

JAN 19 2024

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 Sunset Memorial Park
2 in Pearl City, Oahu, has been neglected for years and has been
3 the subject of numerous complaints by individuals who have
4 family members buried there. The cemetery has been described as
5 having a damaged mausoleum, sinking graves, and markers that are
6 hidden under overgrown grass and bushes. The cemetery was owned
7 and operated by a corporation. That corporation, Hawaiian
8 Cemetery Association Ltd. dba Sunset Memorial Park,
9 involuntarily dissolved in 2010. Garden Crypts Inc. owns a
10 small portion of the property that is the site of the mausoleum.
11 That entity was involuntarily dissolved in 2006.

12 Act 193, Session Laws of Hawaii 2018 (Act 193), was enacted
13 to limit liability for the overwhelming number of volunteers
14 maintaining or repairing the cemetery grounds at Sunset Memorial
15 Park. Act 193 further required the department of commerce and
16 consumer affairs, in consultation with the department of
17 accounting and general services, to develop short-term and long-



1 term strategies for the upkeep, repair, and maintenance of
2 Sunset Memorial Park. As a result of Act 193, the department of
3 commerce and consumer affairs worked with a surveyor to map the
4 cemetery and create a website and database to help identify
5 graves at Sunset Memorial Park.

6 The department of commerce and consumer affairs launched
7 the website portal on February 18, 2022, to provide access to
8 grave marker information at Sunset Memorial Park. This portal
9 also allowed members of the public who have family members
10 buried at the cemetery to share information regarding their plot
11 as well as information on purchased plots that are vacant or
12 unmarked. The department of commerce and consumer affairs did
13 not receive much information regarding plots at the cemetery.
14 Due to the lack of an owner for the cemetery, there is no
15 security for Sunset Memorial, and the Park is often the target
16 of vandalism and desecration, with thieves displacing ashes from
17 copper urns to sell the urns, headstones taken off grave sites,
18 and homeless encampments setting fire to the area. The effects
19 of cemetery vandalism are not limited to property damage but can



1 also extend to emotional trauma to the relatives and friends of
2 the descendant whose grave has been damaged or desecrated.

3 The purpose of this Act is to permit the director of
4 commerce and consumer affairs to appoint a limited owner of a
5 cemetery for which no owner can be found and authorize the
6 limited owner to:

7 (1) File complaints, including but not limited to trespass
8 complaints with the appropriate law enforcement
9 authorities against persons engaged in wrongful acts
10 at the cemetery; and

11 (2) Install security measures to deter trespassers from
12 entering the property.

13 SECTION 2. Chapter 662D, Hawaii Revised Statutes, is
14 amended by adding a new section to be appropriately designated
15 and to read as follows:

16 "§662D- Limited ownership of cemetery grounds. (a)
17 The director of commerce and consumer affairs may, in accordance
18 with subsection (b), appoint an organization as the limited
19 owner of a cemetery for the purpose of bringing criminal, civil,
20 or administrative complaints, including trespass or other



1 complaints, to secure appropriate relief against persons engaged
2 in wrongful acts. For the purposes of this section, wrongful
3 acts shall include but not be limited to activities that are
4 illegal pursuant to any federal, state, or county law, rule, or
5 ordinance.

6 (b) Appointment of limited ownership shall only be made if
7 the director of commerce and consumer affairs determines:

8 (1) A cemetery has been abandoned;

9 (2) A cemetery is in need of perpetual care or protection
10 from wrongful acts; and

11 (3) No owner or operator for the cemetery can be located.

12 (c) Any organization granted limited ownership pursuant to
13 subsection (a) may engage in security and perpetual care
14 activities for the cemetery, including but not limited to the
15 installation of security measures such as fencing and lighting;
16 the implementation of hours of operation; and any activities
17 that a volunteer may engage in under section 662D-5.

18 (d) Any organization designated as a limited owner shall
19 be entitled to the same limited liability protections as
20 volunteers under section 662D-5.



1 (e) The director of commerce and consumer affairs may, in
2 the director's sole discretion, terminate the limited ownership
3 appointment at any time.

4 (f) Appointment as a limited owner of a cemetery property
5 under this section shall vest no property rights in or
6 entitlements to the land or property. The limited privileges
7 granted to a limited owner under this section shall not be
8 construed as vested rights and may be revoked at any time at the
9 sole discretion of the director of commerce and consumer
10 affairs. No action, including an action seeking damages, or
11 appeal under chapter 91 may be brought by any person against the
12 director or department of commerce and consumer affairs or
13 against the State relating to an organization's appointment,
14 non-appointment, or termination of a designation as a limited
15 owner, or an organization's actions or omissions as a limited
16 owner."

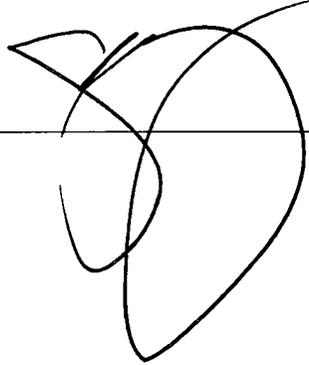
17 SECTION 3. New statutory material is underscored.

18 SECTION 4. This Act shall take effect upon its approval.



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INTRODUCED BY:

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S.B. NO. 2850

Report Title:

Cemeteries; Limited Ownership; Perpetual Care; Security

Description:

Authorizes the DCCA director to appoint an organization as the limited owner of a cemetery, under certain circumstances, for the purposes of perpetual care and security measures.

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

