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(FORM UPDATED: 08/11/2010)

WISCONSIN STATE LEGISLATURE ... PUBLIC HEARING - COMMITTEE RECORDS

1995-96

(session year)

Assembly

(Assembly, Senate or Joint)

**Committee on Insurance, Securities and
Corporate Policy...**

COMMITTEE NOTICES ...

- Committee Reports ... **CR**
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- Public Hearings ... **PH**

INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL

- Appointments ... **Appt** (w/Record of Comm. Proceedings)
- Clearinghouse Rules ... **CRule** (w/Record of Comm. Proceedings)
- Hearing Records ... bills and resolutions (w/Record of Comm. Proceedings)
 - (**ab** = Assembly Bill) (**ar** = Assembly Resolution) (**ajr** = Assembly Joint Resolution)
 - (**sb** = Senate Bill) (**sr** = Senate Resolution) (**sjr** = Senate Joint Resolution)
- Miscellaneous ... **Misc**



State of Wisconsin
DEPARTMENT OF REGULATION AND LICENSING

Testimony on Assembly Bill 805

Before the Committee on Insurance, Securities and Corporate Policy
February 22, 1996

Good afternoon, Chairperson Albers and members of the committee. I am Cletus Hansen, Director of the Bureau of Direct Licensing and Real Estate in the Department of Regulation & Licensing. I am testifying on behalf of the Department to express its support of AB 805.

I would like to begin with a little bit of history. After significantly new cemetery laws went into effect on November 1, 1991, many small cemeteries complained about the fact that they had to deposit their care funds with a trust department in a financial institution or with the treasurer of a city or county. A first attempt at responding to this concern was a minor amendment to a Branch Banking Bill (1991 Wisconsin Act 74) which was almost through the legislative process. This amendment made it somewhat clearer that the money deposited in a financial institution did not have to be placed with a trust department, but could be placed in a trust account at a depository institution and managed by cemeteries themselves.

However, small cemeteries still wanted more changes. Therefore, a legislative proposal was developed which permitted cemeteries to invest care funds for the sale of lots in alternative investments such as mutual funds, stocks, bonds and certificates of deposit. Many of the small cemeteries already had their funds in such investments and they wanted to keep them there. This proposal went forward and was included in the Biennial Budget Bill, 1991 Act 269; however, an amendment was added whereby the Department of Regulation & Licensing was required to approve the alternative investments. The Department was concerned about having to approve countless numbers of alternative investments, because the Department strongly felt it had very little competence to evaluate the safety of various kinds of investment instruments. Therefore, when the Department developed its rules for alternative investments, it made sure that such investments would be very safe and it put the burden on the cemeteries or their investment advisors to certify that the investments were in compliance with the standards in the rule.

In addition to these relatively simple attempts to respond to the concerns of small cemeteries some broad-based amendments also became part of the Biennial Budget Bill. These amendments simply removed the need for non-profit cemeteries with less than 10 cemetery lot sales per year to register with the Department, to file annual reports and to comply with the care fund trusting requirements. The result was that the alternative

investment rules only apply to a handful of for-profit and larger non-profit cemeteries--a total of 70 cemeteries. Last year 17 of them had alternative investments.

This bill replaces the need for the Department's approval of alternative investments with a requirement that cemetery officials invest their care funds for cemetery lots using the "prudent person" rule, which is the same rule which applies to officers of a trust department in a financial institution. Under such a rule, a person who does not invest prudently could be sued in civil court. A person who commits illegal acts could be prosecuted in criminal court.

As a result of the amendments which I have described, the approval of alternative investments by the Department is probably not accomplishing what it was initially set out to do. Therefore, the Department supports repealing it.

If you have any questions, I will try to answer them or obtain answers for you. Thank you for this opportunity to testify.