

TITLE 16. Cemetery and Funeral Bureau

NOTICE IS HEREBY GIVEN that the Cemetery and Funeral Bureau of the Department of Consumer Affairs (hereinafter "Bureau") is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments orally or in writing relevant to the action proposed at a hearing to be held at the Department of Consumer Affairs Hearing Room, 1625 North Market Boulevard, S-102, Sacramento, California, 95834 at 1:00 p.m. or as practicable thereafter, on July 12, 2012. Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, must be received by the Bureau at its office not later than 5:00 p.m. on July 11, 2012, or must be received by the Bureau at the hearing. The Bureau, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

Authority and Reference: Pursuant to the authority vested by Sections 9630 and 9612 of the Business and Professions Code, and Sections 8115 and 8300 of the Health and Safety Code, and to implement, interpret or make specific Section 9612 of said Code, the Cemetery and Funeral Bureau is considering changes to Division 23 of Title 16 of the California Code of Regulations as follows:

INFORMATIVE DIGEST

A. Informative Digest

The following regulatory change is proposed:

- Adopt 16 CCR § 2333

Existing law, SB 1490 (Ducheny, Chapter 401, Statutes of 2006), requires the Bureau to adopt regulations establishing minimum standards of maintenance for endowment care cemeteries under its jurisdiction. The statute requires that the Bureau consider differences in cemetery size, location, topography, and types of interments, as well as the extent to which funds are available from the cemetery's endowment care funds to perform maintenance. Further, Business and Professions Code Section 9612 states that these cemetery maintenance standards shall not supersede any standards of a higher level of care prescribed by the governing body of any city or county under Health and Safety Code Section 8115.

This proposed regulation would implement SB 1490 in establishing minimum standards for cemeteries including required upkeep activities, areas, and review of endowment care fees collected based upon current and projected maintenance expenditures, with specific standards above the minimum to be contained in an endowment care cemetery's rules and regulations, which would be available to the consumer upon request.

B. Policy Statement Overview/Anticipated Benefits of Proposal

The maintenance of a cemetery so as to prevent offensive deterioration, including the collection of trash and debris, and the requirement to trim and mow landscaping, will protect the health and welfare of California residents, promote worker safety, and the state's environment by eliminating health and fire hazards presented by inadequately maintained cemeteries.

C. Consistency and Compatibility with Existing State Regulations

This Bureau has evaluated this regulatory proposal and it is not inconsistent nor incompatible with existing state regulations

INCORPORATION BY REFERENCE N/A

FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None

Nondiscretionary Costs/Savings to Local Agencies: None

Local Mandate: None

Costs to Any Local Agency or School District for Which Government Code Sections 17500-17630 Require Reimbursement: None

Business Impact:

The Bureau has made an initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

AND

The following studies/relevant data were relied upon in making the above determination:

Cemetery maintenance is able to be funded through the interest from the endowment care fund, and the endowment care fee is paid by the consumer at the time of, or not later than, completion of the initial sale of grave(s), niche(s), crypts(s), or cremated remains scattering right(s). Printing costs associated with subdivision (f) are estimated at \$200 per cemetery based upon the cost of office supplies (see attachment to Economic and Fiscal Impact Statement for specific details). The very nature of a cemetery dictates that it is operated in, and serves the populace of, a fixed geographic location which renders the issue of competition from other states largely moot.

Cost Impact on Representative Private Person or Business:

The cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action and that are known to the Bureau to occur are minimal. Existing law, Health and Safety Code Section 8738 requires each cemetery to collect, at a minimum, \$4.50 a square foot for each grave, \$70 for each niche, \$220 for each crypt; for companion crypts, \$220 for the first crypt and \$110 for each additional crypt, and \$70 for the cremated remains of each deceased person scattered in the cemetery at a garden or designated open area that is not an interment site. Businesses could expect to pay approximately \$200 annually in printing costs to comply with the minimum requirements imposed by subdivision (f).

Effect on Housing Costs: None

EFFECT ON SMALL BUSINESS

The Bureau has determined that the proposed regulation would not affect small businesses. The endowment care fee is paid by the consumer at the time of, or not later than, completion of the initial sale of grave(s), niche(s), crypt(s), or cremated remains scattering right(s). Printing costs associated with subdivision (f) are estimated at \$200 annually per cemetery.

RESULTS OF ECONOMIC IMPACT ASSESSMENT/ANALYSIS:

Impact on Jobs/Businesses:

The Bureau has determined that this regulatory proposal will not have any impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California.

Benefits of the Regulation:

The Bureau has determined that this regulatory proposal will have the following benefits to health and welfare of California residents, worker safety, and state's environment:

This regulatory proposal benefits the health and welfare of California residents because it prevents the offensive deterioration of a cemetery. This regulatory proposal benefits worker safety because it prevents the offensive deterioration of a cemetery. This regulatory proposal benefits the state's environment because it prevents the offensive deterioration of a cemetery.

CONSIDERATION OF ALTERNATIVES

The Bureau must determine that no reasonable alternative it considered to the regulation or that has otherwise been identified and brought to its attention would either be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposal described in this Notice or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

Any interested person may present statements or arguments orally or in writing relevant to the above determinations at the above-mentioned hearing.

INITIAL STATEMENT OF REASONS AND INFORMATION

The Bureau has prepared an initial statement of reasons for the proposed action and has available all the information upon which the proposal is based.

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations, and any document incorporated by reference, and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained at the hearing or prior to the hearing upon request from the Cemetery and Funeral Bureau at 1625 North Market Boulevard, Suite S-208, Sacramento, California 95834.

AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE

All of the information upon which the proposed regulations are based is contained in the rulemaking file which is available for public inspection by contacting the person named below.

You may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact person named below **[or by accessing the website listed below]**.

CONTACT PERSON

Inquiries or comments concerning the proposed rulemaking action may be addressed to:

Name: Joy Korstjens
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The backup contact person is:

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Website Access: Materials regarding this proposal can be found at www.cfb.ca.gov