

JAN 19 2018

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# A BILL FOR AN ACT

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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 focal point of numerous complaints by people who have family  
4 members buried there. The cemetery has been described as having  
5 a damaged mausoleum, sinking graves, and broken, missing, or  
6 obscured grave markers that are hidden by overgrown vegetation.

7       Since the death of its previous owner, Sunset Memorial Park  
8 has had no registered owner on record. Volunteers have tried to  
9 maintain the cemetery, but have reluctantly stopped because of  
10 state liability issues.

11       The dilapidated, unsightly state of Sunset Memorial Park is  
12 of great concern for the families whose loved ones are buried  
13 there and for the surrounding community. The park has fallen  
14 into such disrepair that public safety and health are at issue.  
15 A viable solution to this problem is long overdue.

16       Attempts to have the State add Sunset Memorial Park to its  
17 list of four currently state-owned cemeteries in Aiea, Kapalama,



1 Alewa Heights, and Makiki are ongoing. The last time the State  
2 took over a cemetery was in 1946.

3 It has been reported that the department of commerce and  
4 consumer affairs is actively looking for a long-term solution  
5 for Sunset Memorial Park and is considering all options.

6 The purpose of this Act is to:

- 7 (1) Limit liability for volunteers and nonprofit  
8 organizations, nonprofit corporations, or other  
9 entities that provide volunteers, who maintain or  
10 repair cemetery grounds; and
- 11 (2) Require the director of commerce and consumer affairs,  
12 in consultation with the comptroller, to develop  
13 strategies for the upkeep, repair, and maintenance of  
14 Sunset Memorial Park.

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

18 "§662D- Limited liability for persons maintaining or  
19 repairing cemetery grounds. (a) A volunteer who maintains or  
20 repairs cemetery grounds located in the State, including  
21 cemeteries operated for profit pursuant to chapter 441, shall



1 not be liable to any person for injury or damage sustained as a  
2 result of the actions of the volunteer to maintain or repair the  
3 cemetery grounds, except for injury or damages resulting from  
4 gross negligence or intentional misconduct.

5 (b) A nonprofit organization, nonprofit corporation, or  
6 other entity that provides volunteers to maintain or repair  
7 cemetery grounds located in the State, including cemeteries  
8 operated for profit pursuant to chapter 441, shall not be liable  
9 to any person for injury or damages sustained as a result of the  
10 actions of the volunteer provided by the organization,  
11 corporation, or entity to maintain or repair the cemetery  
12 grounds, except for injury or damages resulting from gross  
13 negligence or intentional misconduct.

14 (c) This section does not relieve any cemetery property  
15 owner or cemetery authority from compliance with the  
16 requirements of chapter 441.

17 (d) A volunteer providing services under this section for  
18 a nonprofit organization, nonprofit corporation, or other entity  
19 may only receive reimbursement for actual expenses incurred that  
20 have been authorized for payment by the nonprofit organization,  
21 nonprofit corporation, or other entity.



1       (e) Nothing in this section shall be construed to  
2 authorize or permit the use of perpetual care funds for the  
3 purposes of reimbursing costs incurred pursuant to this section.

4       (f) Notwithstanding any other law to the contrary, actions  
5 of a volunteer in conformance with this section shall not  
6 require licensure under chapter 441; provided that maintenance  
7 and repair activities covered under this section shall be  
8 limited to general maintenance, care, and preservation of  
9 cemeteries, including keeping sod or grass in repair and caring  
10 for trees and shrubs, but shall not include activities related  
11 to burials.

12       (g) For purposes of this section, a volunteer may provide  
13 maintenance and repair services as an individual and not as a  
14 member or affiliate of a cemetery authority, nonprofit  
15 corporation, nonprofit organization, or other entity, if the  
16 volunteer:

17       (1) First obtains written approval from the cemetery owner  
18 or cemetery authority, if one can be identified; and

19       (2) Does not receive compensation or reimbursement for any  
20 expenses other than actual expenses incurred for  
21 maintenance and repair of the cemetery grounds."



## S.B. NO. 2082

1 SECTION 3. (a) The director of commerce and consumer  
2 affairs, in consultation with the comptroller, shall develop  
3 short-term and long-term strategies for the upkeep, repair, and  
4 maintenance of Sunset Memorial Park in Pearl City, Oahu.

5 (b) The director of commerce and consumer affairs shall  
6 report findings and recommendations related to activities  
7 conducted pursuant to this section, including any proposed  
8 legislation, to the legislature no later than twenty days prior  
9 to the convening of the regular session of 2019.

10 SECTION 4. New statutory material is underscored.

11 SECTION 5. This Act shall take effect on July 1, 2018.

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# S.B. NO. 2082

**Report Title:**

Sunset Memorial Park; Repairs; Maintenance; Cemetery; Department of Commerce and Consumer Affairs

**Description:**

Limits liability for persons maintaining or repairing cemetery grounds. Requires the director of commerce and consumer affairs, in consultation with the comptroller, to develop strategies for repair and maintenance of Sunset Memorial Park in Pearl City, Oahu. Requires report to Legislature.

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

