A) of this section, the division of real estate shall do all of 858  
the following: 859

(1) Acknowledge receipt of the complaint by sending 860  
written notice to the person who filed the complaint not more 861  
than twenty days after receipt of the complaint; 862

(2) Send written notice of the complaint within seven days 863  
after receipt of the complaint to the person responsible for the 864  
operation and maintenance of the cemetery that is the subject of 865  
the complaint; 866

(3) Before taking further action, allow the owner or the 867  
person responsible for the operation and maintenance of the 868  
cemetery that is the subject of a complaint thirty days after 869  
the date the division sends notice of the complaint to respond 870  
to the division with respect to the complaint. 871

(C) The cemetery dispute resolution commission shall hear 872

each complaint filed pursuant to division (A) of this section 873  
within one hundred eighty days after its filing, unless it has 874  
been resolved by the parties to the complaint. 875

**Sec. 4767.08.** (A) The superintendent of the division of 876  
real estate in the department of commerce or the Ohio cemetery 877  
dispute resolution commission, on ~~its~~ the superintendent's or 878  
commission's own motion or as a result of a complaint received 879  
pursuant to section 4767.07 of the Revised Code and with good 880  
cause shown, shall investigate or cause to be investigated 881  
alleged violations of sections 1721.19, 1721.20, 1721.21, 882  
1721.211, 4735.02, 4767.02, and 4767.03 of the Revised Code. If 883  
the commission or the superintendent ~~of the division of real~~ 884  
~~estate in the department of commerce~~ believes that a violation 885  
has occurred, the commission or superintendent shall do all of 886  
the following: 887

(1) Review the financial records of the cemetery to ensure 888  
compliance with sections 1721.21 and 1721.211 of the Revised 889  
Code; 890

(2) Request the prosecuting attorney of the county in 891  
which the alleged violation occurred to initiate such 892  
proceedings as are appropriate. 893

(B) If, as a result of an investigation, the commission or 894  
the superintendent believes that a person has violated Chapter 895  
1345. of the Revised Code, the commission or superintendent 896  
shall report the findings to the attorney general. 897

(C) The commission, at any time, may dismiss a complaint 898  
if it determines there is not good cause shown for the 899  
complaint. If the commission dismisses a complaint, it shall 900  
notify the person who filed the complaint within twenty days of 901

reaching its decision and identify the reason why the complaint  
was dismissed.

(D) When necessary for the division of real estate to  
perform the duties required by sections 4767.07 and 4767.08 of  
the Revised Code, the superintendent of the division, after  
consultation with at least a majority of the members of the  
cemetery dispute resolution commission, may issue subpoenas and  
compel the production of books, papers, records, and other forms  
of evidence.

Sec. 4767.09. (A) The owner or person responsible for the  
operation of a cemetery registered with the division of real  
estate in the department of commerce shall provide reasonable  
maintenance of the cemetery property and of all lots, graves,  
mausoleums, scattering grounds, and columbaria in the cemetery  
based on the type and size of the cemetery, topographic  
limitation, and contractual commitments with consumers.

(B) In determining whether the owner or person responsible  
for the operation of a cemetery registered with the division  
provides reasonable maintenance of the cemetery property, the  
division or the cemetery dispute resolution commission may  
consider all of the following:

- (1) The size of the cemetery;
- (2) The type of cemetery;
- (3) The extent and use of available financial resources;
- (4) The contractual obligations for care and maintenance  
of the owner or person responsible for the operation of the  
registered cemetery;
- (5) The standard of maintenance of one or more similarly



situated cemeteries. In determining whether a cemetery is 930  
similarly situated, the division shall consider the cemetery's 931  
size, type, location, topography, and financial resources. 932

(6) The suggested maintenance guidelines the commission 933  
publishes under division (H) of section 4767.06 of the Revised 934  
Code; 935

(7) Other sections of the Revised Code related to cemetery 936  
maintenance; 937

(8) Any advisory letter or fine previously issued as a 938  
result of an investigation conducted under section 4767.08 of 939  
the Revised Code. 940

(C) The owner or person responsible for the operation of 941  
the cemetery registered with the division, in the course of 942  
providing reasonable maintenance, may not preclude the exercise 943  
of lawful rights by the owner of an interment, inurnment, or 944  
entombment right, or by the decedent's immediate family or other 945  
heirs in accordance with the rules and regulations of the 946  
cemetery or other agreement of the cemetery authority. 947

(D) In the case of a cemetery dedicated as a nature 948  
preserve, reasonable maintenance by the owner or person 949  
responsible for the operation of the cemetery shall be in 950  
accordance with the regulations of the cemetery or the master 951  
plan governing the cemetery. 952

(E) A cemetery shall maintain electronic or paper cemetery 953  
records pertaining to interment, entombment, or inurnment right 954  
owners and interment, entombment, or inurnment records 955  
indicating the deceased's name, place of death, and date and 956  
location of the interment, entombment, or inurnment in the 957  
cemetery's office. Records may be maintained in an electronic 958

formation only if the electronic copies are true copies of the 959  
original documents. 960

**Sec. 4767.10.** (A) The cemetery grant fund is created in 961  
the state treasury. The division of real estate in the 962  
department of commerce shall deposit into the fund one dollar of 963  
each two dollars and fifty cents portion of the burial permit 964  
fee received under section 3705.17 of the Revised Code. The 965  
division shall use moneys in the fund to advance grants to 966  
cemeteries registered with the division to defray the costs of 967  
cemetery maintenance or training cemetery personnel in the 968  
maintenance and operation of cemeteries. The division may not 969  
provide a grant to a corporation or association that operates a 970  
cemetery for profit. In each fiscal year, the division may not 971  
advance grants totaling more than eighty per cent of the 972  
appropriation to the cemetery grant fund for that fiscal year. 973  
The division shall advance grants from the fund in accordance 974  
with rules adopted by the Ohio cemetery dispute resolution 975  
commission under Chapter 119. of the Revised Code. 976

(B) The director of commerce may increase, by rule adopted 977  
under Chapter 119. of the Revised Code, the amount of total 978  
grants the division may advance in a fiscal year if the director 979  
determines the total amount of funds generated exceeds the 980  
amount of funds the division needs to carry out its powers and 981  
duties under this section. If the director determines the 982  
increased amount depletes the amount of funds the division needs 983  
to carry out its powers and duties under this section, the 984  
director may decrease the amount not below the amount specified 985  
in division (A) of this section. 986

(C) For the purpose of this section, "maintenance" means 987  
the care of a cemetery and of the lots, graves, crypts, niches, 988

mausoleums, memorials, and markers therein, including the 989  
cutting, trimming, and removal of trees; repair of drains, water 990  
lines, roads, fences, and buildings; and payment of expenses 991  
necessary for maintaining necessary records of lot ownership, 992  
transfers, and burials. 993

**Section 2.** That existing sections 1721.21, 1721.211, 994  
4767.01, 4767.02, 4767.03, 4767.04, 4767.05, 4767.06, 4767.07, 995  
and 4767.08 of the Revised Code are hereby repealed. 996

**Section 3.** All items in this section are hereby 997  
appropriated as designated out of any moneys in the state 998  
treasury to the credit of the designated fund. For all 999  
appropriations made in this act, those in the first column are 1000  
for fiscal year 2018 and those in the second column are for 1001  
fiscal year 2019. The appropriations made in this act are in 1002  
addition to any other appropriations made for the FY 2018-FY 1003  
2019 biennium. 1004

COM DEPARTMENT OF COMMERCE 1005

Dedicated Purpose Fund Group 1006

5SE0 800648	Cemetery Grant Program	\$100,000	\$0	1007
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TOTAL DPF Dedicated Purpose Fund Group	\$100,000	\$0	1008
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TOTAL ALL BUDGET FUND GROUPS	\$100,000	\$0	1009
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CEMETERY GRANT PROGRAM 1010

The foregoing appropriation item 800648, Cemetery Grant 1011  
Program, shall be used by the Department of Commerce to award 1012  
grants under section 4767.10 of the Revised Code. 1013

**Section 4.** Within the limits set forth in this act, the 1014  
Director of Budget and Management shall establish accounts 1015

indicating the source and amount of funds for each appropriation 1016  
made in this act, and shall determine the form and manner in 1017  
which appropriation accounts shall be maintained. Expenditures 1018  
from appropriations contained in this act shall be accounted for 1019  
as though made in H.B. 49 of the 132nd General Assembly. 1020

The appropriations made in this act are subject to all 1021  
provisions of H.B. 49 of the 132nd General Assembly that are 1022  
generally applicable to such appropriations. 1023