

ACT 214

H.B. NO. 2468

A Bill for an Act Relating to Cemetery and Funeral Trusts.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 441, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§441- Retaining consultants.** (a) The director may retain private consultants, by contract or otherwise, as determined by the director, in connection with the review of filings required of cemetery authorities, pre-need funeral authorities, or applicants under this chapter. Except as limited under subsection (c) below, the cost of contracting private consultants shall be borne by the cemetery authority, pre-need funeral authority, or applicant making the filing.

(b) The consultant shall perform all tasks as directed by the director under subsection (a), including but not limited to:

- (1) Reviewing the filing, in whole or in part, including documentation and other provided materials, for the purpose of examining its compliance with the requirements of this chapter, rules adopted by the director pursuant to this chapter, and other applicable laws; and
- (2) Providing to the director a written analysis of the filing upon completing the review, including an opinion of the nature and extent to which there is compliance with this chapter, rules adopted by the director pursuant to this chapter, and other applicable laws.

(c) Without the written consent of the cemetery authority, pre-need funeral authority, or applicant making the filing, the cost to be borne by a cemetery authority, pre-need funeral authority, or applicant for a filing under this chapter shall not exceed \$25,000; provided that in the event the cost reaches \$25,000 and prior to any consultant continuing with the review, the cemetery authority, pre-need funeral authority, or applicant making the filing shall:

- (1) Provide written consent to exceed the \$25,000 fee;
- (2) Withdraw the filing; or
- (3) Except in the case of an incomplete filing, receive a denial or refusal by the director to approve the filing.

By providing the written consent described in subsection (c)(1), the cemetery authority, pre-need funeral authority or applicant making the filing shall not be deemed to have waived any rights it may have under chapters 91 and 436B should the director subsequently deny or refuse to approve the filing.”

SECTION 2. New statutory material is underscored.<sup>1</sup>

SECTION 3. This Act shall take effect upon its approval.

(Approved June 28, 2002.)

**Note**

1. Edited pursuant to HRS §23G-16.5.