

COMMITTEE REPORT
SENATE

FURTHER:

5/11/84

Date 5/11/84

Mr. President

The Committee on FINANCE considered SB 481

community associations, nonprofit cemetery corporations and cemetery trusts.

and (a majority of the committee) (the committee) reports it back with the following recommendations:

- do pass
- do pass with attached amendment(s)
- replace with/or adopt CS for SB 481 (Finance)
- new title
- same title and recommends Do Pass
- and attached a "LETTER OF INTENT" NEW FISCAL NOTE
- reports it back without recommendation *zero fiscal note came w/bill*
- recommends referral to _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS

Chairman

Chairman recommendation

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

*Added to list
2/21/84*

Revision Date: February 14, 1984

REQUEST

Bill/Resolution No.: SB 481
Title: An Act relating to Cemetery Associations
Sponsor: Senator Kerttula
Requestor: _____
Date of Request: _____

FISCAL DETAIL

Agency Affected: Commerce and Economic Dev.
Program Category Affected: Consumer Protection
BRU, Program or Subprogram(s) Affected: Banking, Securities and Corporations

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -
CAPITAL	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -
REVENUE	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis

Prepared By: Willis F. Kirkpatrick, Director
Division: Banking, Securities and Corporations

Phone: 465-2521

Date: 2/14/84

Approved by Commissioner: Richard A. Lyon
Agency: Commerce and Economic Development

Date: 2/21/84

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

12/1/83

Original sponsor: Kerttula

1 IN THE SENATE

BY THE FINANCE COMMITTEE

2 CS FOR SENATE BILL NO. 481 (Finance)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 THIRTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to cemetery associations, nonprofit
7 cemetery corporations and cemetery lots."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 * Section 1. AS 10.30 is amended by adding a new section to read:

10 Sec. 10.30.055. FORMATION OF NONPROFIT CEMETERY CORPORATION. As
11 an alternative to the provisions of AS 10.30.010 - 10.30.050, a ceme-
12 tery may be incorporated under AS 10.20. A nonprofit cemetery corpo-
13 ration is subject to the provisions of AS 10.20 except to the extent
14 that those provisions conflict with the provisions of this chapter
15 relating to cemetery corporations.

16 * Sec. 2. AS 10.30.060 is amended to read:

17 Sec. 10.30.060. POWER TO ACQUIRE AND DISPOSE OF LANDS, AND
18 EXEMPTION FROM EXECUTION, TAXATION AND PUBLIC APPROPRIATION. A ceme-
19 tery association or nonprofit cemetery corporation may buy or take by
20 gift or devise, and hold, land not exceeding 80 acres, for the sole
21 purpose of a cemetery. The land is exempt from execution, and from
22 any appropriation to public purposes, and from taxation if intended to
23 be used exclusively for burial purposes and in no way for the profit
24 of the members of the association or trustees, officers or employees
25 of the corporation.

26 * Sec. 3. AS 10.30.070 is amended to read:

27 Sec. 10.30.070. CREATION OF IRREDUCIBLE FUND. A cemetery [THE]
28 association or nonprofit cemetery corporation may by its bylaws pro-
29 vide that a stated percentage of the money realized from the sale of

1 cemetery lots and [,] donations [, AND OTHER SOURCES OF REVENUE]
2 constitutes an irreducible fund, which may be invested in the manner
3 or loaned upon the securities the association or corporation considers
4 [THE TRUSTEES CONSIDER] proper. The interest or income from the
5 irreducible fund provided for in a [ANY] bylaw, or as much as may be
6 necessary, shall be devoted exclusively to (1) the preservation and
7 embellishment of the grounds, buildings and property of the associa-
8 tion or corporation that are related to the operation of a cemetery;
9 (2) the preservation and embellishment of cemetery lots and space in
10 buildings or on grounds sold to the association or corporation that
11 are related to the operation of a cemetery; or (3) the payment of
12 interest and principal of debts authorized by the association or
13 corporation for the purchase of land or equipment or for the
14 construction or improvement of buildings that are related to the
15 operation of a cemetery. Where a bylaw has been enacted for the
16 creation of an irreducible fund, the percentage stated in the bylaw
17 [IT] may not be reduced [AMENDED EXCEPT FOR THE PURPOSE OF INCREASING
18 THE FUND].

19 * Sec. 4. AS 10.30.080 is amended to read:

20 Sec. 10.30.080. DISPOSITION OF INCOME FROM CEMETERY LAND. After
21 paying for the land, the future receipts and income of a cemetery
22 [THE] association or nonprofit cemetery corporation, subject to the
23 creation of an irreducible fund, whether from the sale of lots, from
24 donations, rents, or otherwise, shall be applied exclusively to laying
25 out, preserving, protecting, and embellishing the cemetery and the
26 avenues leading to it, the erection of buildings necessary or conven-
27 ient for the cemetery purpose, and to paying the necessary expenses of
28 the association or corporation.

29 * Sec. 5. AS 10.30.090 is amended to read:

1 Sec. 10.30.090. DEBTS OF ASSOCIATION. A cemetery association or
2 nonprofit cemetery corporation may [NOT] contract debts in
3 anticipation of future receipts[, EXCEPT] for the original purchase of
4 cemetery land, the laying out and embellishment of the grounds and
5 avenues of the cemetery, the construction and repair of a building,
6 mausoleum or columbarium, the purchase or lease of necessary equip-
7 ment, or other cemetery purposes, for which debts the association or
8 corporation may issue bonds or notes. An [THE] association or corpo-
9 ration may secure these debts by mortgage upon its lands, except ceme-
10 tery lots that [WHICH] have been conveyed to the members of the asso-
11 ciation or to trustees, officers or employees of the corporation, or
12 by a security interest in not more than 50 percent of the irreducible
13 fund.

14 * Sec. 6. AS 10.30.100 is amended to read:

15 Sec. 10.30.100. TRANSFER OF CEMETERY [BURIAL] LOTS. A cemetery
16 [THE] association or nonprofit cemetery corporation may adopt [RULES
17 AND] regulations they consider expedient for disposing of and convey-
18 ing cemetery [BURIAL] lots.

19 * Sec. 7. AS 10.30.110 is amended to read:

20 Sec. 10.30.110. SALE OF UNSUITABLE LAND [LANDS]. The trustees
21 of a cemetery association or nonprofit cemetery corporation may,
22 whenever in their opinion a portion of cemetery land is unsuitable for
23 burial purposes, sell the portion and apply the proceeds to the gen-
24 eral purposes of the association or corporation.

25 * Sec. 8. AS 10.30.120 is amended to read:

26 Sec. 10.30.120. PURPOSE OF SALE BY LOTS, AND EXEMPTIONS. Ceme-
27 tery [BURIAL] lots sold by a cemetery [THE] association or a nonprofit
28 cemetery corporation are for the sole purpose of interment and are
29 exempt from taxation, execution, attachment, or any other claim, lien,

1 or process, if used exclusively for burial purposes without an inten-
2 tion to obtain a profit.

3 * Sec. 9. AS 10.30.130 is amended to read:

4 Sec. 10.30.130. PLANS OF GROUNDS AND CEMETERY LOTS. A cemetery
5 association or nonprofit cemetery corporation shall have a plan of its
6 [THEIR] grounds and cemetery lots as laid out [BY THEM] made and
7 recorded in a book kept for that purpose by the clerk of the associa-
8 tion or the secretary of the corporation. The cemetery lots shall be
9 numbered by consecutive numbers.

10 * Sec. 10. AS. 10.30.140 is amended to read:

11 Sec. 10.30.140. MAINTENANCE OF CEMETERY LAND. A cemetery asso-
12 ciation or nonprofit cemetery corporation may enclose, improve, and
13 adorn the grounds and avenues, erect buildings for the use of the
14 association or corporation, prescribe rules for the designation and
15 adornment of cemetery lots and for erecting monuments in the cemetery,
16 and prohibit any use, division, improvement, or adornment of a ceme-
17 tery lot that the association or corporation considers [WHICH THEY
18 CONSIDER] improper.

19 * Sec. 11. AS 10.30.150 is amended to read:

20 Sec. 10.30.150. ANNUAL FINANCIAL STATEMENT. An annual statement
21 of the financial affairs of a cemetery [THE] association or a nonpro-
22 fit cemetery corporation shall be made by the clerk of the association
23 or the secretary of the corporation.

24 * Sec. 12. AS 10.30 is amended by adding a new section read:

25 Sec. 10.30.155. DEFINITION. In this chapter, "cemetery lot"
26 means a lot, plot, space, grave, niche, mausoleum, crypt, vault or
27 columbarium, used or intended to be used for the interment of human
28 remains.

29 * Sec. 13. AS 45.50.561 is amended by adding a new paragraph to read:

1 (9) "cemetery lot" means a lot, plot, space, grave, niche,
2 mausoleum, crypt, vault or columbarium, used or intended to be used
3 for the interment of human remains.

4 * Sec. 14. This Act applies to all assets and funds, including an
5 irreducible fund, in the possession or control of a cemetery association or
6 nonprofit cemetery corporation on the effective date of this Act. This Act
7 does not impair or abrogate any obligation of a cemetery association or
8 nonprofit cemetery corporation under a contract entered into before the
9 effective date of this Act.

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: March 21, 1984

REQUEST

Bill/Resolution No.: CSSB 481 (L&C)
Title: An act relating to Cemetary Associations

Sponsor: Senator Kerttula

Requestor: _____

Date of Request: _____

FISCAL DETAIL

Agency Affected: Commerce and Economic Dev.

Program Category Affected: Consumer Protection

BRU, Program or Subprogram(s) Affected: Banking, Securities and Corporations

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -
CAPITAL	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -
REVENUE	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis

Prepared By: Willis F. Kirkpatrick, Director
Division: Banking, Securities and Corporations

Phone: 465-2521

Date: March 21, 1984

Approved by Commissioner: Richard A. Lyon
Agency: Commerce and Economic Development

Date: 3/22/84

Distribution (by Agency preparing fiscal note):

Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

12/1/83

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: March 21, 1984

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 Title: An act relating to Cemetary Associations
 Sponsor: Senator Kerttula
 Requestor: _____
 Date of Request: _____

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Agency Affected: Commerce and Economic Dev.
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REVENUE	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -

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FEDERAL FUNDS						
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TOTAL	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -

POSITIONS:

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PART-TIME						
TEMPORARY						

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ANALYSIS: Attach a separate page for analysis

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Phone: 465-2521
 Date: March 21, 1984

Approved by Commissioner: Richard A. Lyon
 Agency: Commerce and Economic Development

Date: 3/22/84

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

12/1/83

SB 481 "An Act relating to cemetery associations, nonprofit cemetery corporations and cemetery lots."

2-13-84 Introduced by Kerttula
Referred: Labor and Commerce, Finance

3-19-84 Labor and Commerce CS04, NR01

FISCAL NOTE: ZERO

Summary:

Section 1 allows a nonprofit cemetery to incorporate under AS 10.20 as an alternative to forming as a cemetery association.

Section 2 adds clean-up provisions necessitated by section 1.

Section 3 expands uses to which a cemetery's endowment fund may be applied, to include improvement of the grounds, buildings, and lots, and the repayment of debts.

Section 4 adds clean-up provisions necessitated by section 1.

Section 5 expands a nonprofit cemetery's authority to borrow money to construct and repair buildings and mausoleums, to purchase or lease equipment, and other purposes. Such debts may be secured by mortgages on the cemetery's land, except those burial lots in which association members or corporate officers, trustees, or employees have more than a one-half interest.

Sections 6-11 add clean-up language necessitated by section 1.

Section 12 adds a definition of the term "cemetery lot" for purposes of AS 10.30.

Section 13 adds a definition of the term "cemetery lot" for purposes of the consumer protection statutes in AS 45.50.

Section 14 makes no change to the Alaska Statutes. It states that the Act applies to all assets and funds of a cemetery association only after the Act has taken effect.

The Finance Committee has prepared a Committee Substitute to incorporate two minor technical changes. The phrase "that are related to the operation of a cemetery" is inserted at page 2, line 10, and also at page 2, line 12.

The Labor and Commerce Committee Substitute limits spending from the "irreducible fund" to projects related to the operation of a cemetery.

SB 481 "An Act relating to cemetery associations, nonprofit cemetery corporations and cemetery lots."

The Division of Banking, Securities and Corporation does not oppose passage of SB 481 including the amendment recommended by the Consumer Protection Agency.

The bill if passed would have minimal effect on our program and would bring an old law forward into present times.



Richard A. Lyon, Commissioner

DATE:

3/16/84

STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

Bill Sheffield, Governor

POUCH K - STATE CAPITOL
JUNEAU, ALASKA 99811
PHONE: (907) 465-3600

February 3, 1984

FEB 03 1984

The Honorable Joe Hayes
Speaker of the House
Alaska State House of
Representatives
Pouch V
Juneau, AK 99811

Re: House Bill _____
relating to nonprofit
cemetery corporations

Dear Representative Hayes:

You have asked the Consumer Protection section of the Attorney General's office to review House Bill _____ regarding nonprofit cemeteries, and to inform you whether the Department of Law has any difficulties with the overall concept behind the bill, specifically whether it would pose a threat of injury to the consuming public dealing with nonprofit cemeteries in the state.

My understanding of the intent behind the bill is to modernize and clarify the 1949 Nonprofit Cemetery Association statute presently in effect. The bill would allow nonprofit cemetery associations to be incorporated as nonprofit corporations under AS 10.20 and would generally give the nonprofit cemetery association or corporation more flexibility in how it invests the monies in its irreducible fund, how it spends its other revenues and how and for what purposes it may contract debts. The crucial part of this updating was to add a definition of "cemetery lot" to include not only grave spaces but also mausoleum crypts, or crematory niches, since those items are often the preferred choice of modern consumers.

The Consumer Protection section in the Attorney General's office is not opposed to this bill and does not think that it will cause any harm to the public. If anything, the bill will allow those nonprofit cemetery associations operating in the state to better serve their own membership. Since these associations are like cooperatives, owned and controlled by the members, there is little danger of overreaching or abuse of the corporation's cemetery assets. The changes in this statute will only further the worthy purposes of the cemetery associations as

they will be able to respond to the needs of their own association for the erection of new buildings, acquisition of new lands or equipment or development of new cemetery services such as mausoleums.

The last section of the bill also adds a broader definition of "cemetery lot" to the Alaska Unfair Trade Practices and Consumer Protection Act. This definition refers to AS 45.50.471(b)(24), which regulates the sales of funeral or burial goods or services before "need" (i.e. before death). Under 471(b)(24) as it presently exists, a corporation or association making advance sales of funeral goods or services is required to deposit the consumers' monies in a trust fund pending actual use by the consumer. There is presently an exemption from trust deposit for the amount paid for the actual cemetery lot and grave marker. By expanding the definition of cemetery lot, an advance purchase of a mausoleum crypt, or a crematorium deposit space of some sort, would also be exempt from this trust deposit requirement.

The Department of Law does not oppose this change, since it seems reasonable that this broader definition of cemetery lot be adopted to meet with modern day marketing of burial goods such as crematory crypts. The Consumer Protection section does not believe that broadening this definition will lead to any abuse of the advance-need funeral statute, despite what members of the public or Legislature might fear because of the recent debacle with the Valley Memorial Garden Cemetery near Palmer. (Unfortunately, most of the advance-need burial sales made by that cemetery were made before the effective date of AS 45.471(b)(24), and it was the lack of any trust requirement for any portion of the advance-need sales price which allowed the abusive dissipation of those funds by the for-profit cemetery corporation known as Valley Memorial Gardens, Inc.)

If legislators have a concern that the purchase monies from consumers who purchase cemetery lots or crematory crypts in advance need further protection, a further sentence could be added to 471(b)(24) to the effect that cemetery lots (as more broadly defined by this bill) are exempt if they are in fact, upon payment of the purchase price, "transferred" from the seller to the consumer. Although transfer is not usually made in the sense of legal property "title" transfer, designation of the space as a consumer's by the placement of a grave stone marker already marked with the consumer's name and designation of the plot or crypt as the consumer's on the official map of the cemetery should be sufficient protection.

Honorable Joe Hayes
Speaker of the House

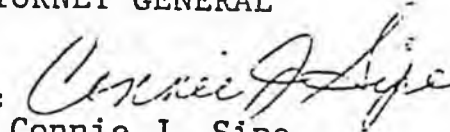
February 3, 1984
Page 3

Overall, the Attorney General's office does not see significant problems with the enactment of House Bill _____.

Sincerely,

NORMAN C. GORSUCH
ATTORNEY GENERAL

By:



Connie J. Sipe
Assistant Attorney General
Consumer Protection Section

STATE OF ALASKA
THE LEGISLATURE
LEGISLATIVE AFFAIRS AGENCY

A letter from Ed Hein will be coming recommending change on pg 2 line 9-14

MEMORANDUM

March 19,

(Mainly a technical change)

SUBJECT: Cemetery associations and non-profit cemetery corporations (CSSB 481 (L&C))

TO: Senator Don Bennett
Senator John Sackett
Co-chairmen, Senate Finance Committee

FROM: Edward H. Hein *EHA*
Legislative Counsel

The Senate Labor and Commerce Committee included in CSSB 481 (L&C) an amendment to Sec. 3 of the bill at page 2, line 8. The purpose of the amendment was to limit spending from the "irreducible fund" to projects related to the operation of a cemetery and not allow investments in unrelated properties.

In reviewing the bill, I have concluded that the phrase "that are related to the operation of a cemetery" should also be inserted at page 2, line 10 after "corporation" and at page 2, line 12 after "buildings" in order to achieve the intended purpose.

I bring this to your attention because the Labor and Commerce Committee passed out the committee substitute before I brought the oversight to their attention and because Senate Finance is the next committee of referral.

EHH:lmb
WKJ4/102

EVERLASTING

CARE

ENDOWED

MEMBER
NATIONAL ASSOCIATION OF CEMETERIES

Angelus Memorial Park

ALASKA'S FIRST MEMORIAL PARK CEMETERY

PHONE 344-1311
OFFICE HOURS:
10 A.M. TO 3 P.M.

January 19, 1984

CEMETERY
AND
OFFICE
ON KLATT ROAD

Mr. Randy Phillips
State Legislator
Juneau, Alaska

Dear Mr. Phillips:

The Board of Trustees of Angelus Memorial Park Association approved a motion to present to the Legislature, amendments to the Alaska Cemetery Statutes, pertaining to non-profit cemetery associations. A committee was appointed consisting of Mr. Alvah C. Buswell, Jr. and Mr. Robert F. Shary, who are board members and Mr. Sidney Abbott, park manager, were to work on the proposed amendments of the present statutes.

The present Alaska non-profit cemetery statutes were patterned after the Oregon Statutes many years ago before Statehood and are badly out dated. The State of Oregon has since amended their Statutes, twice, and now Alaska needs to do the same, so that a non-profit cemetery can better serve the community. To our knowledge Angelus is the only non-profit cemetery in the state.

Enclosed are copies of Oregon Statutes that have been amended and a copy of our proposed revisions to the Alaska State Cemetery Statutes.

The association really needs these changes in order to grow, as it is now, we can not serve the community as a modern cemetery, because of the way the laws are written. The public wants all the services a cemetery is suppose to supply, such as, a columbarium for inurnment of cremated remains, mausoleum, niche and storage vault. Also we can not even build a much needed administartion building. We now have to rent a very inadequate building for an office. The association has never had a maintenance building. The present laws prevent our growth.

The reason we included association and or corporation is that Angelus intends to incorporate in order to help lessen the personal individual liability of the board members. Angelus board members are non paid.

Sincerely,
Special Committee
Mr. Alvah C. Buswell, Jr.
Chairman

ANGELUS MEMORIAL PARK ASSOCIATION

Enclosures

This material has also been sent to Representative Joe Hayes

Reason behind bill

A NON-PROFIT ASSOCIATION

MEMORANDUM

State of Alaska

TO: Representative John Cowdery
Chairman, House Labor & Commerce
Committee
Pouch V
Juneau, Alaska 99811

DATE: February 14, 1984

FILE NO:

TELEPHONE NO: 279-0428

FROM: NORMAN C. GORSUCH
ATTORNEY GENERAL

SUBJECT: HB569 Nonprofit
cemetery
associations

By: *C. J. Sipe*
Connie J. Sipe
Assistant Attorney General
Chief, Consumer Protection Section
1031 W. 4th, Suite 110
Anchorage, Alaska 99501

As per the testimony at the teleconference, I suggest the committee include in its Committee Substitute on this bill the following language (as you may choose to re-draft it):

* Sec. 13. AS 10.30 is amended by adding a new section to read:

Sec. 10.30.160. EFFECT OF AMENDMENTS. As this chapter is from time to time amended, all powers or obligations granted to or imposed upon the non-profit cemetery association or non-profit cemetery corporation shall apply to all assets and funds, including the irreducible fund, in the possession or control of the association or corporation at the time of the effective date of any amendment to this chapter.

CS HB 569
Sec. 14

As discussed in the hearing, such an addition is necessary so that the cemetery association is not left with an unworkable division among all its assets: those assets covered by the prior law and those assets covered by the bill's amendments. This is not a retrospective enactment but really a grant of prospective powers to the association or corporation to manage all of its assets in accordance with the new statute. (This section will, of course, also provide for orderly application of any future amendments.)

CJS/aw

cc Representative Joe Hayes (Jeff Day)
Representative Randy Phillips
Art Peterson, Ago/Juneau

Consumer Protection Amendment

Alaska State Legislature

SENATOR
ROBERT H. ZIEGLER, SR.
307 BAWDEN STREET
KETCHIKAN, ALASKA 99901

While in Juneau
POUCH V
JUNEAU, ALASKA 99811

VICE CHAIRMAN
SENATE RESOURCES COMMITTEE

MEMBER
SENATE JUDICIARY COMMITTEE

WESTERN STATES LEGISLATIVE
FORESTRY TASK FORCE

WESTERN CONFERENCE COUNCIL
OF STATE GOVERNMENTS

Senate

March 12, 1984

Judiciary Concerns

Senator Bill Ray, Chairman
Senate Judiciary Committee
Alaska State Legislature
Juneau, Alaska

Re: SCS CSHB 569.

Dear Senator Ray:

Here is a copy of the proposed SCS CSHB 569, an act relating to cemetery associations, nonprofit cemetery corporations and cemetery lots.

I am told by Representative Phillips, prime sponsor of the original bill, that either Senator Josephson or Pettyjohn will be prepared to carry this bill upon request, inasmuch as the same people who asked Randy to introduce the bill made the same request of the two good senators.

I hope that is the case, for I certainly can't muster up any enthusiasm for the legislation. On the other hand, I have nothing against the bill.

Reason
behind
amendment

The major change between all other versions of the bill and the bill before you is that on page two, lines seven and eight, we have endeavored to obviate your objection to the earlier language. As I recollect, you thought it was pretty loosely drawn and that interest or income, as applied to property, could be utilized for almost any purpose whatsoever. Now it is restricted to the property of the association or corporation related to operation of a cemetery.

Apparently the residue or balance in an irreducible fund can be dispersed pursuant to other provisions of the law found in Section 10.20.

Finally, I suggest that my final attachment, the letter of February 23rd from Assistant Attorney General Sipe to Speaker Hayes, be disseminated to all members of the Senate whenever the bill is calendared. It explains the bill as well as anything or anybody ever could.

I hope this helps.

Very truly yours,

3-

Robert H. Ziegler, Sr.

RHZ:1k

Enclosures

COMMITTEE REPORT
SENATE

FURTHER: FINANCE

Date 3/15/84

February 13, 1984
Mr. President

The Committee on LABOR AND COMMERCE considered SB 481

~~"An Act relating to~~ cemetery associations, nonprofit cemetery corporations and cemetery lots."

and (a majority of the committee) (the committee) reports it back with the following recommendations:

- do pass
- do pass with attached amendment(s)
- replace with/or adopt CS for SB 481 (L+C)
- new title
- same title and recommends do pass
- and attached a "LETTER OF INTENT"
- reports it back without recommendation
- recommends referral to _____ Committee

NEW FISCAL NOTE
Zero

MEMBERS SIGNING
DO PASS

1 [Signature]

1 [Signature]

1 [Signature]

MEMBERS HAVING
OTHER RECOMMENDATIONS

2 [Signature]

[Signature]
Chairman

[Signature]
Chairman recommendation

Offered: 3/19/84
Referred: Finance

Original sponsor: Kerttula

1 IN THE SENATE

BY THE LABOR AND
COMMERCE COMMITTEE

2

CS FOR SENATE BILL NO. 481 (L&C)

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

THIRTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

6 For an Act entitled: "An Act relating to cemetery associations, nonprofit
7 cemetery corporations and cemetery lots."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 * Section 1. AS 10.30 is amended by adding a new section to read:

10 Sec. 10.30.055. FORMATION OF NONPROFIT CEMETERY CORPORATION. As
11 an alternative to the provisions of AS 10.30.010 - 10.30.050, a ceme-
12 tery may be incorporated under AS 10.20. A nonprofit cemetery corpo-
13 ration is subject to the provisions of AS 10.20 except to the extent
14 that those provisions conflict with the provisions of this chapter
15 relating to cemetery corporations.

16 * Sec. 2. AS 10.30.060 is amended to read:

17 Sec. 10.30.060. POWER TO ACQUIRE AND DISPOSE OF LANDS, AND
18 EXEMPTION FROM EXECUTION, TAXATION AND PUBLIC APPROPRIATION. A ceme-
19 tery association or nonprofit cemetery corporation may buy or take by
20 gift or devise, and hold, land not exceeding 80 acres, for the sole
21 purpose of a cemetery. The land is exempt from execution, and from
22 any appropriation to public purposes, and from taxation if intended to
23 be used exclusively for burial purposes and in no way for the profit
24 of the members of the association or trustees, officers or employees
25 of the corporation.

26 * Sec. 3. AS 10.30.070 is amended to read:

27 Sec. 10.30.070. CREATION OF IRREDUCIBLE FUND. A cemetery [THE]
28 association or nonprofit cemetery corporation may by its bylaws pro-
29 vide that a stated percentage of the money realized from the sale of

1 cemetery lots and [,] donations [, AND OTHER SOURCES OF REVENUE]
2 constitutes an irreducible fund, which may be invested in the manner
3 or loaned upon the securities the association or corporation considers
4 [THE TRUSTEES CONSIDER] proper. The interest or income from the
5 irreducible fund provided for in a [ANY] bylaw, or as much as may be
6 necessary, shall be devoted exclusively to (1) the preservation and
7 embellishment of the grounds, buildings and property of the associa-
8 tion or corporation that are related to the operation of a cemetery;
9 (2) the preservation and embellishment of cemetery lots and space in
10 buildings or on grounds sold to the association or corporation; or (3)
11 the payment of interest and principal of debts authorized by the
12 association or corporation for the purchase of land or equipment or
13 for the construction or improvement of buildings [CEMETERY]. Where a
14 bylaw has been enacted for the creation of an irreducible fund, the
15 percentage stated in the bylaw [IT] may not be reduced [AMENDED EXCEPT
16 FOR THE PURPOSE OF INCREASING THE FUND].

17 * Sec. 4. AS 10.30.080 is amended to read:

18 Sec. 10.30.080. DISPOSITION OF INCOME FROM CEMETERY LAND. After
19 paying for the land, the future receipts and income of a cemetery
20 [THE] association or nonprofit cemetery corporation, subject to the
21 creation of an irreducible fund, whether from the sale of lots, from
22 donations, rents, or otherwise, shall be applied exclusively to laying
23 out, preserving, protecting, and embellishing the cemetery and the
24 avenues leading to it, the erection of buildings necessary or conven-
25 ient for the cemetery purpose, and to paying the necessary expenses of
26 the association or corporation.

27 * Sec. 5. AS 10.30.090 is amended to read:

28 Sec. 10.30.090. DEBTS OF ASSOCIATION. A cemetery association or
29 nonprofit cemetery corporation may [NOT] contract debts in

1 anticipation of future receipts[, EXCEPT] for the original purchase of
2 cemetery land, the laying out and embellishment of the grounds and
3 avenues of the cemetery, the construction and repair of a building,
4 mausoleum or columbarium, the purchase or lease of necessary equip-
5 ment, or other cemetery purposes, for which debts the association or
6 corporation may issue bonds or notes. An [THE] association or corpo-
7 ration may secure these debts by mortgage upon its lands, except ceme-
8 tery lots that [WHICH] have been conveyed to the members of the asso-
9 ciation or to trustees, officers or employees of the corporation, or
10 by a security interest in not more than 50 percent of the irreducible
11 fund.

12 * Sec. 6. AS 10.30.100 is amended to read:

13 Sec. 10.30.100. TRANSFER OF CEMETERY [BURIAL] LOTS. A cemetery
14 [THE] association or nonprofit cemetery corporation may adopt [RULES
15 AND] regulations they consider expedient for disposing of and convey-
16 ing cemetery [BURIAL] lots.

17 * Sec. 7. AS 10.30.110 is amended to read:

18 Sec. 10.30.110. SALE OF UNSUITABLE LAND [LANDS]. The trustees
19 of a cemetery association or nonprofit cemetery corporation may,
20 whenever in their opinion a portion of cemetery land is unsuitable for
21 burial purposes, sell the portion and apply the proceeds to the gen-
22 eral purposes of the association or corporation.

23 * Sec. 8. AS 10.30.120 is amended to read:

24 Sec. 10.30.120. PURPOSE OF SALE BY LOTS, AND EXEMPTIONS. Ceme-
25 tery [BURIAL] lots sold by a cemetery [THE] association or a nonprofit
26 cemetery corporation are for the sole purpose of interment and are
27 exempt from taxation, execution, attachment, or any other claim, lien,
28 or process, if used exclusively for burial purposes without an inten-
29 tion to obtain a profit.

1 * Sec. 9. AS 10.30.130 is amended to read:

2 Sec. 10.30.130. PLANS OF GROUNDS AND CEMETERY LOTS. A cemetery
3 association or nonprofit cemetery corporation shall have a plan of its
4 [THEIR] grounds and cemetery lots as laid out [BY THEM] made and
5 recorded in a book kept for that purpose by the clerk of the associa-
6 tion or the secretary of the corporation. The cemetery lots shall be
7 numbered by consecutive numbers.

8 * Sec. 10. AS. 10.30.140 is amended to read:

9 Sec. 10.30.140. MAINTENANCE OF CEMETERY LAND. A cemetery asso-
10 ciation or nonprofit cemetery corporation may enclose, improve, and
11 adorn the grounds and avenues, erect buildings for the use of the
12 association or corporation, prescribe rules for the designation and
13 adornment of cemetery lots and for erecting monuments in the cemetery,
14 and prohibit any use, division, improvement, or adornment of a ceme-
15 tery lot that the association or corporation considers [WHICH THEY
16 CONSIDER] improper.

17 * Sec. 11. AS 10.30.150 is amended to read:

18 Sec. 10.30.150. ANNUAL FINANCIAL STATEMENT. An annual statement
19 of the financial affairs of a cemetery [THE] association or a nonpro-
20 fit cemetery corporation shall be made by the clerk of the association
21 or the secretary of the corporation.

22 * Sec. 12. AS 10.30 is amended by adding a new section read:

23 Sec. 10.30.155. DEFINITION. In this chapter, "cemetery lot"
24 means a lot, plot, space, grave, niche, mausoleum, crypt, vault or
25 columbarium, used or intended to be used for the interment of human
26 remains.

27 * Sec. 13. AS 45.50.561 is amended by adding a new paragraph to read:

28 (9) "cemetery lot" means a lot, plot, space, grave, niche,
29 mausoleum, crypt, vault or columbarium, used or intended to be used

1 for the interment of human remains.

2 * Sec. 14. This Act applies to all assets and funds, including an
3 irreducible fund, in the possession or control of a cemetery association or
4 nonprofit cemetery corporation on the effective date of this Act. This Act
5 does not impair or abrogate any obligation of a cemetery association or
6 nonprofit cemetery corporation under a contract entered into before the
7 effective date of this Act.

Introduced: 2/13/84
Referred: Labor and Commerce
and Finance

1 IN THE SENATE

BY KERTTULA

2

SENATE BILL NO. 481

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

THIRTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

6 For an Act entitled: "An Act relating to cemetery associations, nonprofit
7 cemetery corporations and cemetery lots."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 * Section 1. AS 10.30 is amended by adding a new section to read:

10 Sec. 10.30.055. FORMATION OF NONPROFIT CEMETERY CORPORATION. As
11 an alternative to the provisions of AS 10.30.010 - 10.30.050, a ceme-
12 tery may be incorporated under AS 10.20. A nonprofit cemetery corpo-
13 ration is subject to the provisions of AS 10.20 except to the extent
14 that those provisions conflict with the provisions of this chapter
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9 tery lots and space in buildings or on grounds sold to the association
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15 CONSIDER] improper.

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