

JAN 18 2023

A BILL FOR AN ACT

RELATING TO CEMETERIES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that legislation first
2 enacted to regulate cemeteries placed a harsh financial burden
3 on certain churches and nonprofit cemeteries that did not
4 actively engage in the business of selling cemetery property.
5 Therefore, in 1968, the legislature required the department of
6 commerce and consumer affairs to exempt any church or cemetery
7 authority from the bonding and fee requirements of the State's
8 cemetery and funeral trusts law if the church or cemetery
9 authority did not actively engage in pre-need sales, have a
10 licensed cemetery salesperson, or sell for financial profit.

11 Recognizing the strong desire for persons to find
12 economical options for their afterlife arrangements and growing
13 support for religious institutions providing these options for
14 their members within their property or place of worship, the
15 legislature passed Act 22, Session Laws of Hawaii 2020 (Act 22),
16 which codified the department of commerce and consumer affairs'
17 practice of exempting certain entities from the State's cemetery



1 and funeral trusts law to help the department's cemetery and
2 funeral trusts program run more efficiently and provide clarity
3 for exempt entities.

4 Testimony in support of Act 22 from various churches
5 indicated that these changes would provide opportunities for
6 affordable access to columbariums at their churches or temples.
7 However, the legislature has recently received reports stating
8 that, contrary to the intent of Act 22, the cost for certain
9 religious institutions to construct, manage, and provide niches
10 to its members is no longer affordable and costs are increasing
11 due to private enterprise or management contract with mainland
12 firms that greatly increase costs for local parishioners.

13 Accordingly, the purpose of this Act is to repeal Act 22,
14 Session Laws of Hawaii 2020, as it has not lowered funeral costs
15 to parishioners and members of nonprofits, as intended, and to
16 revert to previous requirements that the director of commerce
17 and consumer affairs exempt any cemetery authority from
18 licensing and bonding requirements only upon proving the
19 cemetery authority does not sell for financial profit.

20 SECTION 2. Section 441-22.1, Hawaii Revised Statutes, is
21 amended to read as follows:



S.B. NO. 157

1 "~~§441-22.1 Exemption.~~ [~~(a)~~] The director shall exempt
2 any cemetery authority from the [~~provisions of this chapter~~]
3 bonding requirement and the fee requirements for license,
4 renewal, and reinstatement upon proof satisfactory to the
5 director that the cemetery authority does not sell for financial
6 profit [~~; provided that a cemetery authority exempted under this~~
7 ~~section shall be required to comply with any provision of this~~
8 ~~chapter upon order by the director.~~

9 ~~(b) Any church granted an exemption under this section~~
10 ~~shall be exempt from all requirements of this chapter. Any~~
11 ~~entity that is exempt as a church under federal tax law shall be~~
12 ~~considered a church for purposes of this section]."~~

13 SECTION 3. Statutory material to be repealed is bracketed
14 and stricken. New statutory material is underscored.

15 SECTION 4. This Act, upon its approval, shall take effect
16 retroactive to September 15, 2020.

17

INTRODUCED BY: ~~SC.~~ *Rich*



S.B. NO. 157

Report Title:

Cemeteries; Cemetery Authority; Exemption; Churches; Repeal

Description:

Repeals the exemption granted to churches by Act 22, Session Laws of Hawaii 2020, relating to bonding requirements and fee requirements for licenses, renewals, and reinstatements of licenses applicable to cemeteries and funeral trusts. Clarifies that the Director of Commerce and Consumer Affairs shall exempt any cemetery authority from the bonding requirement and the fee requirements for license, renewal, and reinstatement upon proof satisfactory to the Director that the cemetery authority does not sell for financial profit. Effective retroactively to 09/15/2020.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

