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# Alaska State Legislature

IN SESSION:  
POUCH V  
JUNEAU ALASKA 99811  
(907) 465-4949



BOX 142  
EAGLE RIVER, ALASKA  
99577  
(907) 694-4949

Representative Randy Phillips

HOUSE DISTRICT # 15

TO: The Honorable Dick Eliason  
Chairman, Senate Labor & Commerce Committee

FROM: Representative Randy Phillips *R.E.P.*

DATE: March 14, 1984

RE: House Bill 569 - cemetery associations

Sheila Peterson of your office has requested information concerning the captioned bill, which is presently before the Senate Judiciary Committee and has a further referral to your committee.

Attached are the following:

- a. Copy of a letter I received from the Chairman of the Special Committee of Angelus Memorial Park Association in Anchorage. As you can see from this letter, the Association wishes to build a building to house much-needed administrative and service-related activities. Under present law, the Association could only accomplish the building of such a structure by selling off a portion of the land it owns; in other words, present statutes prohibit the Association from financing such structures. Additionally, under present statutes, a cemetery association cannot incorporate as a non-profit corporation. CSHB 569 (L&C) would permit this.
- b. Memorandum from Connie Sipe, Assistant Attorney General, Chief, Consumer Protection Section, to Representative Cowdery. The suggestion in Ms. Sipe's memorandum was incorporated into CSHB 569 (L&C) -- see Section 14.
- c. A sectional analysis of my original bill. This analysis was done by Ed Hein of Legislative Legal Affairs.

There were minor differences between the original version of my bill (HB 569) and Senator Kerttula's bill (SB 481) and I

The Honorable Dick Eliason  
March 14, 1984  
Page 2

believe that, with the exception of the Consumer Protection amendment, CSHB 569 (L&C) and SB 481 contain the same provisions.

If you have any questions, please do not hesitate to contact me.

Attachments

PS: In addition to the attachment listed above, I am also attaching a copy of Ms. Sipe's February 3, 1984 letter addressed to Speaker Hayes. This letter also concerns items contained in the cemetery association bills.

STATE OF ALASKA  
THE LEGISLATURE

POUCH Y - STATE CAPITOL  
JUNEAU, ALASKA 99811  
907-465-3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

February 13, 1984

SUBJECT: Sectional analysis of HB 569

TO: Representative Randy Phillips

FROM: Edward H. Hein *EHA*  
Legislative Counsel

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 to which a cemetery's endowment fund may be put 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 <sup>to</sup> 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 <sup>of</sup> for the term "cemetery lot".

EHH:ojb  
J3/089

ALASKA STATUTES

CHAPTER 30. Cemetery Associations

Sec. 10.30.070. Creation of irreducible fund. The association may by its bylaws provide that a stated percentage of the money realized from the sale of lots and donations (AND OTHER SOURCES OF REVENUE) constitutes an irreducible fund, which may be invested in the manner or loaned upon the securities the association or the trustees consider proper. The interest or income from the irreducible fund provided for in any bylaw or as much as may be necessary shall be devoted exclusively to the preservation and embellishment of the (CEMETERY) grounds, buildings and property of the association and or corporation and the lots and space in buildings or grounds sold to the members of the association and or corporation, or to the payment of the interest or principal of the debts authorized by the association for the purchase of land, equipment, erecting buildings and improvements. Where a bylaw has been enacted for the creation of an irreducible fund, (IT) the set amount or percentage stated in the bylaw, may not be amended except for the purpose of increasing the fund. (36-5-5 ACLA 1949)

I was told to use caps &  
put in brackets those  
words to be deleted and  
to underline all new  
wording.

Office

## ALASKA STATUTES

### CHAPTER 30. Cemetery Associations

Sec. 10.30.090. Debts of association and or corporation. A cemetery association and or corporation may (NOT) contract debts in anticipation of future receipts, (EXCEPT) for the (ORIGINAL) purchase of cemetery land and or for other cemetery purposes, the laying out and embellishment of the grounds and avenues of the cemetery, repairing their buildings, erection of new buildings, mausoleums, columbariums, and purchasing necessary equipment, for which debts the association may issue bonds or notes. The association may secure these debts by mortgage upon its lands, except lots which have been conveyed to the members of the Association, or by security interest in no more than 50% of the irreducibl fund. (36-5-5 ACLA 1949).

ALASKA STATUTES

CHAPTER 30. Cemetery Associations.

Sec. 10.30.125 Definition of "Cemetery Lot", one or more than one adjoining, lot, plot, space, grave, nich, mausoleum crypt, vault, and columbarium, for the interment of human remains.

the bank or trust company shall be governed by the provisions of ORS 128.067 and shall not be required to invest the money according to the list approved by the State Treasurer. An officer of the corporation shall file with the Secretary of State on or before April 15 of each year a verified statement in duplicate containing the same information pertaining to the irreducible fund as provided in ORS 97.810 (2) regarding endowment care funds. The Secretary of State may require the corporation to file, as often as he considers it to be necessary, a detailed report of the conditions and assets of the irreducible fund.

(3) The interest or income arising from the irreducible fund provided for in this section or by any bylaws, or so much thereof as is necessary, shall be devoted exclusively to the preservation and embellishment of the grounds, buildings and property of the corporation and the lots and space in buildings or grounds sold to the members of the corporation, or to the payment of the interest or principal of the debts authorized by subsection (5) of this section for the purchase of land, erecting buildings, and improvements. Any surplus thereof not needed or used for such purposes shall be invested as provided in this section and shall become part of the irreducible fund.

(4) After paying for the land and the erection of the original buildings and improvements thereon, all the future receipts and income of the corporation subject to the provisions in this section relating to the creation of an irreducible fund, whether from the sale of lots and burial space, cremation of bodies, donations, gifts and other sources, shall be applied exclusively to laying out, preserving, protecting, embellishing and beautifying the cemetery or the crematory and grounds thereof, and the avenues leading thereto, and to the erection of such buildings and improvements as may be necessary or convenient for cemetery or crematory purposes, and to pay the necessary expenses of the corporation.

(5) No debts shall be contracted by such corporation in anticipation of any future receipts, except for originally purchasing the lands authorized to be purchased by it, laying out and embellishing the grounds and avenues, erecting buildings and vaults on such land, and improving them for the purposes of the corporation. The corporation may issue bonds or notes for debts so contracted and may secure them by way of mortgage upon any of its lands, buildings, property and improvements excepting lots or space conveyed to the

members. (1969 c.580 §96; 1971 c.225 §11)

**61.765 Selling land unsuited for burials.** If in the board of directors' opinion, any portion of the lands of a nonprofit corporation organized and existing solely for the purposes of either owning or operating a cemetery or the cremation of dead bodies and the burial and care of incinerate remains is unsuitable for burial purposes or other purposes of the corporation, the board of directors may sell such portion and apply the proceeds to the general purposes of such corporation in the same proportion and manner as provided by ORS 61.005 to 61.125, 61.131 to 61.370, 61.375 to 61.481 and 61.505 to 61.950. (1969 c.580 §97)

**61.770 Burial lots or space; use, exemption from taxation, execution and liens; lien for purchase price of gravestone.** Burial lots or space for burial of incinerate remains in buildings or grounds sold by a nonprofit corporation organized and existing solely for the purposes of either owning and operating a cemetery or cremating dead bodies and burying and caring for incinerate remains shall be for the sole purpose of interment or deposit and safekeeping of incinerate remains. Such lots or space shall be exempt from taxation, execution, attachment or other lien or process, if used as intended by the purchaser thereof from such corporation, or his assigns or representatives, exclusively for burial purposes, and in no wise with a view to profit. The vendor of any gravestone, however, shall not be prevented from having and enforcing a lien thereon for all or part of its purchase price. If a suit is brought to enforce such a lien, the decree therein is enforceable thereafter; and, for the purpose of enabling the lien to be had and enforced, the gravestone shall be deemed personal property and may be severed and removed, under execution and order of sale, from the lot where it is situated and may be sold in the same manner as any other personal property. (1969 c.580 §98)

**61.775 Recording plan; power to improve and regulate grounds.** A nonprofit corporation organized and existing solely for the purposes of owning and operating a cemetery or cremating dead bodies and burying and caring for incinerate remains shall cause a plan of its land and grounds and of the lots laid out by it and of the niches or burial space in the buildings erected thereon to be made and recorded in the county in which such grounds and land are located, such lots or

Oregon

**SPECIAL PROVISIONS  
RELATING TO ORS 97.010 TO  
97.040, 97.110 TO 97.450, 97.510  
TO 97.730, 97.810 TO 97.920 and  
97.990**

**97.010** Definitions for ORS 97.010 to 97.040, 97.110 to 97.450, 97.510 to 97.730, 97.810 to 97.920 and 97.990. As used in ORS 97.010 to 97.040, 97.110 to 97.450, 97.510 to 97.730, 97.810 to 97.920 and 97.990:

- (1) "Human remains" or "remains" means the body of a deceased person in any stage of decomposition or after cremation.
- (2) "Cemetery" means any place dedicated to and used, or intended to be used, for the permanent interment of human remains.
- (3) "Burial park" means a tract of land for the burial of human remains in the ground used, or intended to be used, and dedicated for cemetery purposes.
- (4) "Mausoleum" means a structure for the entombment of human remains in crypts or vaults in a place used, or intended to be used, and dedicated for cemetery purposes.
- (5) "Crematory" means a structure containing a retort for the reduction of bodies of deceased persons to cremated remains.
- (6) "Columbarium" means a structure or room containing niches for permanent inurnment of cremated remains in a place used, or intended to be used, and dedicated for cemetery purposes.
- (7) "Interment" means the disposition of human remains by cremation, inurnment, entombment or burial.
- (8) "Cremation" means the reduction of a body of a deceased person to cremated remains in a crematory.
- (9) "Inurnment" means placing cremated remains in an urn and depositing it in a niche.
- (10) "Entombment" means the placement of human remains in a crypt or vault.
- (11) "Burial" means the placement of human remains in a grave.
- (12) "Grave" means a space of ground in a burial park used, or intended to be used, for burial of the remains of one person.
- (13) "Crypt" or "vault" means a space in a mausoleum of sufficient size used, or intended to be used, to entomb uncremated human remains.
- (14) "Niche" is a recess in a columbarium used, or intended to be used, for the interment

of the cremated remains of one or more persons.

(15) "Cemetery authority" includes cemetery corporation, association, corporation sole or other person or persons owning or controlling cemetery lands or property.

(16) "Cemetery association" means any corporation or association authorized by its articles to conduct any or all the businesses of a cemetery, but does not include a corporation sole or a charitable, eleemosynary association or corporation.

(17) "Cemetery business," "cemetery businesses" and "cemetery purposes" are used interchangeably and mean any business and purpose requisite or incident to, or necessary for establishing, maintaining, operating, improving or conducting a cemetery, interring human remains, and the care, preservation and embellishment of cemetery property.

(18) "Directors" or "governing body" means the board of directors, board of trustees, or other governing body of a cemetery association.

(19) "Lot," "plot" or "burial space" means space in a cemetery owned by one or more individuals, an association or fraternal or other organization and used, or intended to be used, for the permanent interment therein of the remains of one or more deceased persons. Such terms include and apply with like effect to one, or more than one, adjoining grave, crypt, vault or niche.

(20) The term "plot owner" or "owner" means any person in whose name a burial plot stands as owner of the right of sepulture therein in the office of the cemetery authority, or who holds from such cemetery authority a conveyance of the right of sepulture or a certificate of ownership of the right of sepulture in a particular lot, plot or space.

(21) "Endowment care" means the general care and maintenance of developed portions of a cemetery and memorials erected thereon financed from the income of a trust fund established and maintained pursuant to the provisions of ORS 97.810 to 97.860. Endowment care cemeteries owned by a city or a county may supplement their general care and maintenance trust funds from general revenues.

(22) "Special care" is any care in excess of endowed care in accordance with the specific directions of any donor of funds for such purposes. (Amended by 1955 c 545 §1; 1965 c 396 §1)

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61.736 Procedure for revoking certificate of authority. ORS 57.735, relating to revocation of certificate of authority, is applicable to nonprofit corporations. [1963 c.492 §36 (enacted in lieu of 61.735)]

61.740 [Re-numbered 61.984]

61.741 Application to corporation authorized to transact business in this state on December 31, 1959. Foreign corporations which are duly authorized to transact business in this state on December 31, 1959, for a purpose or purposes for which a corporation might secure such authority under ORS 61.005 to 61.125, 61.131 to 61.370, 61.375 to 61.481 and 61.505 to 61.950, shall, subject to the limitations set forth in their respective certificates of authority, be entitled to all the rights and privileges applicable to foreign corporations procuring certificates of authority to transact business in this state under ORS 61.005 to 61.125, 61.131 to 61.370, 61.375 to 61.481 and 61.505 to 61.950, and from December 31, 1959, such corporations shall be subject to all the limitations, restrictions, liabilities and duties prescribed herein for foreign corporations procuring certificates of authority to transact business in this state under ORS 61.005 to 61.125, 61.131 to 61.370, 61.375 to 61.481 and 61.505 to 61.950. 1959 c.580 §801

61.745 Transacting business without certificate of authority. (1) No foreign corporation transacting business in this state without a certificate of authority shall be permitted to maintain any action, suit or proceeding in any court of this state, until such corporation shall have obtained a certificate of authority. No action, suit or proceeding shall be maintained in any court of this state by any successor or assignee of such corporation on any right, claim or demand arising out of the transaction of business by such corporation in this state, until a certificate of authority shall have been obtained by such corporation or by a corporation which has acquired all or substantially all its assets.

(2) The failure of a foreign corporation to obtain a certificate of authority to transact business in this state shall not impair the validity of any contract or act of such corporation, and shall not prevent such corporation from defending any action, suit or proceeding in any court of this state. [1959 c.580 §81]

CEMETERIES AND CREMATORIES

61.744 Lands of cemetery or crematory corporation; exemption from execution, taxation and condemnation. A nonprofit corporation organized and existing solely for the purposes of either owning and operating a cemetery or cremating dead bodies and burying and caring for incinerate remains, may purchase or take, by gift or devise, and own and hold lands for the sole purpose of either a cemetery or a crematory and burial place for incinerate remains. Such lands shall be exempt from execution and taxation, and from any appropriation for public purposes, and lots or portions of such land and space in any buildings thereon may be sold, if intended to be used exclusively for burial purposes, and in no wise with a view to the profit of the members of such corporation. The land so held for cemetery purposes shall not exceed 600 acres, but if the land already held for such purpose by the corporation is all practically used, the amount thereof may be increased by adding thereto not more than 20 acres at any one time. The land so held for the purposes of a crematory and the burial of incinerate remains shall not exceed 30 acres, but if the land already held for such purpose by the corporation is all practically used, the amount thereof may be increased by adding thereto not more than 10 acres at any one time. [1959 c.586 §95]

61.760 Revenues; restrictions on uses thereof. (1) A nonprofit corporation organized or existing solely for the purposes of either owning and operating a cemetery or cremating dead bodies and burying and caring for incinerate remains may, by its bylaws provide that a stated percentage of the money received from the sale of lots and burial space, cremation of bodies, donations, gifts or other sources of revenue shall constitute an irreducible fund. Any bylaw enacted for the creation of the irreducible fund cannot be amended to reduce the fund.

(2) The board of directors may direct the investment of the money in the irreducible fund, but all investments of money deposited in the fund on or after January 1, 1972, shall be in securities in classes and amounts approved by the State Treasurer and published in a list pursuant to ORS 97.820. If a bank or trust company qualified to engage in the trust business is directed by the board of directors to invest the money in the irreducible fund,

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HEALTH AND SAFETY CODE  
DIVISION 7. DEAD BODIES  
PART 1. GENERAL PROVISIONS

CHAPTER 1. DEFINITIONS

7000. The definitions in this chapter apply to this division and to Divisions 8 and 9 of this code.

7001. "Human remains" or "remains" means the body of a deceased person, and includes the body in any stage of decomposition and cremated remains.

7002. "Cremated remains" means human remains after incineration and necessary processing under Section 7054.1 in a crematory.

7003. "Cemetery" means any one, or a combination of more than one, of the following, in a place used, or intended to be used, and dedicated, for cemetery purposes:

- (a) A burial park, for earth interments.
- (b) A mausoleum, for crypt or vault interments.
- (c) A crematory, or a crematory and columbarium, for cinerary interments.

7004. "Burial park" means a tract of land for the burial of human remains in the ground, used or intended to be used, and dedicated, for cemetery purposes.

7005. Except in Part 5 of Division 8 of this code, "mausoleum" means a structure or building for the entombment of human remains in crypts or vaults in a place used, or intended to be used, and dedicated, for cemetery purposes.

7006. "Crematory" means a building or structure containing one or more furnaces for the reduction of bodies of deceased persons to cremated remains.

7007. Except in Part 5 of Division 8 of this code, "columbarium" means a structure, room, or other space in a building or structure containing niches for inurnment of cremated human remains in a place used, or intended to be used, and dedicated, for cemetery purposes.

7008. "Crematory and columbarium" means a building or structure containing both a crematory and columbarium.

7009. "Interment" means the disposition of human remains by inurnment, entombment, or burial in a cemetery or, in the case of cremated remains, by inurnment, entombment, burial, or burial at sea as provided in Section 7117.

7010. "Cremation" means the reduction of the body of a deceased person to cremated remains in a crematory and the placement of the cremated remains in a grave, vault or niche or burial at sea as provided in Section 7117 of this code.

7011. "Inurnment" means placing cremated remains in an urn and placing it in a niche.

7012. "Entombment" means the placement of human remains in a crypt or vault.

7013. "Burial" means the placement of human remains in a grave.

7014. "Grave" means a space of ground in a burial park, used, or intended to be used, for burial.

7015. "Crypt" or "vault" means a space in a mausoleum of sufficient size, used or intended to be used, to entomb uncremated human remains.

7016. "Niche" means a space in a columbarium used, or intended to be

used, for inurnment of cremated human remains.

7017. "Temporary receiving vault" means a vault used or intended to be used for the temporary placement of human remains.

7018. "Cemetery authority" includes cemetery association, corporation sole, or other person owning or controlling cemetery lands or property.

7019. "Cemetery corporation," "cemetery association," or "cemetery corporation or association" mean any corporation now or hereafter organized which is or may be authorized by its articles to conduct any one or more or all of the businesses of a cemetery, but do not mean or include a corporation sole.

7020. "Cemetery business," "cemetery businesses," and "cemetery purposes" are used interchangeably and mean any and all business and purposes requisite to, necessary for, or incident to, establishing, maintaining, operating, improving, or conducting a cemetery, interring human remains, and the care, preservation, and embellishment of cemetery property, including, but not limited to, any activity or business designed for the benefit, service, convenience, education, or spiritual uplift of property owners or persons visiting the cemetery.

7021. "Directors" or "governing body" means the board of directors, board of trustees, or other governing body of a cemetery association.

7022. "Lot," "plot," or "interment plot" means space in a cemetery, used or intended to be used for the interment of human remains. Such terms include and apply to one or more than one adjoining graves, one or more than one adjoining crypts or vaults, or one or more than one adjoining niches.

7023. "Plot owner," "owner," or "lot proprietor" means any person in whose name an interment plot stands of record as owner, in the office of a cemetery authority.

7024. "Permit for Disposition of Human Remains" includes "burial permit" and is a permit, issued pursuant to law, for the interment, disinterment, removal, reinterment or transportation of human remains.

DIVISION 8. CEMETERIES

PART 1. GENERAL PROVISIONS

CHAPTER 1. CEMETERY DEFINED

8100. Six or more human bodies being buried at one place constitute the place a cemetery.

CHAPTER 2. VANDALISM

8101. (a) Every person is guilty of a misdemeanor and punishable by a fine of not less than two hundred fifty dollars (\$250) nor more than one thousand dollars (\$1,000), or by imprisonment in the county jail for not exceeding one year, or by both, who maliciously does any of the following:

(1) Destroys, cuts, mutilates, effaces, or otherwise injures, tears down, or removes any tomb, monument, memorial, or marker in a cemetery, or any gate, door, fence, wall, post or railing, or any inclosure for the protection of a cemetery or any property in a cemetery.

(2) Obliterates any grave, vault, niche, or crypt.

(3) Destroys, cuts, breaks or injures any building, statuary, ornamentation, tree, shrub, or plant within the limits of a cemetery.

Offered: 3/19/84  
Réferred: Finance

Original sponsor: Kerttula

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BY THE LABOR AND  
COMMERCE COMMITTEE

1 IN THE SENATE

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

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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:

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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-

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tery may be incorporated under AS 10.20. A nonprofit cemetery corpo-

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ration is subject to the provisions of AS 10.20 except to the extent

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that those provisions conflict with the provisions of this chapter

15

relating to cemetery corporations.

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

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Sec. 10.30.060. POWER TO ACQUIRE AND DISPOSE OF LANDS, AND

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EXEMPTION FROM EXECUTION, TAXATION AND PUBLIC APPROPRIATION. A ceme-

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tery association or nonprofit cemetery corporation may buy or take by

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gift or devise, and hold, land not exceeding 80 acres, for the sole

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purpose of a cemetery. The land is exempt from execution, and from

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any appropriation to public purposes, and from taxation if intended to

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be used exclusively for burial purposes and in no way for the profit

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of the members of the association or trustees, officers or employees

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of the corporation.

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

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Sec. 10.30.070. CREATION OF IRREDUCIBLE FUND. A cemetery [THE]

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association or nonprofit cemetery corporation may by its bylaws pro-

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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.

Offered; 5/11/84  
Referred: Rules

Finance added what is

Original sponsor: Kerttula

in yellow

pg 2

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  
cemetery corporations and cemetery lots."

7

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

out L+C conf  
passed

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:

to be consistent  
with change in (1) by  
L+C Drafter didn't notice until

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 mau\_oleum 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.

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11 Sec. 10.30.140. MAINTENANCE OF CEMETERY LAND. A cemetery asso-  
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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.

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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.

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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.

SB 481 TITLE & SPONSOR SUMMARY 16:42 6/04/84 PAGE 1 OF 3  
 AMENDED TITLE: CSSE 481(FIN)  
 AN ACT RELATING TO CEMETERY ASSOCIATIONS, NONPROFIT CEMETERY  
 CORPORATIONS AND CEMETERY LOTS

PRIME SPONSOR: KERTTULA. GENERAL DOLLARS: 40 (F. NOTE)  
 OTHER DOLLARS: 0

CO-SPONSORS:  
 CURRENT STATUS: 5/26/84 TRANSM TO GOVERNOR

SB 481 SENATE ACTION 16:42 6/04/84 PAGE 2 OF 3

DATE	SEQ	PAGE	LEGISLATIVE ACTION
02/13/84	01	2048	FIRST READING -- COMMITTEE REPORTS
03/19/84	02	2389	L&C -- CS04, NR01
03/19/84	03	2389	L&C F/NOTE EQUALS ZERO
05/11/84	04	3048	FIN -- CS06
05/18/84	05	3154	RLS -- FIN CS04, OTHER04 TAKEN UP IMMEDIATELY
05/18/84	06	3154	SECOND READING
05/18/84	07	3154	FIN CS ADOPTED BY UNAN CONSENT
05/18/84	08	3154	ADVANCED TO 3RD READING BY UNAN CONSENT
05/18/84	09	3154	THIRD READING
05/18/84	10	3154	PASSED BY DIV 17-00-03
05/26/84	17	3302	TRANSMITTED TO GOVERNOR
XXXX	XX	XX	XXX XXX XXX

SB 481 HOUSE ACTION 16:42 6/04/84 PAGE 3 OF 3

DATE	SEQ	PAGE	LEGISLATIVE ACTION
05/19/84	11	3927	FIRST READING -- COMMITTEE REPORTS
05/22/84	12	3762	L&C -- DPO6
05/24/84	13	4015	SECOND READING
05/24/84	14	4015	ADVANCED TO 3RD READING BY UNAN CONSENT
05/24/84	15	4015	THIRD READING
05/24/84	16	4015	PASSED BY DIV 36-00-04
XXXX	XX	XX	XXX XXX XXX

SB 481

THE ~~LEGISLATION PRESENTLY BEFORE THE SENATE~~ WILL 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.

NONPROFIT CEMETERY ASSOCIATIONS OR CORPORATIONS WOULD HAVE MORE FLEXIBILITY IN HOW TO INVEST THE MONIES IN ITS IRREDUCIBLE FUND, HOW TO SPEND ITS OTHER REVENUES, AND HOW AND FOR WHAT PURPOSES IT MAY CONTRACT DEBTS.

UNDER THE CURRENT STATUTE, THE WAY TO FINANCE CONSTRUCTION IS BY SELLING ASSETS WHICH IN MOST CASES IS NOT FEASIBLE.

THIS LEGISLATION IS SUPPORTED BY THE DEPARTMENT OF COMMERCE AND HAS A ZERO FISCAL NOTE.

I RECOMMEND PASSAGE OF THIS LEGISLATION.

#### FURTHER INFORMATION

1) THE CHANGES ADDED BY LABOR AND COMMERCE WERE RECOMMENDED BY CONSUMER PROTECTION.

SECTION 14 WAS ADDED TO INSURE 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.)

P.O. BOX 883  
Palmer, AK 99645  
May 7, 1984

To: Senator Bill Ray  
Chairman Senate Judiciary Committee

From: Harry L. Wimmer  
President of the Board  
Angelus Memorial Park Cemetery and  
Valley Memorial Park Cemetery

Subject: House Bill 569

Action on H.B. 569 is urgently needed. Until it passes, Angelus Memorial Park Cemetery cannot proceed with construction necessary to assure storage space for remains that must be stored until the ground thaws. It is imperative that we complete this construction before freezeup.

The Municipality of Anchorage has used all of their storage space and are now using ours. This places an increasingly heavy burden on Angelus Memorial Park Cemetery. Angelus is already close to reaching their present storage capacity and the pressure for storage space is increasing as the population increases.

I know you are extremely busy with a number of very pressing matters, but if you could find a few minutes to get this bill on its way, it would help us immensely and would be greatly appreciated. Thank you.

Sincerely,

Harry L. Wimmer

Copies to:

Senator Joe Josephson  
Senator Richard I. Eliason  
Senator Fritz Pettyjohn  
Senator Robert H. Ziegler, Sr.

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 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  
THE LEGISLATURE

POUCH Y - STATE CAPITOL  
JUNEAU ALASKA 99801  
907-465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

March 8, 1984

SUBJECT: Sectional analysis of SB 481

TO: Senator Jalmar Kerttula  
President of the Senate

FROM: Edward H. Hein *E.H.*  
Legislative Counsel

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 to which a cemetery's endowment fund may be put 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 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.

EHH:ojb  
J4/054

SECTIONAL ANALYSIS

# MEMORANDUM

# State of Alaska

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

DATE: February 15, 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.

*C/S 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*

# COMMITTEE REPORT

## SENATE

FURTHER: FINANCE

Date 3/12/84

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(LH)
- new title
- same title and recommends \_\_\_\_\_
- and attached a "LETTER OF INTENT"  NEW FISCAL NOTE
- reports it back without recommendation
- recommends referral to \_\_\_\_\_ Committee

**MEMBERS SIGNING  
DO PASS**

[Signature]

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**MEMBERS HAVING  
OTHER RECOMMENDATIONS**

[Signature]

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

[Signature]  
Chairman

[Signature]  
Chairman recommendation



STATE OF ALASKA 1984 LEGISLATIVE SESSION  
FISCAL NOTE

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)

FISCAL NOTE

12/1/83

# 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.

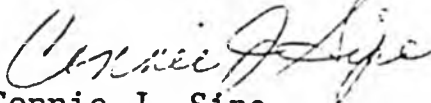
Honorable Joe Hayes  
Speaker of the House

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

Alaska State Legislature

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

While in Juneau

POUCH V  
JUNEAU, ALASKA 99811



Senate

VICE CHAIRMAN  
SENATE RESOURCES COMMITTEE  
MEMBER  
SENATE JUDICIARY COMMITTEE  
WESTERN STATES LEGISLATIVE  
FORESTRY TASK FORCE  
WESTERN CONFERENCE COUNCIL  
OF STATE GOVERNMENTS

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.

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,

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Robert H. Ziegler, Sr.

RHZ:lk

Enclosures

# STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

Bill Sheffield, Governor

POUCH K - STATE CAPITOL  
JUNEAU, ALASKA 99811  
PHONE: (907) 465-3000

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.

# 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 ROADMr. 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*

Honorable Joe Hayes  
Speaker of the House

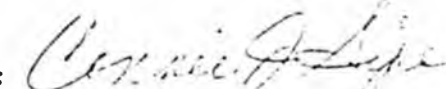
February 3, 1984  
Page 3

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