

## CHAPTER 149

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**MILITARY AND VETERANS**


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**HOUSE BILL 12-1063**

BY REPRESENTATIVE(S) Ramirez, Barker, Conti, Kerr J., Liston, Pace, Summers, Todd, Vigil, Young, Court, Fields, Jones, Massey, Murray, Ryden, Schafer S.;

also SENATOR(S) Schwartz, Aguilar, Bacon, Boyd, Foster, Giron, Guzman, Heath, Lambert, Williams S.

**AN ACT**

**CONCERNING THE STATE VETERANS NURSING HOME AT HOMELAKE, COLORADO, AND IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.**

*Be it enacted by the General Assembly of the State of Colorado:*

**SECTION 1.** In Colorado Revised Statutes, **repeal and reenact, with amendments, 26-12-205** as follows:

**26-12-205. Homelake military veterans cemetery - definitions - fund - rules - notice of funding through gifts, grants, and donations - repeal.** (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "CEMETERY" MEANS THE HOMELAKE MILITARY VETERANS CEMETERY ESTABLISHED AND MAINTAINED AT THE CENTER PURSUANT TO SUBSECTION (2) OF THIS SECTION, INCLUDING THE TRIANGULAR AREA OF LAND TO THE DIRECT NORTH OF THE EXISTING CEMETERY AS OF THE EFFECTIVE DATE OF THIS ACT.

(b) "FUND" MEANS THE HOMELAKE MILITARY VETERANS CEMETERY FUND CREATED PURSUANT TO SUBSECTION (4) OF THIS SECTION.

(2) (a) THE GENERAL ASSEMBLY HEREBY AUTHORIZES THE ESTABLISHMENT AND MAINTENANCE OF THE CEMETERY AT THE CENTER. THE STATE DEPARTMENT SHALL MAINTAIN THE CEMETERY.

(b) THE STATE DEPARTMENT MAY ENTER INTO CONTRACTS OR AGREEMENTS WITH ANY PERSON OR PUBLIC OR PRIVATE ENTITY TO PREPARE, DEVELOP, CONSTRUCT, OPERATE, AND MAINTAIN THE CEMETERY.

(3) (a) ANY VETERAN WHO SERVED HONORABLY IN ANY BRANCH OF THE ARMED

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*Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.*

FORCES OF THE UNITED STATES AND WHO, AT THE TIME OF HIS OR HER DEATH, WAS A RESIDENT OF THIS STATE SHALL BE ELIGIBLE FOR BURIAL AND INTERMENT AT THE CEMETERY.

(b) BURIAL AND INTERMENT MAY BE PROVIDED AT THE CEMETERY FOR ANY SPOUSE, SURVIVING SPOUSE, OR DEPENDENT PARENT OF AN HONORABLY DISCHARGED VETERAN OF ANY BRANCH OF THE ARMED FORCES OF THE UNITED STATES.

(c) ALL NECESSARY EXPENSES INCIDENT TO THE BURIAL AND INTERMENT AT THE CEMETERY OF ANY PERSON WHO MAY BE BURIED AND INTERRED AT THE CEMETERY PURSUANT TO THE PROVISIONS OF THIS SECTION SHALL BE PAID FROM THE ESTATE OF THE DECEDENT.

(d) THE STATE DEPARTMENT SHALL ADOPT PROCEDURES WHEREBY PERSONS WHO ARE ELIGIBLE FOR BURIAL AND INTERMENT IN THE CEMETERY, IN EXCHANGE FOR MONETARY CONSIDERATION IN AN AMOUNT TO BE DETERMINED BY THE STATE DEPARTMENT BUT NOT TO EXCEED THE AMOUNT OF THE BURIAL AND MEMORIAL BENEFIT PROVIDED TO AN ELIGIBLE VETERAN BY THE FEDERAL DEPARTMENT OF VETERANS AFFAIRS, MAY RESERVE PLOTS THERE FOR THE BURIAL AND INTERMENT OF THEMSELVES AND THEIR SPOUSES. IN ADOPTING SUCH PROCEDURES, THE STATE DEPARTMENT SHALL ENSURE THAT A PERSON WHO POSSESSES SUCH A RESERVATION ON THE EFFECTIVE DATE OF THIS ACT SHALL RETAIN HIS OR HER RESERVATION.

(4) (a) THERE IS HEREBY ESTABLISHED IN THE STATE TREASURY THE HOMELAKE MILITARY VETERANS CEMETERY FUND. THE FUND SHALL CONSIST OF MONEYS TRANSFERRED TO THE FUND PURSUANT TO PARAGRAPH (b) OF THIS SUBSECTION (4), ANY REVENUE GENERATED FROM ACTIVITIES ASSOCIATED WITH THE CEMETERY AND ITS OPERATIONS, AND ANY MONEYS APPROPRIATED TO THE FUND BY THE GENERAL ASSEMBLY. THE MONEYS IN THE FUND ARE SUBJECT TO ANNUAL APPROPRIATION BY THE GENERAL ASSEMBLY TO THE STATE DEPARTMENT FOR THE DIRECT AND INDIRECT COSTS ASSOCIATED WITH CAPITAL IMPROVEMENTS TO, AND THE OPERATION AND MAINTENANCE OF, THE CEMETERY AND FOR THE IMPLEMENTATION OF THIS SECTION. ANY MONEYS IN THE FUND NOT EXPENDED FOR THE PURPOSE OF THE SECTION MAY BE INVESTED BY THE STATE TREASURER AS PROVIDED IN SECTION 24-36-113, C.R.S. ANY INTEREST AND INCOME DERIVED FROM THE DEPOSIT AND INVESTMENT OF MONEYS IN THE FUND SHALL BE CREDITED TO THE FUND.

(b) THE STATE DEPARTMENT IS AUTHORIZED TO ACCEPT GIFTS, GRANTS, AND DONATIONS FOR THE PURPOSES OF THIS SECTION; EXCEPT THAT THE STATE DEPARTMENT SHALL NOT ACCEPT A GIFT, GRANT, OR DONATION THAT IS SUBJECT TO CONDITIONS THAT ARE INCONSISTENT WITH THE PROVISIONS OF THIS SECTION OR ANY OTHER LAW OF THE STATE. THE STATE DEPARTMENT SHALL TRANSFER ALL PRIVATE AND PUBLIC MONEYS RECEIVED THROUGH GIFTS, GRANTS, AND DONATIONS TO THE STATE TREASURER, WHO SHALL CREDIT THE SAME TO THE FUND.

(c) THE STATE DEPARTMENT SHALL NOT EXPEND MORE THAN FIVE PERCENT OF THE MONEYS ANNUALLY EXPENDED FROM THE FUND TO PAY FOR THE ADMINISTRATIVE COSTS OF IMPLEMENTING THIS SECTION.

(d) (I) THE STATE DEPARTMENT SHALL NOTIFY THE LEGISLATIVE COUNCIL STAFF

WHEN IT HAS RECEIVED ADEQUATE FUNDING THROUGH GIFTS, GRANTS, OR DONATIONS FOR THE PURPOSES OF THIS SECTION AND SHALL INCLUDE IN THE NOTIFICATION THE INFORMATION SPECIFIED IN SECTION 24-75-1303 (3), C.R.S.

(II) THIS PARAGRAPH (d) IS REPEALED, EFFECTIVE JULY 1, 2015.

(5) THE GENERAL ASSEMBLY HEREBY FINDS, DETERMINES, AND DECLARES THAT ANY USE OF THE CEMETERY PROPERTY IS FOR A PUBLIC PURPOSE EXPRESSLY AUTHORIZED BY THE GENERAL ASSEMBLY AND THEREFORE PERMISSIBLE UNDER ANY GRANT OF RIGHT-OF-WAY APPLICABLE TO SUCH PROPERTY EXECUTED BY THE STATE BOARD OF LAND COMMISSIONERS.

(6) SUBJECT TO AVAILABLE APPROPRIATIONS, THE STATE DEPARTMENT MAY CONTRACT FOR PROFESSIONAL SERVICES NECESSARY FOR THE IMPLEMENTATION OF THIS SECTION.

(7) IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT THE STATE DEPARTMENT WILL IMPLEMENT THE PROVISIONS OF THIS SECTION BY ASSIGNING TO THE CEMETERY ONE-HALF OF A FULL-TIME EMPLOYEE FROM WITHIN THE EXISTING PERSONNEL RESOURCES OF THE STATE DEPARTMENT.

**SECTION 2.** In Colorado Revised Statutes, 26-12-108, **amend** (2) and (3) as follows:

**26-12-108. Payments for care - funds - annual report - collections for charges - central fund for state nursing homes created.** (2) It is lawful for each state nursing home and the Colorado state veterans center AT HOMELAKE to deposit moneys belonging to the benefit fund established prior to July 1, 1985, and all donations or other voluntary contributions that may be received on or after that date in any manner for the benefit of residents of each state nursing home and the Colorado state veterans center AT HOMELAKE in an interest-bearing account with a federally insured financial depository pursuant to section 24-75-603, C.R.S. Withdrawals from such accounts shall be made only for the benefit, aid, and assistance of residents of each state nursing home or the occupants of the Colorado state veterans center AT HOMELAKE, including recreational equipment and facilities.

(3) The executive director may, in the name of the people of the state of Colorado and through the attorney general, institute and maintain actions at law for the collection of charges due from residents of state nursing homes and the Colorado state veterans center AT HOMELAKE, or said residents' conservators, guardians, executors, or administrators, resulting from the failure, neglect, or refusal of said persons to pay such charges.

**SECTION 3.** In Colorado Revised Statutes, 26-12-203, **amend** (1) (a) and (3) (a) as follows:

**26-12-203. The Colorado state veterans center - jurisdiction.** (1) (a) The Colorado state veterans center ~~located near Monte Vista~~ AT HOMELAKE, consisting of a state nursing home, ~~and~~ a domiciliary care unit, AND THE HOMELAKE MILITARY VETERANS CEMETERY, referred to in this ~~article~~ PART 2 as the "center", as transferred to the state department by the "Administrative Organization Act of 1968", is hereby

declared to be a state home for veterans of service in the armed forces of the United States and their spouses, surviving spouses, and dependent parents.

(3) For purposes of this section, "domiciliary care" means the provision of shelter, food, and necessary medical care on an ambulatory self-care basis:

(a) To assist any individual who is eligible for occupancy in the ~~Colorado state veterans~~ center pursuant to sections 26-12-104 and 26-12-106 and who is suffering from an incapacitating disability, disease, or defect that prevents such veteran from earning a living, but that does not require hospitalization or nursing care services to attain physical, mental, and social well-being; and

**SECTION 4.** In Colorado Revised Statutes, 26-12-204, **amend** (1) as follows:

**26-12-204. Sale of property.** (1) The executive director, with the approval of the state board, shall sell any real property at the ~~Colorado state veterans~~ center declared to be surplus by the state board to the highest bidder on such terms and conditions as are deemed appropriate by the executive director for not less than the appraised value thereof, as determined by an appraiser who is a member of the members appraisal institute (MAI), and to execute deeds of conveyance of such real property.

**SECTION 5.** In Colorado Revised Statutes, 24-1-120, **amend** (5) (b) as follows:

**24-1-120. Department of human services - creation - repeal.** (5) The department of human services shall include the following:

(b) The Colorado state veterans center AT HOMELAKE, which is transferred by a **type 2** transfer to the department of human services;

**SECTION 6.** In Colorado Revised Statutes, 38-13-115, **amend** (5) as follows:

**38-13-115. Public sale of abandoned property.** (5) The administrator shall retain or loan to the Colorado state veterans center ~~in~~ AT Homelake, ~~Colorado~~, or to an alternate state facility selected by the administrator that has appropriate and secure space suitable for public display any military medal or decoration or other military award or citation that is delivered to the administrator pursuant to section 38-13-113 until the owner of the property claims the property in accordance with section 38-13-117 (1) and the administrator allows the claim pursuant to section 38-13-117 (3).

**SECTION 7. Appropriation.** In addition to any other appropriation, there is hereby appropriated, out of any moneys in the Homelake military veterans cemetery fund created in section 26-12-205 (4) (a), Colorado Revised Statutes, not otherwise appropriated, to the department of human services, for the fiscal year beginning July 1, 2012, the sum of \$2,500, or so much thereof as may be necessary, for allocation to the Homelake state veterans nursing home for expenses related to the implementation of this act.

**SECTION 8. Safety clause.** The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: May 3, 2012