

**As Introduced**

**133rd General Assembly  
Regular Session  
2019-2020**

**S. B. No. 32**

**Senator Roegner**

**A BILL**

To amend sections 961.01, 961.04, and 961.05 and to  
enact section 961.09 of the Revised Code to make  
changes to the law governing pet cemeteries.

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

**Section 1.** That sections 961.01, 961.04, and 961.05 be  
amended and section 961.09 of the Revised Code be enacted to  
read as follows:

**Sec. 961.01.** As used in ~~sections 961.01 to 961.05 of the~~  
~~Revised Code~~this chapter:

(A) "Burial right" means ~~the right of interment~~ an  
interest in land assigned or granted by a pet cemetery land  
owner or a pet cemetery land owner's authorized agent to a pet  
owner or other member of the general public through a deed or  
note in writing that includes a description of the terms of the  
agreement and the description of the property that is being  
conveyed.

(B) "Endowment care fund" means a fund created pursuant to  
section 961.04 of the Revised Code to provide income to a pet  
cemetery for care, maintenance, administration, and  
embellishment of the pet cemetery.

(C) "Interment" means the disposition of pet remains by earth burial, entombment in a mausoleum, or inurnment in a columbarium.

"Interment" does not include either of the following:

(1) Scattering ashes on the ground surface or other dispersal;

(2) Burial of ashes in the ground unless the ashes are in an urn or similar nondegradable container.

~~(C)~~ (D) "Operate" means engaging in the business of selling or offering for sale any burial or interment right in a pet cemetery to the general public or conducting burials of pet remains for the general public.

(E) "Person" has the same meaning as in section 1.59 of the Revised Code.

~~(D)~~ (F) "Pet" means an animal that has been adapted or tamed to live in intimate association with or for the pleasure or advantage of people and includes but is not limited to dogs, cats, birds, rabbits, and hamsters.

~~(E)~~ (G) "Pet cemetery" means land, together with any structures, facilities, or buildings appurtenant thereto, provided to members of the general public for use or reservation for use for the individual interment, above or below ground, of pet remains.

"Pet cemetery" does not include land used exclusively for landfilling or the communal burial of pets, but does include a pet cemetery where a portion of the land is used for the communal burial of pets.

(H) "Pet cemetery purposes" and purposes that are "usual

and normal for the operation of a pet cemetery" mean any and all 48  
business and purposes requisite to, necessary for, or incident 49  
to establishing, maintaining, operating, improving, or 50  
conducting a pet cemetery, interring pet remains, and the care, 51  
preservation, and embellishment of pet cemetery property. The 52  
terms include all of the following: 53

(1) Selling burial rights; 54

(2) Conducting burials and burial services; 55

(3) Maintaining grave sites; 56

(4) Maintaining cemetery common areas; 57

(5) Grounds keeping; 58

(6) Administration; 59

(7) Storage of equipment and supplies; 60

(8) Erecting, maintaining, modifying, and removing 61  
cemetery buildings. 62

(I) "Pet remains" means any part of the body of a deceased 63  
pet being in any stage of decomposition or state of preservation 64  
or the remaining body fragments from a body of a deceased pet 65  
that has been reduced by cremation or alternative disposition. 66  
"Pet remains" do not include either of the following: 67

(1) Remains that are fully decomposed or not recognizable 68  
apart from the soil into which they have been interred; 69

(2) Cremated ashes that have been scattered on the ground 70  
surface or otherwise dispersed. 71

**Sec. 961.04.** (A) Any person desiring to operate any pet 72  
cemetery which is organized or developed on or after ~~the~~ 73  
~~effective date of this section~~ August 29, 1986, shall, before 74

selling or offering to sell any burial right in such pet 75  
cemetery, establish an endowment care fund, as required by 76  
division (B) of this section, and place a deposit in the fund of 77  
at least twelve thousand dollars in cash, or in bonds of the 78  
United States, this state, or any county or municipal 79  
corporation of this state. 80

Whenever any such person has placed another twelve 81  
thousand dollars in the endowment care fund from the maintenance 82  
fee portion of the proceeds received from the sale of burial 83  
rights, in addition to the deposit required in this division, 84  
such person may withdraw the deposit of twelve thousand dollars 85  
from the fund. 86

(B) No person shall operate or continue to operate any pet 87  
cemetery in this state without establishing and maintaining an 88  
endowment care fund segregated from other assets in accordance 89  
with this section. 90

(C) Any person operating any pet cemetery after ~~the~~ 91  
~~effective date of this section~~ August 29, 1986, shall place into 92  
the endowment care fund required by division (B) of this section 93  
a maintenance fee of not less than fifty dollars, which shall be 94  
charged as part of the purchase price for the sale of any burial 95  
right. This fee shall be placed in the endowment care fund no 96  
later than thirty days following the month in which the entire 97  
gross sales proceeds from the sale of the burial right are 98  
received. 99

(D) The moneys of an endowment care fund shall be held and 100  
invested in the manner in which trust funds are permitted to be 101  
held and invested pursuant to sections 2109.37 and 2109.371 of 102  
the Revised Code. 103

The income from the endowment care fund shall be used only 104  
for the maintenance, supervision, improvement, and preservation 105  
of the grounds, lots, markers, memorials, buildings, equipment, 106  
statuary, and other real and personal property of the pet 107  
cemetery and for the payment of real property taxes. Annual 108  
reports of all the assets and investments of the endowment care 109  
fund shall be prepared and maintained by the pet cemetery 110  
operator, and shall be available for inspection at reasonable 111  
times to any owner of a burial right in the pet cemetery. 112

(E) This section does not require a person owning land 113  
with a pet cemetery restriction to establish an endowment care 114  
fund if the person does not operate a pet cemetery or sell or 115  
offer to sell a burial or interment right in relation to that 116  
land. 117

**Sec. 961.05.** (A) After a declaration has been filed 118  
pursuant to section 961.02 of the Revised Code, the land 119  
described in the declaration shall be used for pet cemetery 120  
purposes only unless the restriction for such use is removed by 121  
order of the court of common pleas in the county where the land 122  
is located in a proceeding brought by the pet cemetery property 123  
owner or the owner's heirs or assigns. 124

(B) The court of common pleas may remove the restriction 125  
on the land upon proof satisfactory to the court that either of 126  
the following has occurred: 127

(1) No interments have been made in, or all pet remains 128  
have been removed from, the ~~land~~ portion of the cemetery from 129  
which the restriction is sought to be removed; 130

(2) ~~The~~ Both of the following apply: 131

(a) Notice has been sent by registered mail, return 132

receipt requested, to the last known address of each person who 133  
owns a burial right within the portion of the cemetery from 134  
which the restriction is sought to be removed. 135

(b) The owner of the pet cemetery property or the owner's 136  
heirs or assigns have received, from ~~those persons~~ a person who 137  
~~own-owns~~ burial rights in the pet cemetery within the portion 138  
from which the restriction is sought to be removed, or their 139  
that person's heirs or assigns, written authorization, 140  
acknowledged before a notary public, to remove the restriction 141  
from that portion of the land. 142

~~Any~~ If the cemetery property owner receives no response 143  
within thirty days from the date the notice is sent, consent to 144  
remove the restriction from that portion of the land shall be 145  
presumed. If a person granting this authorization who wishes to 146  
~~have a~~ has pet remains that is already are interred in the 147  
portion of the pet cemetery from which the restriction is sought 148  
to be removed, and the person wishes to have the remains removed 149  
and reinterred elsewhere, the person shall so state on the 150  
authorization ~~and the~~. The pet cemetery property owner shall, 151  
~~at the owner's expense, remove the pet remains and have them~~ 152  
~~reinterred elsewhere and~~ shall provide proof of this removal and 153  
reinterment. 154

A pet cemetery property owner need not obtain the 155  
authorization described in division (B)(2) of this section from 156  
a person who has purchased a burial right in the pet cemetery 157  
but who has not yet used that right for the interment of a pet, 158  
if the property owner refunds to the purchaser or the 159  
purchaser's heirs or assigns all moneys taken for the burial 160  
right, plus interest computed in the manner and at the rate 161  
agreed upon between the cemetery owner and the owner of the 162

burial right. 163

(C) The authorization required by division (B) (2) of this section shall not be required for any portion of a pet cemetery used for the communal burial of pets. 164  
165  
166

(D) The court of common pleas may remove the restriction on a portion of the land described in the declaration, if the portion of the land that remains subject to the restriction is not less than three acres in size, upon proof satisfactory to the court that the situations described in either division (B) (1) or (2) of this section have occurred with respect to that portion of the land from which the restriction is sought to be removed. 167  
168  
169  
170  
171  
172  
173  
174

~~(D)~~ (E) A holder of a lien on the restricted land may object to the removal of the restriction ~~and the~~. The court of common pleas shall consider any such objection before issuing an order to remove the restriction. 175  
176  
177  
178

~~(E)~~ (F) An order issued by the court of common pleas removing a restriction pursuant to this section shall be filed in the office of the county recorder of the county in which the land is located, who shall record it in the official records. 179  
180  
181  
182

(G) A person responding and withholding the authorization required by division (B) (2) of this section shall provide written proof or satisfactory documentation of ownership of a burial right and that a burial has occurred within the portion from which the restriction is sought to be removed. 183  
184  
185  
186  
187

(H) It shall be the duty of a purchaser or owner of a burial right in a pet cemetery to notify the cemetery operator and the property owner of a change in address. 188  
189  
190

Sec. 961.09. There is no private right of action for the 191

<u>enforcement of section 961.02, 961.03, or 961.04 of the Revised</u>	192
<u>Code.</u>	193
<b>Section 2.</b> That existing sections 961.01, 961.04, and	194
961.05 of the Revised Code are hereby repealed.	195