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# 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) Engage in certain security and perpetual care  
12 activities for the cemetery.

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) The  
17 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:

- 15 (1) Installing security measures such as fencing and  
16 lighting;
- 17 (2) Implementing hours of operation;
- 18 (3) Contracting for major repair work such as tree  
19 trimming, electrical and plumbing connectivity, and  
20 the integration of solar photovoltaic structures;



1       (4) Generating and raising long-term funding to support  
2           the cemetery; and

3       (5) Any activities that a volunteer may engage in under  
4           section 662D-5.

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

8       (e) Any organization designated as a limited owner shall  
9       submit annual reports to the department of commerce and consumer  
10       affairs on the status and progress of any new and existing  
11       initiatives undertaken to improve the cemetery.

12       (f) The director of commerce and consumer affairs may, in  
13       the director's sole discretion, terminate the limited ownership  
14       appointment at any time.

15       (g) Appointment as a limited owner of a cemetery property  
16       under this section shall vest no property rights in or  
17       entitlements to the land or property. The limited privileges  
18       granted to a limited owner under this section shall not be  
19       construed as vested rights and may be revoked at any time at the  
20       sole discretion of the director of commerce and consumer



1 affairs. No action, including an action seeking damages, or  
2 appeal under chapter 91 may be brought by any person against the  
3 director or department of commerce and consumer affairs or  
4 against the State relating to an organization's appointment,  
5 non-appointment, or termination of a designation as a limited  
6 owner, or an organization's actions or omissions as a limited  
7 owner."

8 SECTION 3. New statutory material is underscored.

9 SECTION 4. This Act shall take effect on July 1, 2040.



**Report Title:**

DCCA; Cemeteries; Limited Ownership; Perpetual Care; Security; Reports

**Description:**

Authorizes the Director of Commerce and Consumer Affairs to appoint an organization as the limited owner of a cemetery, under certain circumstances, for the purposes of filing complaints and engaging in certain security and perpetual care activities for the cemetery. Requires an appointed limited owner of a cemetery to submit annual progress reports to the Department of Commerce and Consumer Affairs. Takes effect 7/1/2040. (SD1)

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

