

RS 8:1

TITLE 8

CEMETERIES

CHAPTER 1. DEFINITIONS

§1. Definitions

As used in this Title the following words and phrases, unless the context otherwise clearly indicates, shall have the meaning hereinafter ascribed to each:

- (1) "Board" means the Louisiana Cemetery Board.
- (2) "Burial" means the placement of human remains in a grave.
- (3) "Burial park" means a tract of land for the burial of human remains in the ground, used or intended to be used, and dedicated, for cemetery purposes.
- (4) "Burial vault" means a casket container placed in a grave for the purpose of burying human remains.
- (5) "Care", "endowed care", or "perpetual care" means the maintenance, repair and care of all places where interments have been or are to be made, including the improvements thereon, in keeping with a well maintained cemetery, and general overhead expense necessary for such purposes.
- (6) "Care funds", as distinguished from receipts from annual charges or gifts for current or annual care, means any cash or cash equivalent impressed with a trust by the terms of any gift, grant, contribution, payment, devise, or bequest, or pursuant to contract, accepted by any cemetery authority owning, operating, controlling, or managing a privately operated cemetery, or by any trustee or licensee, agent or custodian for the same, under R.S. 8:454(B), and the amounts set aside under R.S. 8:454(A) and 454.1(C), and any income accumulated therefrom, where legally so directed by the terms of the transaction by which the principal is established. The term "care funds" includes both general and special care funds.
- (7) "Cemetery" means a place used or intended to be used for the interment of the human dead. It includes a burial park, for earth interments; or a mausoleum, for vault or crypt interments; or a columbarium, or scattering garden, for cinerary interments; or a combination of one or more of these.
- (8) "Cemetery authority" means any person, firm, corporation, limited liability company, trustee, partnership, association or municipality owning, operating, controlling or managing a cemetery or holding lands within this state for interment purposes.
- (9) "Cemetery business" and "cemetery purposes" mean any and all business and purposes requisite to, necessary for, or incident to establishing, maintaining, operating, improving or conducting a cemetery, interring human remains, and the care, preservation and embellishment of a cemetery.
- (10) "Cemetery management organization" means a legal entity contracting as an independent contractor with a cemetery authority to manage a cemetery, but does not mean individual managers employed by or contracting directly with cemetery authorities operating under this title.
- (11) "Cemetery sales organization" means any legal entity contracting as an independent contractor with a cemetery authority to conduct sales of one or more cemetery spaces, whether by deed, servitude, grant of right to use or otherwise, and/or cemetery products. It does not mean individual salesmen or sales managers employed by and contracting directly with cemetery authorities operating under this law, nor does it mean funeral establishments or funeral directors operating under licenses authorized by R.S. 37:831 et seq., when dealing directly with a cemetery authority, with members of the family of a deceased person or other persons authorized by law to

arrange for the funeral and/or interment of such deceased human being, or with an individual negotiating the sale of cemetery property as a part of his or her pre-need arrangements under Chapter 6 hereof.

(12) "Cemetery space" means a grave, crypt, vault, niche, tomb, lawn crypt, or any other property used or intended to be used for the interment of human remains.

(13) "Columbarium" means a building or a structure, room or other space in a building or structure containing niches for permanent inurnment of cremated remains in a place used or intended to be used, and dedicated, for cemetery purposes.

(14) "Community cemetery" means a cemetery owned, operated, controlled or managed by any association or organization, in which the sale of lots, graves, crypts, vaults, or niches is restricted principally to individuals within a community.

(14.1) "Corporation" means any corporation or limited liability company now or hereafter organized, which is or may be authorized by its articles or operating agreement to conduct any one or more of the businesses of a cemetery.

(15) "Cremated remains" means human remains after cremation in a crematory.

(16) "Cremation" means the reduction of the body of a deceased person to cremated remains in a crematory.

(17) "Crematory" means a building or structure containing one or more retorts for the reduction of bodies of deceased persons to cremated remains.

(18) "Crematory and columbarium" means a building or structure containing both a crematory and columbarium.

(19) "Crypt" or "vault" means a space in a mausoleum of sufficient size, used or intended to be used, to entomb human remains.

(20) "Directors" means the board of directors, board of trustees or other governing body of a cemetery authority, cemetery sales organization or cemetery management organization.

(20.1) "Disposition" means the interment, burial, cremation, or anatomical donation of the body of a deceased person or parts of the body of a deceased person. Disposition shall not include any prohibited act under Part I of Chapter 12 of Title 17 of the Louisiana Revised Statutes of 1950, the Louisiana Anatomical Gift Act, the Louisiana Unmarked Human Burial Sites Preservation Act, or the Louisiana Historic Cemetery Preservation Act.

(21) "Entombment" means the placement of human remains in a mausoleum.

(22) "Family burial ground" means a cemetery in which no lots are sold to the public and in which interments are restricted to a group of persons related to each other by blood or marriage.

(22.1) "Force majeure" means any of the following circumstances:

(a) A major storm, major flood, or other similar natural disaster.

(b) A major accident beyond the cemetery authority's control and not ultimately found to be the fault of the cemetery authority.

(c) The delay by the federal government or any of its agencies, or the state or any of its agencies or political subdivisions in granting necessary permits.

(d) A valid order of any federal or state court of competent jurisdiction that prevents the timely completion of a project.

(23) "Fraternal cemetery" means a cemetery owned, operated, controlled or managed by any fraternal organization or auxiliary organization thereof, in which the sale of lots, graves, crypts, vaults or niches is restricted principally to its members.

(24) "Grave" means a space of ground in a cemetery, used or intended to be used, for burial.

(25) "Human remains" means the body of a deceased person and includes the body in any stage of decomposition, as well as cremated remains.

(26) "Interment" means the disposition of human remains by inurnment, scattering,

entombment, or burial in a place used or intended to be used, and dedicated, for cemetery purposes.

(27) "Inurnment" means placing cremated remains in an urn or other suitable container and placing it in a niche, crypt or vault in a place used or intended to be used, and dedicated, for cemetery purposes.

(28) "Lawn crypts" means space for interment in preplaced chambers, or burial vaults, either side by side or multiple depth, covered by earth and/or sod and known also as below-ground crypts, westministers or turf top crypts.

(29) "Lot" or "plot" means land in a cemetery used or intended to be used for the interment of human remains within a grave, mausoleum or lawn crypt or columbarium.

(30) "Mausoleum" or "tomb" means a structure or building for the entombment of human remains in crypts or vaults in a place used or intended to be used, and dedicated, for cemetery purposes.

(31) "Municipal cemetery" means a cemetery owned, operated, controlled or managed by a municipality or other political subdivision of the state, or instrumentality thereof authorized by law to own, operate or manage a cemetery.

(32) "Niche" means a space in a columbarium used or intended to be used for inurnment of cremated human remains.

(33) "Owner" means a person to whom the cemetery authority has transferred full title to or the right of use of and/or interment in any cemetery space and who appears as the title holder in the official records of the cemetery authority.

(34) "Perpetual care cemetery" or "endowed care cemetery" means a cemetery wherein lots and other interment spaces are sold or transferred under the representation that the cemetery will receive perpetual or endowed care.

(35) "Person" means an individual, corporation, limited liability company, partnership, joint venture, association, trust or any other legal entity.

(36) "Privately owned cemetery" means any cemetery except a fraternal, municipal, or religious cemetery or a family burial ground.

(36.1) "Rearrangement" or "reuse" means the act of removing and disposing of a previously interred casket and the gathering and placing of human remains in an alternative container within the same cemetery space in order to accommodate additional interments.

(37) "Religious cemetery" means a cemetery that is owned, operated, controlled or managed by a recognized church, religious society, association or denomination, or by a cemetery authority or a corporation administering or through which is administered the temporalities of any recognized church, religious society, association or denomination.

(38) "Sale" means the sale of the full title to any cemetery space or the sale of the right of use of and/or interment in any cemetery space.

(39) "Temporary receiving vault" means a cemetery space used or intended to be used for the temporary placement of human remains.

(40) "Trustee" means the separate legal entity designated as trustee of a cemetery care fund.

Acts 1974, No. 417, §1. Amended by Acts 1980, No. 428, §1; Acts 1997, No. 921, §1; Acts 1999, No. 1199, §1; Acts 2001, No. 468, §1; Acts 2003, No. 1243, §1; Acts 2006, No. 609, §1; Acts 2010, No. 63, §1; Acts 2015, No. 270, §1, eff. July 1, 2015.

RS 8:652**§652. Unlawful disposal of remains**

A. Except in the case of cremated remains or as otherwise provided by law, it shall be unlawful for any person to dispose of any human remains, except fetal remains, without first obtaining certification of the cause of death by the treating physician, parish coroner, or the authorized representative of the parish coroner. Disposal of such remains shall not be in any place other than a cemetery or a building dedicated exclusively for such purposes, and the remains shall be decently interred within a reasonable time after death.

B. Whoever violates this Section shall be punished by imprisonment for not more than three years, with or without hard labor, or by a fine of not more than one thousand dollars, or both.

Acts 1991, No. 195, §1.

RS 8:653

§653. Opening graves; stealing body; receiving same

A. Every person who removes the dead body of a human being or any part thereof from a cemetery space where the same has been interred or is awaiting interment or cremation, without authority of law, with intent to sell the same, or for the purposes of securing a reward for its return, or for dissection, or from malice or wantonness, shall be punished by imprisonment for not more than five years, or by a fine of not more than one thousand dollars, or by both.

B. Whoever purchases or receives, except for interment or cremation, any such dead body or any part thereof, knowing that the same has been removed in violation of this section, shall be punished by imprisonment for not more than three years or by a fine of not more than one thousand dollars, or both.

C. Whoever opens a cemetery space, temporary or otherwise, or a building where a dead body is deposited while awaiting interment or cremation, with intent to remove said body or any part thereof, for the purpose of selling or demanding money or any other thing of value for the same, for dissection, from malice or wantonness, or with intent to sell or remove the coffin or of any part thereof, or anything attached thereto, or any vestment or other article interred or intended to be interred with the body, shall be punishable by imprisonment for not more than three years or by a fine of not more than one thousand dollars, or both.

Acts 1974, No. 417, §1.

RS 8:655

§655. Right of disposing of remains; military personnel; limitation of liability

A. Unless other specific directions have been given or the designation of a specific person to control disposition has been made by the decedent in the form of a notarial testament or a written and notarized declaration, the following persons, in the priority listed, have the right to control and authorize the interment of a deceased person, as defined in R.S. 8:1:

(1) The person designated to control disposition by the decedent in the form of a notarial testament or a written and notarized declaration.

(2) The surviving spouse, if there is no pending petition for divorce filed by either spouse prior to the death of the decedent spouse.

(3) A majority of the surviving adult children of the decedent.

(4) A majority of the surviving adult grandchildren of the decedent.

(5) The surviving parents of the decedent.

(6) A majority of the surviving adult siblings of the decedent.

(7) A majority of the surviving adult persons respectively in the next degrees of kindred as established in Civil Code Article 880 et seq.

B.(1) Notwithstanding the provisions of Subsection A of this Section, if the decedent died in a manner described by 10 U.S.C. §1481 (a)(1) through (8) while serving in any branch of the United States Armed Forces, the United States Reserve Forces, or National Guard, and the decedent executed a United States Department of Defense Record of Emergency Data, known as DD Form 93, or its successor form, the right to control interment for the decedent shall devolve upon the Person Authorized to Direct Disposition, also referred to as the PADD, as indicated on the DD Form 93 or its successor form.

(2) There shall be no liability for a cemetery authority, funeral establishment, funeral director, crematory authority, or the employees or agents of any of them to whom a copy of a DD Form 93 is presented, purportedly executed by the decedent for conduction of the interment or other disposition of the decedent's remains, pursuant to the instructions of the PADD as indicated on the DD Form 93, or for relying on the representation of the PADD that the decedent died in a manner described in Paragraph (1) of this Subsection.

C.(1) In the event that the decedent has made multiple notarial testaments or notarized declarations pursuant to Subsection A of this Section, the testament or declaration, whichever is dated last, shall control.

(2) In the event that the decedent has made one or more notarial testaments or notarized declarations pursuant to Subsection A of this Section, and the decedent executed a DD Form 93 and died in a manner described in Subsection B of this Section, the testament, declaration, or the DD Form 93, whichever is dated last, shall control interment of the decedent's remains.

D. Notwithstanding the provisions of Subsection A of this Section, in the event that the coroner releases the remains of the decedent to an interested person pursuant to R.S. 9:1551(A)(1), such person has the right to control the disposition of the remains of the decedent.

E. In the absence of specific directions given by the decedent, if the authorization of the person or persons with the right to control disposition cannot be obtained, a final judgment of a district court shall be required.

Acts 1991, No. 912, §1; Acts 2001, No. 557, §1; Acts 2014, No. 819, §1; Acts 2015, No. 270, §1, eff. July 1, 2015; Acts 2016, No. 143, §1, eff. May 19, 2016.

RS 8:659

§659. Permission to move remains

A. The remains of a deceased person may be moved from a cemetery space to another cemetery space in the same cemetery or to another cemetery with the consent of the cemetery authority and the written consent of one of the following, in the order named, unless other directions in writing have been given by the decedent:

(1) The surviving spouse, if no petition for divorce has been filed by either spouse prior to the death of the decedent spouse.

(2) The surviving adult children of the decedent, not including grandchildren or other more remote descendants.

(3) The surviving parents of the decedent.

(4) The surviving adult brothers and sisters of the decedent.

B. If the required consent cannot be obtained, a final judgment of the district court of the parish where the cemetery is situated shall be required.

Acts 1990, No. 939, §1; Acts 1999, No. 1199, §1; Acts 2006, No. 609, §1.

RS 8:660**§660. Exceptions**

The foregoing Sections shall not apply to or prohibit the following:

(1) The rearrangement of remains within the same cemetery space by or with the consent of the cemetery authority for the purpose of rearrangement or reuse in cemeteries which allow for rearrangement or reuse as defined in R.S. 8:1(36.1).

(2) The removal of remains by a cemetery authority from a cemetery space for which the purchase price or any other legitimate indebtedness to the cemetery authority is past due and unpaid, to some other suitable place.

(3) The disinterment of remains pursuant to an order of a court of competent jurisdiction or of a coroner of the parish in which the cemetery is located.

(4) The removal and transfer of remains to correct an error as provided in R.S. 8:813 provided that written notice shall be sent to the immediate family prior to the removal and transfer.

Acts 1990, No. 939, §1; Acts 1999, No. 1199, §1.

RS 8:902

§902. Underground burials; depth

Any cemetery sexton or other person digging graves for underground interments shall dig sufficiently deep to allow for at least two feet of soil to cover the entire area of the casket, unless the said interment is in a burial vault, coping or lawn crypt.

Acts 1974, No. 417, §1.