

1 TO THE HOUSE OF REPRESENTATIVES:

2 The Committee on General, Housing, and Military Affairs to which was
3 referred House Bill No. 244 entitled “An act relating to authorizing the natural
4 organic reduction of human remains” respectfully reports that it has considered
5 the same and recommends that the bill be amended by striking out all after the
6 enacting clause and inserting in lieu thereof the following:

7 * * * Deaths, Burials, and Autopsies * * *

8 Sec. 1. 18 V.S.A. § 5200 is added to read:

9 § 5200. DEFINITIONS

10 As used in this chapter:

11 (1) “Cemetery” has the same meaning as in section 5302 of this title.

12 (2) “Cremation” has the same meaning as in section 5302 of this title.

13 (3) “Disposition facility” has the same meaning as in section 5302 of
14 this title.

15 (4) “Natural organic reduction” has the same meaning as in section 5302
16 of this title.

17 Sec. 2. 18 V.S.A. § 5201 is amended to read:

18 § 5201. PERMITS; REMOVAL OF BODIES; **CREMATION;**

19 WAITING PERIOD; INVESTIGATION INTO CIRCUMSTANCES

20 OF DEATH

1 (a) ~~Burial transfer permit.~~ A dead body shall not be buried, entombed, or
2 removed, or otherwise disposed of without a burial-transit permit issued and
3 signed by a municipal clerk, a county clerk, or a deputy clerk for the
4 municipality or unorganized town or gore in which the dead body is located; a
5 funeral director licensed in Vermont; an owner or designated manager of a
6 ~~crematorium~~ licensed disposition facility in Vermont who is registered to
7 perform removals; or a law enforcement officer.

8 * * *

9 (3) A funeral director licensed in Vermont or an owner or designated
10 manager of a ~~crematory~~ licensed disposition facility in Vermont who is
11 registered to perform removals may issue a burial-transit permit for any
12 municipality or unorganized town or gore at any time, including during the
13 normal business hours of a municipal clerk.

14 * * *

15 (b) ~~No~~ An operator of a crematory disposition facility shall not cremate or
16 process by means of natural organic reduction or allow the cremation or
17 processing by means of natural organic reduction of a dead human body until
18 the passage of at least 24 hours following the death of the decedent, as
19 indicated on the death certificate, unless, if the decedent died from a virulent,
20 communicable disease, a Department of Health rule or order requires the
21 cremation to occur prior to the end of that period. If the Attorney General or a

1 State's Attorney requests the delay of a cremation or natural organic reduction
2 based upon a reasonable belief that the cause of death might have been due to
3 other than accidental or natural causes, the cremation or natural organic
4 reduction of a dead human body shall be delayed, based upon such request, a
5 sufficient time to permit a civil or criminal investigation into the circumstances
6 that caused or contributed to the death.

7 (c) The person in charge of the body shall not release for cremation or
8 natural organic reduction the body of a person who died in Vermont until the
9 person in charge has received a certificate from the chief, regional, or assistant
10 medical examiner that the medical examiner has made personal inquiry into the
11 cause and manner of death and is satisfied that no further examination or
12 judicial inquiry concerning it is necessary. Upon request of a funeral director,
13 the person in charge of the body, or the ~~crematory~~ operator of a disposition
14 facility, the Chief Medical Examiner shall issue a cremation disposition
15 certificate after the medical examiner has completed an autopsy. The
16 certificate shall be retained by the crematory disposition facility for a period of
17 three years. The person requesting cremation or natural organic reduction shall
18 pay the ~~department~~ Department a fee of \$25.00.

19 (d)(1) For all cremations or natural organic reductions requested for the
20 body of a person who died outside Vermont, the ~~crematory~~ operator of a

1 disposition facility shall do the following before conducting the cremation or
2 natural organic reduction:

3 (A) obtain a permit for transit ~~or~~ cremation, or natural organic
4 reduction; and

5 (B) comply with the laws of the state in which the person died,
6 including obtaining a copy of a medical examiner's permit if one is required.

7 (2) No additional approval from the Vermont medical examiner's office
8 is required if compliance with the laws of the state in which the person died is
9 achieved.

10 Sec. 3. 18 V.S.A. § 5207 is amended to read:

11 § 5207. CERTIFICATE FURNISHED FAMILY; BURIAL-TRANSIT

12 PERMIT

13 Within 24 hours after death, the death certificate shall be made available
14 upon request to the family of the deceased, if any, or the undertaker or person
15 who has charge of the body. The certificate shall be filed with the person
16 issuing the burial-transit permit obtained by the person who has charge of the
17 body before ~~such dead body shall be buried, entombed, or removed~~ permanent
18 disposition or removal from the town. When the death certificate is so filed,
19 the officer or person shall immediately issue a burial-transit permit under legal
20 restrictions and safeguards.

1 Sec. 4. 18 V.S.A. § 5210 is amended to read:

2 § 5210. FORM OF BURIAL OR REMOVAL PERMIT

3 If it is desired to bury, entomb, or otherwise dispose of a dead body within
4 the limits of a town where the death occurred, the certificate of permission
5 shall state plainly the time, place, and manner of such burial, entombment, or
6 disposition. If it is desired to remove a dead body from the town where the
7 death occurred, the certificate of permission shall contain the essential facts
8 contained in the certificate of death on which it is issued, shall accompany the
9 body to its destination, and may be accepted as a permit for ~~burial or~~
10 ~~entombment~~ permanent disposition by a sexton or other person having the care
11 of a cemetery, burial ground, tomb, or receiving vault.

12 Sec. 5. 18 V.S.A. § 5213 is amended to read:

13 § 5213. REMOVAL; FORM AND DISPOSITION OF PERMIT

14 Such permit shall state specifically ~~where such body is to be buried,~~
15 ~~cremated, or entombed~~ the location of the body's permanent disposition and
16 the time and manner of its removal. A town clerk issuing such a permit shall
17 make it in duplicate if the body is to be removed from the town, one copy of
18 which shall be delivered to the person having charge of the cemetery or tomb
19 from which the body is to be taken and the other shall be delivered to the
20 person having charge of the cemetery or tomb wherein it is desired to place the
21 body.

1 Sec. 6. 18 V.S.A. § 5224 is amended to read:

2 § 5224. DISPOSITION OF REMAINS; PERMITS

3 (a) Fetal remains shall be disposed of by burial, ~~or cremation,~~ or natural
4 organic reduction unless released to an educational institution for scientific
5 purposes or disposed of by the hospital or as directed by the attending
6 physician in a manner ~~which~~ that will not create a public health hazard.
7 Permission shall be obtained from one of the parents, if competent, for
8 disposition in all cases where a funeral director is not involved. One copy of
9 the fetal death report shall be printed in such manner that completion and
10 signing by the physician or medical examiner shall constitute permission to
11 make ~~final~~ permanent disposition of the fetal remains.

12 (b) When a funeral director is involved or when the fetal remains are to be
13 privately buried or disposed of by a ~~commercial crematory~~ crematory disposition facility,
14 the funeral director or other person taking charge of the remains shall obtain
15 from the hospital or physician the disposition permit portion of the report and
16 shall deliver it to the sexton or other person having care of the cemetery, tomb,
17 vault, or crematory disposition facility before burial or other disposition takes
18 place. These permits shall be delivered each month to the clerk of the town in
19 which burial or disposition took place, in the same manner as permits for burial
20 of dead bodies; so also shall all other provisions of sections 5209-5216 of this
21 title be applicable to fetal remains as are applicable to dead bodies.

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Sec. 7. 18 V.S.A. chapter 107, subchapter 3 is amended to read:

Subchapter 3. Rights of Family Members, ~~and~~ Other Interested Persons,
Funeral Directors, and ~~Crematory~~ Operators of Disposition Facilities

* * *

§ 5227. RIGHT TO DISPOSITION

(a) If there is no written directive of the decedent, in the following order of priority, one or more competent adults shall have the right to determine the disposition of the remains of a decedent, including the location, manner, and conditions of disposition and arrangements for funeral goods and services:

* * *

(9) the funeral director or crematory disposition facility operator with custody of the body, after attesting in writing that a good faith effort has been made to contact the individuals described in subdivisions (1) through (8) of this subsection; or

* * *

(c)(1) If the disposition of the remains of a decedent is determined under subdivision (a)(9) of this section and the funeral director or crematory disposition facility operator has cremated or processed the remains, as applicable, the funeral director or crematory disposition facility operator shall retain the remains for three years and, if no interested party as provided in

1 subdivisions (a)(1) through (8) of this section claims the decedent's remains
2 after three years, the funeral director or crematory disposition facility operator
3 shall arrange for the ~~final~~ permanent disposition of the ~~cremated~~ remains
4 consistent with any applicable law and standard funeral practices.

5 (2) Notwithstanding any provision of subdivision (1) of this subsection
6 to the contrary, a funeral director or crematory disposition facility operator
7 may determine that the unclaimed ~~cremated~~ remains of a deceased veteran
8 shall be interred at the Vermont Veterans Memorial Cemetery pursuant to
9 20 V.S.A. § 1586 if:

10 (A) at least 180 days have passed since the funeral director or
11 crematory disposition facility operator cremated or processed the remains;

12 (B) the funeral director or crematory disposition facility operator
13 either:

14 (i) has actual knowledge that there is no interested party as
15 provided in subdivisions (a)(1) through (8) of this section to claim the
16 decedent's remains; or

17 (ii) after making reasonable efforts, has been unable to locate and
18 contact any known interested party as provided in subdivisions (a)(1) through
19 (8) of this section; and

1 (C) the funeral director or crematory disposition facility operator has
2 confirmed with the Office of Veterans Affairs that the deceased veteran is
3 eligible to be interred at the Vermont Veterans Memorial Cemetery.

4 (d)(1) If the disposition of the remains of a decedent is determined under
5 subdivision (a)(10) of this section, the Office of the Chief Medical Examiner
6 may contract with a funeral director or crematory disposition facility operator
7 to cremate or process the remains of the decedent, as applicable.

8 (2)(A) If the cremation or natural organic reduction of the decedent is
9 arranged and paid for under 33 V.S.A. § 2301, the Department for Children
10 and Families shall pay the ~~cremation~~ expenses to the funeral home, up to the
11 maximum payment permitted by rule by the Department for Children and
12 Families.

13 (B) If the cremation or natural organic reduction of the decedent is
14 not arranged and paid for under 33 V.S.A. § 2301, the Department of Health
15 shall pay the ~~cremation~~ expenses to the funeral home, up to the maximum
16 payment permitted by rule by the Department for Children and Families.

17 (3) The ~~cremated~~ remains shall be returned to the Office of the Chief
18 Medical Examiner. The Office shall retain the remains for three years, and if
19 no interested party, as described in subdivisions (a)(1) through (8) of this
20 section, claims the decedent's remains after three years, the Office shall

1 arrange for the ~~final~~ permanent disposition of the ~~cremated~~ remains consistent
2 with any applicable law and standard funeral practices.

3 (4) Notwithstanding any provision of subdivision (3) of this subsection
4 to the contrary, the Office of the Chief Medical Examiner may determine that
5 the unclaimed ~~cremated~~ remains of a deceased veteran shall be interred at the
6 Vermont Veterans Memorial Cemetery pursuant to 20 V.S.A. § 1586 if:

7 (A) at least 180 days have passed since the remains were cremated or
8 processed;

9 (B) the Office of the Chief Medical Examiner either:

10 (i) has actual knowledge that there is no interested party as
11 provided in subdivisions (a)(1) through (8) of this section to claim the
12 decedent's remains; or

13 (ii) after making reasonable efforts, has been unable to locate and
14 contact any known interested party as provided in subdivisions (a)(1) through
15 (8) of this section; and

16 (C) the Office of the Chief Medical Examiner has confirmed with the
17 Office of Veterans Affairs that the deceased veteran is eligible to be interred at
18 the Vermont Veterans Memorial Cemetery.

19 § 5228. FORFEITURE

20 An individual recognized under section 5227 of this title to have a right of
21 disposition shall forfeit that right in the following circumstances:

1 (1) the individual is identified by a law enforcement agency as a person
2 of interest and likely to be prosecuted or is under prosecution for first or
3 second degree murder or voluntary manslaughter in connection with the
4 decedent's death, if the status of the investigation or the prosecution is known
5 to the funeral director or crematory disposition facility operator, except that if
6 the prosecution is not pursued or the individual is acquitted of the alleged
7 crime before the remains are disposed of, the individual shall regain the right;

8 * * *

9 § 5229. COST OF DISPOSITION

10 The cost for the disposition of remains and funeral goods or services shall
11 be borne by the decedent's estate, subject to the limits for insolvent estates
12 imposed by 14 V.S.A. § 1205, or by any individual who agrees to pay the
13 costs. Nothing in this subchapter shall be construed to require a funeral
14 director or crematory disposition facility operator to provide goods or services
15 for which there is no payment.

16 § 5230. RIGHTS OF FUNERAL DIRECTOR OR ~~CREMATORY~~
17 OPERATOR OF A DISPOSITION FACILITY

18 A funeral director or crematory disposition facility operator may determine
19 the ~~final~~ permanent disposition of remains and may file a civil action in
20 Probate Division of the Superior Court against a person, estate, banking

1 institution, governmental agency, or other entity ~~which~~ that may have liability
2 for the ~~final~~ permanent disposition, either:

3 (1) to seek a declaratory judgment that the director's or operator's
4 proposed action would be in compliance with the applicable provisions of law;
5 or

6 (2) to seek a judgment that the director or operator's action is in
7 compliance with the applicable provisions of law and to recover reasonable
8 costs and fees for the ~~final~~ permanent disposition when:

9 (A) the funeral director or ~~crematory~~ disposition facility operator has
10 actual knowledge that there is no surviving family member, guardian, or
11 individual appointed to arrange for the disposition of decedent's remains
12 pursuant to chapter 231 of this title;

13 (B) the funeral director or ~~crematory~~ disposition facility operator has
14 made reasonable efforts to locate and contact any known family member,
15 guardian, or agent; and

16 (C) the appropriate local or State authority, if any, fails to assume
17 responsibility for disposition of the remains within 36 hours of written notice,
18 which may be delivered by hand, U.S. mail, facsimile transmission, electronic
19 means, or telegraph.

20 § 5231. CIVIL ACTION

21 * * *

1 (c) Except as provided for under subdivision (b)(4) of this section, an
2 individual who has paid or agreed to pay for all or part of the funeral
3 arrangements or ~~final~~ permanent disposition does not have greater priority to
4 the right to disposition than as set forth in section 5227 of this title.

5 (d)(1) A funeral director or ~~crematory~~ disposition facility operator may
6 refuse to accept bodily remains, to inter or otherwise dispose of bodily
7 remains, or to complete the arrangements for the ~~final~~ permanent disposition
8 until such time as the court issues an order or the parties to the action submit a
9 final stipulation approved by the court regarding the disposition of remains.

10 (2) If the funeral director or ~~crematory~~ disposition facility operator
11 retains the remains for ~~final~~ permanent disposition while an action is pending,
12 the funeral director or ~~crematory~~ disposition facility operator may refrigerate
13 or shelter the remains while awaiting a preliminary or final order of the court.
14 The cost of refrigeration or sheltering shall be the responsibility of the party or
15 parties who contracted with the funeral director or ~~crematory~~ disposition
16 facility operator, the person or entity who is otherwise liable for the costs of
17 ~~final~~ permanent disposition, or the estate as ordered by the court, or any
18 combination of these, and the court may include in the order a decision
19 concerning which of these shall be responsible for paying these costs.

20 (e) If a funeral director or ~~crematory~~ disposition facility operator
21 commences an action under this section, the funeral director or ~~crematory~~

1 disposition facility operator may ask the court to include an order against the
2 estate or the parties for reasonable legal fees and costs. If the estate is
3 insolvent and no other person should be responsible for the filing fee, the court
4 may waive the filing fee. The court, in its discretion, may order a party or
5 parties to pay the reasonable costs of ~~final~~ permanent disposition as a condition
6 of the appointment to make disposition decisions. The court may order that a
7 party, or parties, including the petitioner, pay reasonable legal fees and costs
8 associated with the action.

9 (f) Any appeal from the ~~probate court~~ Probate Division shall be on the
10 record to the Civil Division of the Superior Court. There shall be no appeal as
11 a matter of right to the Supreme Court.

12 * * *

13 § 5233. LIMITED LIABILITY

14 A funeral director or crematory disposition facility operator shall not be
15 subject to civil liability or subject to disciplinary action for carrying out the
16 disposition of the remains if he or she relied in good faith on a funeral service
17 contract or authorization or for following the instructions of an individual
18 ~~whom~~ who the funeral director or ~~crematory~~ disposition facility operator
19 reasonably believes or believed holds the right of disposition.

20 * * *

* * * Cemeteries * * *

1
2 Sec. 8. 18 V.S.A. § 5302 is amended to read:

3 § 5302. DEFINITIONS

4 As used in this chapter and unless otherwise required by the context:

5 (1) “Agencies” means town cemeteries, religious or ecclesiastical
6 society cemeteries, cemetery associations, and any person, firm, corporation,
7 or unincorporated association engaged in the business of a cemetery.

8 (2) “Cemetery” means any plot of ground used or intended to be used
9 for the burial or permanent disposition ~~permanently~~ of the remains of the
10 human dead in a grave, a mausoleum, a columbarium, a vault, or other
11 receptacle.

12 (3) “Cemetery association” means any corporation now or hereafter
13 organized ~~which~~ that is or shall be authorized by its articles to conduct the
14 business of a cemetery.

15 (4) “Columbarium” means a structure or room or other space in a
16 building or structure of durable and lasting fireproof construction, containing
17 niches, used or intended to be used, to contain ~~eremated~~ the permanent
18 disposition of human remains.

19 (5) “Community mausoleum” means a structure or building of durable
20 and lasting construction used or intended to be used for the permanent
21 disposition of the remains of deceased persons in crypts or spaces, provided

1 such crypts or spaces are available to or may be obtained by individuals or the
2 public for a price in money or its equivalent.

3 (6) “Cremated remains” means remains of a deceased person after
4 incineration in a crematory disposition facility.

5 (7) “Cremation” means the reducing of the remains of deceased persons,
6 by the use of retorts, to cremated remains and the disposal thereof in a
7 columbarium, niche, mausoleum, grave, or in any other manner not contrary to
8 law.

9 ~~(8) “Crematory” means a building or structure containing one or more~~
10 ~~retorts, used or intended to be used, for the reducing of the bodies of deceased~~
11 ~~persons to cremated remains.~~

12 ~~(9)(8)~~ “Crypt” means the chamber in a mausoleum of sufficient size to
13 contain the remains of deceased persons.

14 (9) “Disposition facility” means a building or structure for the reducing
15 of human remains by means of cremation, alkaline hydrolysis, or natural
16 organic reduction.

17 (10) “Ecological land management practices” means utilization of land
18 stewardship decision-making processes that account for the best available
19 understanding of ecosystem functions and biological diversity.

20 (11) “Natural burial ground” means a cemetery maintained using
21 ecological land management practices and without the use of vaults for the

1 burial of unembalmed human remains or human remains embalmed using
2 nontoxic embalming fluids and that rest in either no burial container or in a
3 nontoxic, nonhazardous, plant-derived burial container or shroud.

4 (12) “Natural organic reduction” means the contained, accelerated
5 conversion of human remains to soil.

6 ~~(12)~~ **(13)** “Niche” means a recess in a columbarium used, or intended to
7 be used, for the permanent disposition of ~~the cremated~~ human remains of one
8 or more deceased persons.

9 ~~(13)~~ **(14)** “Temporary receiving vault” means a vault or crypt in a
10 structure of durable and lasting construction, used, or intended to be used, for
11 the temporary deposit of the remains of a deceased person for a period of time
12 not exceeding one year.

13 Sec. 9. 18 V.S.A. § 5313 is amended to read:

14 § 5313. RECORDS; BURIAL RECORDS OPEN TO PUBLIC

15 An agency engaged in the business of a cemetery, community mausoleum,
16 or columbarium shall provide and maintain a suitable place of deposit for the
17 records and files of such cemetery, community mausoleum, or columbarium,
18 of such character as will safely keep and preserve such records and files from
19 loss and destruction, and it shall make and file proper records in such place.

20 The record of ~~burials, interments, and cremations~~ the permanent disposition of
21 human remains shall at all reasonable times be open to the public.

1 Sec. 10. 18 V.S.A. § 5315 is amended to read:

2 § 5315. SALE OF PROPERTY FOR OTHER THAN BURIAL PURPOSES;
3 DISPOSITION OF PROCEEDS

4 Either before or after the recording of the plat, as hereinbefore provided,
5 whenever it is determined that such lands acquired for cemetery purposes,
6 except those acquired by condemnation proceedings, are unsuitable for ~~burial~~
7 ~~purposes~~ the permanent disposition of human remains, such lands may be sold
8 for purposes other than ~~interment~~ permanent disposition and conveyed in fee
9 simple in such manner and upon such terms as may be provided by the
10 agencies owning the same. The proceeds thereof shall be applied to the
11 purchase of other lands or to general cemetery purposes. When such sales are
12 made, the land so sold shall be returned by the agencies to the tax lists for
13 taxation. In the case of land acquired by condemnation proceedings, it shall be
14 disposed of under the law governing the disposal of land acquired by
15 condemnation proceedings.

16 Sec. 11. 18 V.S.A. § 5319 is amended to read:

17 § 5319. DISPOSITION OF REMAINS OF DEAD

18 (a)(1) The permanent disposition of human remains shall be by:

19 (A) interment in the earth or:

1 ground shall be constructed of natural stone of a standard not less than that
2 required by the U.S. government for monuments erected in national
3 cemeteries, of durability sufficient to withstand all conditions of weather, and
4 of a character to ensure its permanence.

5 (d) The remains of a human body after cremation or natural organic
6 reduction may be deposited in a niche of a columbarium, ~~in a~~ or a crypt of a
7 mausoleum; ~~be buried;~~ or disposed of in any manner not contrary to law.

8 Sec. 12. 18 V.S.A. § 5361 is amended to read:

9 § 5361. APPROPRIATIONS AND REGULATIONS BY TOWNS

10 A town may vote sums of money necessary for purchasing, holding, and
11 keeping in repair suitable grounds and other conveniences for ~~burying~~
12 permanent disposition of the dead. The selectboard may make necessary
13 regulations concerning public burial grounds and for fencing and keeping the
14 same in proper order.

15 Sec. 13. 18 V.S.A. § 5376 is amended to read:

16 § 5376. SALE OF LOTS; TAX EXEMPTION

17 The board of cemetery commissioners, by one of the commissioners
18 appointed by it for that purpose, in the name of the town, by deed, may grant
19 and convey lots in such burial grounds to be used for the ~~burial~~ permanent
20 disposition of the dead and on which tombs, cenotaphs, and other monuments
21 are to be erected. Such lots shall be exempt from taxation. The deeds thereof

1 shall be recorded in the office of the town clerk of the town wherein such lots
2 lie.

3 Sec. 14. 18 V.S.A. § 5378 is amended to read:

4 § 5378. BYLAWS AND REGULATIONS

5 The board of cemetery commissioners may make necessary bylaws and
6 regulations in respect to such burial grounds, and ~~interment~~ permanent
7 disposition of the dead not inconsistent with law, and may alter the same.

8 Such bylaws and regulations shall be recorded in the office of the town clerk.

9 A bylaw or regulation shall not be adopted to restrain a person in the free
10 exercise of his or her religious sentiments as to the ~~burial~~ permanent
11 disposition of the dead.

12 Sec. 15. 18 V.S.A. § 5434 is amended to read:

13 § 5434. PENALTY FOR DOING BUSINESS AS A CEMETERY

14 ASSOCIATION WITHOUT AUTHORITY

15 A person, firm, corporation, or association, or a trust, trustee, or trustees of
16 any person, firm, corporation, or association, who, without authority of this
17 chapter so to do, shall exercise or attempt to exercise any powers, privileges, or
18 franchises ~~which~~ that are specified or may be granted under this chapter to
19 incorporated cemetery associations, or who shall by any device attempt to
20 evade the provisions of this chapter applicable to cemetery associations in
21 respect to the sale of ~~burial~~ lots or ~~burial~~ spaces for the permanent disposition

1 of human remains and the disposition of the proceeds thereof, shall be fined
2 not less than \$1,000.00 nor more than \$10,000.00, and may be enjoined from
3 further doing of such acts at the suit of any taxpayer of the State. However, the
4 provisions of this section shall not affect or impair the rights of a person, firm,
5 corporation, or association or a trust, trustee, or trustees of such person, firm,
6 corporation, or association under any existing contract or contracts between
7 such parties and incorporated cemetery associations, nor shall the performance
8 of the provisions of such contract or contracts subject parties thereto to the
9 penalties imposed by this section.

10 Sec. 16. 18 V.S.A. § 5435 is amended to read:

11 § 5435. SALES OF LOTS, CRYPTS, AND NICHES; HOW INCOME
12 APPLIED; RULES

13 (a) The income of a cemetery association, whether derived from the sale of
14 lots, ~~burial~~ spaces, crypts, or niches for the permanent disposition of human
15 remains, from donations, or otherwise, shall be exclusively applied to paying
16 for the land or other cemetery property; laying out, preserving, protecting, and
17 embellishing the cemetery and avenues leading thereto; the erection of
18 buildings necessary for cemetery purposes; the establishing of a fund to care
19 permanently for the cemetery; the repair and upkeep of mausoleums, vaults,
20 columbariums, crypts, and niches therein; and to paying the necessary
21 expenses of the cemetery association. A debt shall not be contracted in

1 anticipation of future receipts, except for the original purchase of the land,
2 community mausoleum, or columbarium, laying out, enclosing, and
3 embellishing the grounds and avenues therein and to a sum not exceeding
4 \$50,000.00 in the whole, to be paid out of future income. ~~No part of the~~ The
5 proceeds from the sale of lots, ~~burial~~ spaces, crypts, or niches for the
6 permanent disposition of human remains, or other income of such association,
7 shall ~~ever~~ not be divided among its members. All its income shall be used
8 exclusively for the purposes of the association, as provided in this chapter, or
9 invested in a fund the income of which shall be so used. Such association may
10 adopt such reasonable rules and regulations as it deems expedient for disposing
11 of and conveying ~~burial~~ lots, spaces, crypts, and niches for the permanent
12 disposition of human remains.

13 * * *

14 Sec. 17. 18 V.S.A. § 5436 is amended to read:

15 § 5436. PERPETUAL CARE FUND

16 A cemetery association established prior to June 1, 1933 may create a
17 perpetual care fund out of surplus money on hand or ~~which that~~ that has been given
18 to it by will, deed, or otherwise. A cemetery association established after such
19 date shall create such a perpetual care fund by applying thereto from the initial
20 proceeds received from the sale of lots or ~~burial~~ spaces for the permanent
21 disposition of human remains a sum ~~which that~~ that shall be equivalent to and not

1 less than 20 percent of the sale price of each lot or ~~burial~~ space so sold, and
2 such association may at any time increase the same by the addition of surplus
3 money or property received by it by will, deed, or otherwise.

4 Sec. 18. 18 V.S.A. § 5488 is amended to read:

5 § 5488. ENLARGEMENT OF CEMETERIES BY ASSOCIATIONS-
6 PETITION TO SUPERIOR COURT TO ACQUIRE LAND

7 When an incorporated cemetery association wishes to enlarge the limits of
8 its burial ground, and votes to purchase additional land for ~~burial~~ permanent
9 disposition purposes and the owner of such land refuses to convey the same to
10 ~~such~~ the cemetery association for a reasonable compensation, the trustees or
11 president of such association, by a petition in writing, may apply to the
12 Superior Court in the county in which such burial ground is located for the
13 appointment of commissioners.

14 * * * Funeral Services * * *

15 Sec. 19. 26 V.S.A. § 1211 is amended to read:

16 § 1211. DEFINITIONS

17 (a) As used in this chapter, unless a contrary meaning is required by the
18 context:

19 (1) “Crematory establishment” means a business registered with the
20 Office conducted at a specific street address or location devoted to the
21 disposition of dead human bodies by means of cremation, alkaline hydrolysis,

1 ~~or any other type of human reduction acceptable to the Director as established~~
2 ~~by the Director by rule. [Repealed.]~~

3 (2) “Director” means the Director of the Office of Professional
4 Regulation.

5 (3) “Funeral director” means a licensed person who is the owner, co-
6 owner, employee, or manager of a licensed funeral establishment and who, for
7 compensation, engages in the practice of funeral service.

8 (4) “Funeral establishment” means a business registered with the Office
9 conducted at a specific street address or location devoted to the practice of
10 funeral service, and includes a limited services establishment.

11 (5) “Office” means the Office of Professional Regulation.

12 (6) “Practice of funeral service” means arranging, directing, or
13 providing for the care, preparation, or disposition of dead human bodies for a
14 fee or other compensation. This includes:

15 (A) meeting with the public to select a method of disposition or
16 funeral observance and merchandise;

17 (B) entering into contracts, either at-need or pre-need, for the
18 provision of dispositions, funeral observances, and merchandise;

19 (C) arranging, directing, or performing the removal or transportation
20 of a dead human body;

1 (D) securing or filing certificates, permits, forms, or other
2 documents;

3 (E) supervising or arranging a funeral, memorial, viewing, or
4 graveside observance; and

5 (F) holding oneself out to be a licensed funeral director by using the
6 words or terms “funeral director,” “mortician,” “undertaker,” or any other
7 words, terms, title, or picture that, when considered in context, would imply
8 that such person is engaged in the practice of funeral service or is a licensed
9 funeral director.

10 (7) “Removal” means the removal of dead human bodies from places of
11 death, hospitals, institutions, or other locations, for a fee or other
12 compensation.

13 (8) “Disposition facility” means a business registered with the Office
14 conducted at a specific street address or location devoted to the disposition of
15 human remains by means of cremation, alkaline hydrolysis, or natural organic
16 reduction.

17 (9) “Natural organic reduction” has the same meaning as in 18 V.S.A.
18 § 5302.

19 * * *

20 (c) Notwithstanding this section, crematory owners of a disposition facility,
21 and their personnel may engage in the listed activities in ~~subsection~~

1 subdivision (a)(6) of this section only to the extent such functions are
2 necessary to the performance of their duties. Specifically, ~~crematory~~ personnel
3 at a disposition facility may:

4 (1) provide for the disposition of dead human bodies by cremation,
5 alkaline hydrolysis, or natural organic reduction and meet with the public to
6 arrange and provide for the disposition;

7 (2) enter into contracts, without taking prepaid funds, for the provision
8 of dispositions by cremation, alkaline hydrolysis, or natural organic reduction;

9 (3) arrange, direct, or perform the removal or transportation of a dead
10 human body, ~~so long as~~ provided that removals are performed by licensed
11 removal personnel; and

12 (4) secure and file certificates, permits, forms, or other documents.

13 Sec. 20. 26 V.S.A. § 1212 is amended to read:

14 § 1212. ADVISOR APPOINTEES; DIRECTOR DUTIES; RULES

15 (a)(1) The Secretary of State shall appoint four persons for five-year
16 staggered terms to serve at the Secretary's pleasure as advisors in matters
17 relating to funeral service. Three of the initial appointments shall be for four-,
18 three-, and two-year terms. Appointees shall include three licensed funeral
19 directors, one of whom is a licensed embalmer and one of whom has training
20 or experience in the operation of ~~crematoria~~ a disposition facility. One
21 appointee shall be a public member.

1 (2) The Director shall seek the advice of the advisor appointees in
2 carrying out the provisions of this chapter.

3 (b) The Director shall:

4 * * *

5 (6) adopt rules regarding:

6 (A) minimum standards for ~~crematory establishments~~ disposition
7 facilities, including standards for permits and documentation, body handling,
8 containers, infectious diseases, pacemakers, body storage, sanitation,
9 equipment and maintenance, dealing with the public, and other measures
10 necessary to protect the public; and

11 (B) the transaction of business as the Director deems necessary.

12 (7) [Repealed.]

13 (8) [Repealed.]

14 Sec. 21. 26 V.S.A. § 1213 is amended to read:

15 § 1213. INSPECTION OF PREMISES

16 (a) The Director or his or her designee may, at any reasonable time, inspect
17 funeral and ~~crematory establishments~~ and disposition facilities.

18 (b) Each funeral and ~~crematory~~ establishment and disposition facility shall
19 be inspected at least once every two years. Copies of the inspector's report of
20 inspections of establishments and facilities shall be provided to the Director.

1 Sec. 22. 26 V.S.A. § 1251 is amended to read:

2 § 1251. LICENSE REQUIREMENTS

3 (a) A person, partnership, corporation, association, or other organization
4 shall not open or maintain a funeral establishment unless the establishment is
5 licensed by the Office to conduct the business and unless the owner, a co-
6 owner, or manager is a licensed funeral director.

7 (b) A person, partnership, corporation, association, or other organization
8 shall not open or maintain a ~~crematory establishment~~ disposition facility unless
9 the establishment is licensed by the Office.

10 (c) A person shall not hold himself or herself out as performing the duties
11 of a funeral director unless licensed by the Office.

12 (d) Except as otherwise permitted by law, a person employed by a funeral
13 ~~or crematory establishment or disposition facility~~ shall not perform a removal
14 unless registered with the Office.

15 Sec. 23. 26 V.S.A. § 1252 is amended to read:

16 § 1252. APPLICATION; QUALIFICATIONS

17 * * *

18 (d) ~~Crematory establishment~~ Disposition facility.

19 (1) A person, partnership, corporation, association, or other organization
20 desiring to operate a ~~crematory establishment~~ disposition facility shall apply, in
21 writing, to the Director for a license. The applicant, if a partnership,

1 corporation, association, or other organization, must have a designated
2 manager or co-owner who is responsible for the operation of the ~~establishment~~
3 ~~disposition facility~~ and who is registered with the Office under subsection (e)
4 of this section.

5 (2) The application for a license shall be sworn to by the individual, or a
6 partner or a duly authorized officer of a corporation, shall be on the form
7 prescribed and furnished by the Director, and the applicant shall furnish
8 information, as required by rule. The application shall be accompanied by a
9 licensing fee. However, the applicant shall not be required to pay the fee under
10 this subsection if the applicant pays the fee under subsection (b) of this section.

11 (e) ~~Crematory~~ ~~Disposition facility~~ personnel.

12 (1) Any person who desires to engage in direct handling, processing,
13 identification, ~~or cremation,~~ ~~alkaline hydrolysis,~~ or natural organic reduction of
14 dead human remains within a licensed ~~crematory establishment~~ ~~disposition~~
15 ~~facility~~ shall register with the Office and pay the fee established in subsection
16 1256(d) of this chapter. The applicant shall have attained the age of majority
17 and be directly employed by a licensed ~~crematory establishment~~ ~~disposition~~
18 ~~facility~~.

19 (2) The Director may prescribe, by rule, the forms for applicants, which
20 may include proof of completion of up to three hours of education and training
21 in programs approved by the Director.

1 (f) Removal personnel.

2 (1) Any person who desires to engage in removals shall register with the
3 Office and pay the fee established in subsection 1256(d) of this chapter. The
4 applicant shall have attained the age of majority and be directly employed by a
5 licensed funeral or ~~crematory~~ establishment or disposition facility, or the
6 University of Vermont for removals related to the University's anatomical gift
7 program.

8 (2) The Director may prescribe, by rule, the forms for applicants, which
9 may include proof of completion of up to three hours of education and training
10 in infectious diseases in programs approved by the Director.

11 (3) Registrants under this subsection are authorized to perform removals
12 only, as defined by this chapter. Unregistered personnel may accompany
13 registered personnel to assist in removals ~~so long as~~ provided they have been
14 instructed in handling and precautionary procedures prior to the call.

15 (g) Limited services establishment.

16 (1) The Director may adopt rules for the issuance of limited service
17 establishment licenses in accordance with this chapter. Limited service
18 establishment licensees are authorized to perform only disposition services
19 without arranging, directing, or performing embalming, public viewings,
20 gatherings, memorials, funerals, or related ceremonies. Disposition services

1 under this subsection include direct cremation, direct alkaline hydrolysis, direct
2 natural organic reduction, immediate burial, or direct green natural burial.

3 (2) Limited services shall be overseen by a funeral director licensed
4 under this chapter who is employed by the limited service establishment.

5 (3) Each limited service arrangement shall include a mandatory written
6 disclosure providing notice to the purchaser that limited services do not include
7 embalming, public viewings, gatherings, memorials, funerals, or related
8 ceremonies.

9 (4) A funeral director associated with a funeral establishment licensed
10 under subsection (c) of this section may provide limited services ~~so long as,~~
11 provided the mandatory disclosure described under subdivision (3) of this
12 subsection is provided to the purchaser.

13 Sec. 24. 26 V.S.A. § 1254 is amended to read:

14 § 1254. ISSUANCE OR DENIAL OF LICENSE

15 If, upon review, it is found that the applicant possesses sufficient skill and
16 knowledge of the business and has met the application and qualification
17 requirements set forth in this chapter, the Director shall issue to him or her a
18 license to engage in the business of funeral director, embalmer, funeral
19 establishment, crematory establishment disposition facility, or removal
20 personnel.

1 Sec. 25. 26 V.S.A. § 1256 is amended to read:

2 § 1256. RENEWAL OF REGISTRATION OR LICENSE

3 * * *

4 (d) Applicants and persons regulated under this chapter shall pay the
5 following fees:

6	(1) Application for license	\$ 70.00
7	(2) Biennial renewal of license	
8	(A) Funeral director	\$ 350.00
9	(B) Embalmer	\$ 350.00
10	(C) Funeral establishment	\$ 800.00
11	(D) Crematory establishment <u>Disposition facility</u>	\$ 800.00
12	(E) Crematory <u>Disposition facility</u> personnel	\$ 125.00
13	(F) Removal personnel	\$ 125.00
14	(G) Limited services establishment license	\$ 800.00

15 * * *

16 Sec. 26. 26 V.S.A. § 1272 is amended to read:

17 § 1272. RULES; PREPAID FUNERAL FUNDS

18 * * *

1 (9) Establishment of a funeral services trust account.

2 (A) For purposes of funding the Funeral Services Trust Account, the
3 Office shall assess each funeral or crematory establishment or disposition
4 facility a per funeral, burial, or disposition fee of \$6.00.

5 (B) The Account shall be administered by the Secretary of State and
6 shall be used for the sole purpose of protecting prepaid funeral contract holders
7 in the event a funeral establishment or disposition facility defaults on its
8 obligations under the contract.

9 (C) The Account shall consist of all fees collected under this
10 subdivision (9) and any assessments authorized by the General Assembly. The
11 principal and interest remaining in the Account at the close of any fiscal year
12 shall not revert but shall remain in the Account for use in succeeding fiscal
13 years.

14 (D) Notwithstanding the provisions of this subdivision (9) to the
15 contrary, if the fund balance at the beginning of a fiscal year is at least
16 \$200,000.00, no fees shall be imposed during that fiscal year.

17 (E) Payments on consumer claims from the fund shall be made on
18 warrants by the Commissioner of Finance and Management, at the direction of
19 the Director.

20 (F) When an investigation reveals financial discrepancies within a
21 licensed establishment or facility, the Director may order an audit to determine

1 the existence of possible claims on the Funeral Services Trust Account. In
2 cases where both a funeral ~~and crematory~~ establishment or disposition facility
3 are involved in a disposition, the party receiving the burial permit shall be
4 responsible for the disposition fee.

5 * * * Fee Structure as of June 1, 2023 * * *

6 Sec. 27. 3 V.S.A. § 125 is amended to read:

7 § 125. FEES

8 * * *

9 (b) Unless otherwise provided by law, the following fees shall apply to all
10 professions regulated by the Director in consultation with advisor appointees
11 under Title 26:

12 (1) Application for registration, \$75.00, except application for:

13 (A) Private investigator and security services employees, unarmed
14 registrants, \$60.00.

15 (B) Private investigator and security service employees, transitory
16 permits, \$60.00.

17 (C) Private investigator and security service employees, armed
18 registrants, \$120.00.

19 (2) Application for licensure or certification, \$100.00, except
20 application for:

21 (A) Barbering or cosmetology schools and shops, \$300.00.

- 1 (B) Funeral directors, embalmers, crematory disposition facility
2 personnel, removal personnel, funeral establishments, crematory
3 establishments disposition facilities, and limited services establishments,
4 \$70.00.
- 5 (C) Application for real estate appraisers, \$275.00.
- 6 (D) Temporary real estate appraiser license, \$150.00.
- 7 (E) Appraisal management company registration, \$600.00.
- 8 (F) Private investigator or security services agency, \$340.00.
- 9 (G) Private investigator and security services agency, \$400.00.
- 10 (H) Private investigator or security services sole proprietor, \$250.00.
- 11 (I) Private investigator or security services unarmed licensee,
12 \$150.00.
- 13 (J) Private investigator or security services armed licensee, \$200.00.
- 14 (K) Private investigator and security services instructor, \$120.00.
- 15 (3) Optician trainee registration, \$50.00.
- 16 (4) Biennial renewal, \$240.00, except biennial renewal for:
- 17 (A) Independent clinical social workers and master's social workers,
18 \$150.00.
- 19 (B) Occupational therapists and assistants, \$150.00.
- 20 (C) Physical therapists and assistants, \$150.00.
- 21 (D) Optician trainees, \$100.00.

- 1 (E) Barbers, cosmetologists, nail technicians, and estheticians,
2 \$130.00.
- 3 (F) Schools of barbering or cosmetology, \$300.00.
- 4 (G) Funeral directors and embalmers, \$280.00.
- 5 (H) ~~Crematory~~ Disposition facility personnel and removal personnel,
6 \$100.00.
- 7 (I) Funeral establishments, ~~crematory establishments~~ disposition
8 facilities, and limited services establishments, \$640.00.
- 9 (J) [Repealed.]
- 10 (K) Radiologic therapist, radiologic technologist, nuclear medicine
11 technologist, \$150.00.
- 12 (L) Certified alcohol and drug abuse counselor, certified apprentice
13 addiction professional, and licensed alcohol and drug abuse counselor,
14 \$225.00.
- 15 (M) Private investigator or security services agency, or both,
16 \$300.00.
- 17 (N) Private investigator or security services unarmed licensee,
18 \$120.00.
- 19 (O) Private investigator or security services armed licensee, \$180.00.
- 20 (P) Private investigator or security services unarmed registrant,
21 \$80.00.

1 (Q) Private investigator or security services armed registrant,

2 \$130.00.

3 (R) Private investigator or security services sole proprietor, \$250.00.

4 (S) Private investigator or security services instructor, \$180.00.

5 (5) Limited temporary license or work permit, \$50.00.

6 * * *

7 * * * Effective Dates and Transitional Rulemaking Provision * * *

8 Sec. 28. EFFECTIVE DATES

9 Sec. 27 (fees) shall take effect on June 1, 2023. All other sections shall take
10 effect on January 1, 2022, except that the Director of the Office of Professional
11 Regulation shall adopt any rules necessary prior to that date in order to perform
12 the Director's duties under this act.

13

14

15

16

17

18 (Committee vote: _____)

19

20

21

Representative _____

FOR THE COMMITTEE