



WISCONSIN LEGISLATIVE COUNCIL ACT MEMO

2007 Wisconsin Act 174
[2007 Senate Bill 288]

Cemetery Regulations

2007 Wisconsin Act 174 makes a series of changes in the laws governing cemetery associations and cemetery authorities.

Trustees of Care Funds and Preneed Trust Funds

Under current law, a cemetery authority may not change the trustee of a care fund or a preneed trust fund without written approval from the Department of Regulation and Licensing (DRL). DRL must establish rules governing approval of a change of a trustee and oversee the management of care funds held by a cemetery authority and approve the investment of certain funds. Wisconsin Act 174 transfers these responsibilities from DRL to the cemetery board (board).

Licensure and Registration of Certain Cemeteries

Current law, with certain exceptions, provides that any cemetery authority that operates a cemetery that is five acres or more in size, that sells 20 or more cemetery lots or mausoleum spaces in a cemetery in a calendar year, or that has \$100,000 or more in preneed trust fund accounts for a cemetery must be licensed by the board. Cemetery authorities that are operated by a municipality; church; religious, fraternal, or benevolent organization; or an incorporated college of a religious order are not required to be licensed.

Wisconsin Act 174 requires that any cemetery authority having \$100,000 or more in any trust fund accounts, rather than just preneed trust fund accounts, to be licensed by the board. Wisconsin Act 174 also requires any cemetery authority that operates a cemetery that is less than five acres in size, sells fewer than 20 cemetery lots or mausoleum spaces at a cemetery during a calendar year, or has less than \$100,000 in trust fund accounts for a cemetery to register that cemetery with the board. Cemetery authorities that are operated by a municipality; church; religious, fraternal, or benevolent organization; or an incorporated college of a religious order are not required to register with the board.

This memo provides a brief description of the Act. For more detailed information, consult the text of the law and related legislative documents at the Legislature's Web site at: <http://www.legis.state.wi.us/>.

Reporting Requirements

Under current law, a cemetery association must submit certain information about the cemetery association to the Department of Financial Institutions (DFI) to obtain the powers of a corporation. However, a cemetery association that is not required to be licensed by the board and a cemetery association that is not organized or conducted for pecuniary profit (nonprofit cemetery association) must instead submit the information to the office of the register of deeds of the county in which the cemetery is located. Wisconsin Act 174 requires a nonprofit cemetery association to submit information about the cemetery association to DFI instead of to the register of deeds. In addition, Wisconsin Act 174 requires a cemetery association that is not required to be registered by the board to submit information about the cemetery association to the office of the register of deeds of the county in which the cemetery is located.

Under current law, a cemetery authority must submit an annual report to DRL. Current law exempts cemetery authorities that are not required to be licensed by the board (exempt cemetery authority) from the reporting requirement. Current law also exempts cemetery authorities that are not organized or conducted for pecuniary profit (nonprofit cemetery authority) from the reporting requirement. Wisconsin Act 174 eliminates this exemption from the reporting requirement for nonprofit cemetery authorities. The Act creates an exemption from the reporting requirement for a cemetery authority that is not required to be registered with the board. In addition, the Act also requires cemetery authorities that are subject to the reporting requirement to submit the report to the board rather than to DRL.

Deposited Investment of Care Funds in Preneed Trust Funds

With certain exceptions, current law regulates the deposit, investment, and withdrawal of care funds in preneed trust funds by a cemetery authority. Current law includes an exemption from this regulation for exempt cemetery authorities and nonprofit cemetery authorities. Wisconsin Act 174 eliminates the exemption from regulation for nonprofit cemetery authorities. The Act creates an exemption from the regulations for cemetery authorities that are not required to be registered with the board.

Sale or Encumbrance of Cemetery Land

Under current law, before a cemetery authority may sell or encumber cemetery land, the cemetery authority must notify the board in writing of the proposed sale. The board is given 60 days to object to the sale or encumbrance if the board determines that the cemetery authority will not be financially solvent or that the rights and interests of the cemetery lots and mausoleum spaces will not be adequately protected if the sale or encumbrance occurs. Current law also provides an exemption from the notification requirement for a cemetery authority that is not required to be licensed and that is not organized or conducted for pecuniary profit. Act 174 exempts a cemetery authority that is not required to be registered from the notification requirement. The Act also eliminates the requirement that a cemetery authority may not be organized or conducted for pecuniary profit in order to be exempt from the notification requirement.

Regulation of Warehouses

Under current law, DRL regulates warehouses used for storage of cemetery merchandise sold under a preneed sales contract. Persons wishing to own or operate such a warehouse must seek approval from DRL. A preneed seller who sells cemetery merchandise stored in a warehouse not located on the

property of the preneed seller must provide the purchaser of a preneed sales contract with the name, address, and telephone number of the warehouse and inform the purchaser that the warehouse is approved by DRL. Wisconsin Act 174 transfers the regulation of these warehouses to the board and requires a preneed seller who sells cemetery merchandise stored in a warehouse not located on the property of the preneed seller to inform the purchaser that the warehouse is approved by the board.

Effective Date: Wisconsin Act 174 takes effect on April 10, 2008.

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