

**STATE OF HAWAII  
OFFICE OF THE DIRECTOR  
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS**

335 MERCHANT STREET, ROOM 310  
P.O. BOX 541  
HONOLULU, HAWAII 96809  
Phone Number: 586-2850  
Fax Number: 586-2856  
cca.hawaii.gov

**JOSH GREEN, M.D.**  
GOVERNOR | KE KIA'ĀINA

**SYLVIA LUKE**  
LIEUTENANT GOVERNOR | KA HOPE KIA'ĀINA

**NADINE Y. ANDO**  
DIRECTOR | KA LUNA HO'OKELE

**DEAN I. HAZAMA**  
DEPUTY DIRECTOR | KA HOPE LUNA HO'OKELE

December 15, 2023

TRANSMITTED VIA LEGISLATIVE WEBSITE

Dear President Kouchi, Speaker Saiki, and Members of the Legislature:

Enclosed is a copy of the legislative report, pursuant to House Concurrent Resolution 29, requesting that the Department of Commerce and Consumer Affairs to study potential solutions and make recommendations for a long-term management plan for Sunset Memorial Park.

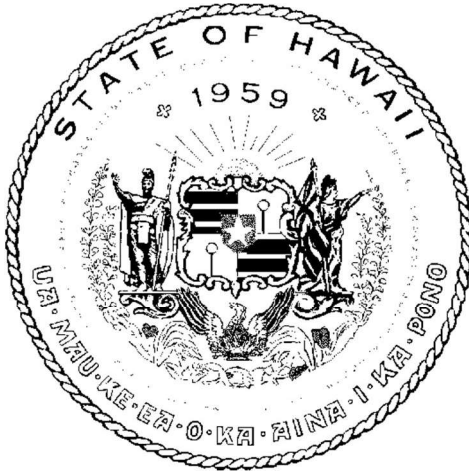
In accordance with section 93-16(a), HRS, a copy of this report will be transmitted to the Legislative Reference Bureau Library and viewable electronically at [cca.hawaii.gov/reports/departmental/](http://cca.hawaii.gov/reports/departmental/). Copies will also be transmitted to the State Publications Distribution Center and the University of Hawaii pursuant to section 93-3, HRS.

Sincerely,

**NADINE Y. ANDO**  
Director

Enclosure

- c: Legislative Reference Bureau Library (1 hard copy)  
State Publications Distribution Center (2 hard copies, 1 electronic copy)  
University of Hawaii (1 hard copy)



THIRTY-THIRD STATE LEGISLATURE  
REGULAR SESSION OF 2024

**Report Pursuant to  
H.C.R. 29, H.D. 1, Session Laws of Hawaii 2023**

DEPARTMENT OF COMMERCE AND  
CONSUMER AFFAIRS STATE OF  
HAWAII

Submitted December 2023

## Introduction

This report is filed pursuant to House Concurrent Resolution 29, H.D. 1, Session Laws of Hawaii 2023 (H.C.R. 29, H.D.1), which requests the Department of Commerce and Consumer Affairs (DCCA), to study potential solutions for the legal and physical situation at Sunset Memorial Park (Sunset), and to make recommendations for a long-term management plan in consultation with the Department of Accounting and General Services (DAGS), the Department of the Attorney General<sup>1</sup>, the Pearl City Neighborhood Board, District 21 (PCNB), Friends for Sunset Memorial Park Cemetery (FSMPC), members of the community who have family buried at Sunset, and any other entity or individual the DCCA deems necessary to complete the study and to report relevant findings and recommendations, including any proposed legislation to the Legislature.

As noted in H.C.R. 29, H.D.1, Sunset has been neglected for years and has been the subject of numerous complaints by individuals who have family members buried there and the surrounding community.

Located at 848 4<sup>th</sup> Street, Pearl City, Hawaii for over 100 years, various owners have managed the property. Following the enactment of the State's cemetery licensing law in 1967 (Act 199), Sunset became licensed in 1971; the license was subsequently forfeited in 1996.

Sunset was most recently owned and operated by Hawaiian Cemetery Association, Ltd., which was involuntarily dissolved in 2010. This now defunct corporation has no surviving officers and has left Sunset with no licensee authorized by DCCA to operate the cemetery and maintain the property's estimated 5,000 plots. A smaller portion of the property is the site of a mausoleum, which is held by Garden Crypts, Inc. That entity was involuntarily dissolved around 2006. The lack of a clear owner has resulted in the reliance on family and community members voluntarily participating in upkeeping the cemetery to prevent the property from falling into a further state of disrepair.

---

<sup>1</sup> The DCCA has been working with, and continues to work with, its assigned Deputy Attorney General on these matters.

## **Act 193, Session Laws of Hawaii 2018**

Act 193, Session Laws of Hawaii 2018 (Act 193), was enacted by the Legislature to grant limited liability for volunteers that maintain or repair cemetery grounds as a stopgap measure to mitigate the continued deterioration of the site. Act 193 also required DCCA to submit a report to the Legislature, in consultation with the DAGS Comptroller, to develop strategies for the upkeep, repair, and maintenance of Sunset and report its relevant findings and recommendations.

In its report to the Legislature, the DCCA detailed its efforts to consolidate Sunset's records and maps to identify decedents interred as well as beginning the process to electronically scan all paper records for digital access. The intent of this project was to create a: (1) master inventory that is searchable by name, plot number, and cemetery section that may include inscription data, such as names, birth dates, death dates, family history, and type and style of markers; and (2) plot map.

The completion of this project would then assist the DCCA in applying for a circuit court order that: (1) deems Hawaii Cemetery Association Ltd. a dissolved corporation under Hawaii Revised Statutes chapter 414-422; (2) settles the unfinished business and winds down the affairs of the corporation; and (3) distributes the corporations assets, which appears to consist only of the cemetery, to an appropriate entity after identifying those with a legal interest. In addition, the DCCA planned to apply for a court order notifying interested parties that the cemetery will not accept further burials.

## **The Sunset Memorial Park Online Portal**

In 2019, the DCCA met with a cemetery historian to begin the process of mapping Sunset and was referred to an expert in the mapping project. At that time, it was determined that the project was quite onerous. The Department then had to seek expertise from an independent consultant, which resulted in the survey project, the Sunset Memorial Park Online Portal.

In 2021, the DCCA hired an expert to survey Sunset and create a database documenting the Geographic Information Systems (GIS) location of each plot, marker, and information on each marker. This monumental undertaking resulted in the launching of the Sunset Memorial Park Online Portal on February 18, 2022. This portal enabled the public to search for grave markers by name or location and provide information for a given plot. The portal also assisted the public in locating a loved one's grave whose location was uncertain. Additionally, the portal allowed the public to submit additional information on purchased plots that are currently vacant or unmarked.

## **Act 22, Session Laws of Hawaii 2020**

The DCCA oversees 51 different professional and vocational licensing laws, including the Cemetery and Funeral Trust Program. Unlike other license types in which an entity with an expired license simply ceases to engage in activities that require a license, the winding down of a company that owns a cemetery ideally involves an orderly transfer of cemetery property and assets to an appropriate assignee. Unfortunately, the cemetery's age, years of neglect, poor recordkeeping, and potential liability concerns make Sunset difficult to market to a prospective successor licensee.

In 2019, the DCCA guided a community organization to resources to assist them in obtaining their non-profit status.

In 2020, the DCCA introduced an administration bill, which later became Act 22, Session Laws of Hawaii 2020 (Act 22). Act 22 codified DCCA's practice of exempting any cemetery authority from HRS Chapter 441 requirements, provided that the entity does not sell for financial profit. Act 22 allows the director to exempt any cemetery authority from the provisions of the chapter upon proof satisfactory to the director that the cemetery authority does not sell for financial profit; provided that a cemetery authority exempted under this section shall be required to comply with any provision of this chapter upon order by the director. It provides further any church granted an exemption under this section shall be exempt from all requirements of the chapter. Any entity that is exempt as a church under federal law shall be considered a church for the purposes of this section.

In 2022, the DCCA also initiated dialogue with several organizations and non-profits who expressed interest in taking over the cemetery property. The DCCA continues to work with potential non-profit organizations to address the issue of ownership of the property.

**Cemeteries Maintained by DAGS**

As requested by H.C.R. 29, H.D. 1, the DCCA consulted with DAGS regarding its experience with cemetery maintenance and management. DAGS provided the following information regarding the six cemeteries on Oahu under its management:

Location	Address	Acreage
Aiea Cemetery	99-123 Uahu Street	1.572
Makiki Cemetery	1630 Pensacola Street	7.155
Puea Cemetery	1440 North School Street	1.656
Puukamalii Cemetery	1821 Kamalii Street	2.99
Waianae Cemetery	85-759 Farrington Hwy.	0.37
Waianae Japanese Cemetery	Located behind 85-235 Waianae Valley Rd.	4.2
Total Acreage:		17.943

**DAGS’ Current Costs to Maintain Cemeteries Under Its Management**

To better understand the costs and manpower involved, the DCCA requested that DAGS also provide information related to the costs involved with maintaining its current workload of cemeteries under their management. DAGS provided the following cost analysis related to their current cemetery management:

<b>Personnel:</b>		
WS-02	Working Foreman	\$51,588
BC-03	Power Mower Operator	\$49,596
	Sub-total for salaries:	\$101,184
	Fringe benefit @ 64%:	\$64,758
	Total Labor Costs:	\$165,942
Note: Does not include OT*		

<b>Equipment:</b>		
1	Full size diesel pick-up truck	\$85,000
1	Trailer for Power Mower	\$10,000
1	Z-Master Toro Power Mower	\$30,000
2	Weed Wackers	\$1,600
1	Backpack Blowers	\$1,000
1	Push Mower	\$1,000
	Misc. Hand Tools: Rakes, Shovels, Picks, Hoes, Water Hose, etc.	\$2,000
Total Estimated Equipment Costs:		\$130,600

Annual water costs are approximately \$5,000.

\* Existing Cemeteries Maintenance schedule between 2-3 days per month for small acreage sites and 5-6 days per month for larger sites; majority of the sites have a very low visitation.

**Estimated Cost for Maintaining Sunset Memorial Park**

<b>Personnel:</b>		
WS-02	Working Foreman	\$51,588
BC-02	Groundskeeper I	\$48,228
BC-03	Power Mower Operator	\$49,596
	Sub-total for salaries:	\$149,412
	Fringe benefit @ 64%:	\$95,624
	Overtime:	\$75,000
	<b>Total Labor Costs:</b>	<b>\$320,036</b>

<b>Equipment:</b>		
1	Full size diesel pick-up truck	\$85,000
1	Trailer for Power Mower	\$10,000
1	Z-Master Toro Power Mower	\$30,000
3	Weed Wackers	\$2,500
3	Backpack Blowers	\$3,000
	Misc. Hand Tools: Rakes, Shovels, Picks, Hoes, Water Hose, etc.	\$2,000
	<b>Total Estimated Equipment Costs:</b>	<b>\$130,500</b>

DAGS also addressed other costs associated with maintenance and repairs for Sunset which include, but are not limited to:

- Road repairs: Asphalt/no curbing. Several potholes and cracks with major repairs of uneven roads.
- Perimeter fencing/walls: Damaged fence on canal area and on the Diamond Head side fencing between condominium and cemetery.
- Utilities: Existing 6” backflow needs to be replaced. Not sure condition of waterpipes to hose bibb is unknown. No water for visitor.
- Structures: Tombs/graves. Several homeless living in tombs on the Mauka side of the cemetery. Approximately 6-8 individuals. Tomb structures are in bad shape.
- Lawn: Bad condition, sunken graves exposed, large holes and rubbish piles on the Diamond Head/ Makai corner of cemetery.
- Trees: Assessment report from Imua Landscaping for removal/trimming.

DAGS estimates that these costs will be approximately \$750,000 based on their experience with similar types of repairs and maintenance work. DAGS also anticipates additional costs for utilities to provide water and electrical service to the property. In total, an initial cost of \$1,200,536 is anticipated for DAGS to properly manage Sunset. Subsequent year costs would include the payroll costs for the positions, replacement of tools and equipment. Utilities for the cemetery (water and electricity) are estimated to cost approximately \$450,000 annually.

Unlike Sunset, all six cemeteries maintained by DAGS are inactive and not operational. In contrast, individuals may still request to inter decedents at Sunset. Although Sunset has a perpetual care trust fund, by law, only the small amount of interest generated by the trust



fund may be used for the perpetual care of the cemetery. Additionally, only a licensee may seek reimbursement from this interest and may only do so for perpetual care expenditures made by the licensee. As noted above, there is no current licensee for Sunset.

## Addressing Public Health Hazards at Sunset

The DCCA consulted with the Department of Health (DOH) to address concerns of unhygienic conditions occurring on the property. The DCCA requested DOH to confirm whether it was aware of any laws, ordinances, initiatives, or resources available that were similar to HRS §322-4, which states the following:

**§322-4 Entering lands, buildings, etc.** Whenever any member of the department of health deems it necessary for the preservation of the lives or health of the public to enter any land, building, vessel, or aircraft for the purpose of examining into, abating, destroying, removing, or preventing any nuisance, source of foul or noxious odors, gasses or vapors, water in which mosquito larvae exist, source of filth, or cause of sickness or disease, or other thing detrimental to the public health, and is refuse such entry, the member may make complaint to the district judge in whose circuit the nuisance, source, place, or cause is, and the district judge may thereupon issue a warrant, directed to any police officer of the circuit, commanding the police officer to take sufficient aid, and, being accompanied by the member of the department, between the hours of sunrise and sunset, to repair to the place describing in the complaint, and to abate, destroy, remove, or prevent, under the directions of the member, the nuisance, source or cause.

DOH stated the following in response to DCCA's letter:

*As identified in your letter dated October 12, 2023, the DOH has legal authority provided by Hawaii Revised Statutes, Chapter 322-4, to enter and inspect properties for the purpose of ascertaining whether there are conditions that are injurious to public health. In addition, the DOH has additional authorities under various State laws to enter, inspect, and compel compliance with environmental regulations intended to protect public health. However, as the unhygienic conditions that are of concern at the Sunset Memorial Park are related to illegal and potentially criminal activities conducted at the site, the DOH is limited in its ability to remedy the issues. Once the site is secured and a responsible party (or person) is identified, the DOH may be better able to exercise its authority to enter and inspect the site for compliance with environmental requirements.*

*Beyond the House Concurrent Resolution 29, House Draft 1 (H.C.R. 29, S.D. 1), the DOH is unaware of any initiatives which may assist in addressing the hazards at the site. Should the Department of Commerce and Consumer Affairs take control of the site, the DOH is able to provide short-term support in the form of vector control (e.g., mosquito or rodent abatement) should it be needed.*

## Honolulu Police Department's Response to Complaints of Trespassing

The inability to issue trespass warnings and to prosecute individuals who continue to trespass or enforce basic safety measures have left the families of loved ones buried at Sunset and the surrounding community frustrated. In an effort to better understand the factors that would allow the Honolulu Police Department (HPD) officers to respond to complaints occurring on the property, the DCCA consulted with Arthur J. Logan, Chief of Police, to clarify:

- What needs to occur in order to bring action against someone who trespasses on the cemetery.
- Whether HPD officers are only able to enter the cemetery if they witness a crime taking place.
- Whether it would be possible for HPD to increase patrol in the area to deter crime from occurring in the cemetery.
- Whether it would be possible for HPD to provide more resources to stakeout the property to address complaints of illegal activity.
- Whether additional funding or resources are needed in order to increase police presence around the cemetery.

In response to DCCA's letter, HPD provided the following:

*District 3 ('Aiea/Pearl City/Waipahu) officers are aware that the Sunset Memorial Park is a hot spot for crime and they patrol the area on a regular basis. When not on high- priority cases or tending to other calls for service, officers will increase presence to deter criminal activity.*

*For a more proactive approach in deterring crime in the cemetery, it is imperative that the owner or legal representative asserts who is not allowed on property and a reasonable warning must be given to the suspected trespasser. Police officers can assist in administering the warning and it must be properly documented. If the person refuses to leave the property after a warning is given, he/she may be subjected to an arrest or citation. The District 3 Community Policing Team can also work with the owner or legal representative to evaluate the area and formulate options such as, but not limited to, the posting of signs, better landscaping, adding fixtures to help illuminate the outer and inner perimeters during night hours, etc. In addition, officers will enter the property and respond appropriately if they observe a crime being committed.*

*The Honolulu Police Department can provide additional resources to conduct enforcement operations on the property depending on the particular situation. For instance, if there is suspected illicit drug distribution and/or use in the cemetery, then officers may work with the district's crime reduction unit, the Narcotics/Vice Division, or other divisions/districts to conduct operations to address the illicit activity.*

*In conclusion, having an owner or legal representative of the Sunset Memorial Park will help to enforce, prevent, and reduce illegal activity on the property, as well as unwelcomed persons.*

## **Addressing Community Concerns**

On November 16, 2023, delegates of the DCCA and the Attorneys General Office attended the Pearl City Neighborhood Board (PCNB) meeting to consult with the members of the community who have family buried at Sunset, the PCNB, and members of Friends for Sunset Memorial Park Cemetery regarding their concerns for the situation at Sunset.

Delegates from the DCCA and Attorneys General Office presented information regarding the Sunset Memorial Park Online Portal and how the public may access the information held on the site. Delegates provided an explanation as to why the State is not in a position to take over the cemetery and fielded questions from the public regarding perpetual care trusts. An update on the report being drafted in response to H.C.R. 29, H.D.1 was also provided to the public.

## **Solutions for the Legal Situation of Sunset**

Since the enactment of Act 193 and Act 22, the DCCA has worked with several parties to assume ownership and/or maintain Sunset without much success. Responses from both HPD and DOH have made it clear that an owner and/or legal representative is required to address many of the security and physical upkeep concerns of the cemetery. As an immediate solution to security and safety concerns the DCCA proposes amending HRS Chapter 662D to permit the Director of the DCCA to appoint a limited owner of a cemetery for which no owner can be found and will authorize the limited owner to: (1) file complaints with the appropriate law enforcement authorities against persons engaged in wrongful acts at the cemetery; and (2) install security measures to deter trespassers from entering the property. The legislative proposal has been appended to this report.

As mentioned previously, DCCA has attempted to work with non-profit and other entities in the past to assume ownership of the cemetery. The primary concern and impediment have been the lack of funds available in the trust and revenue generating capabilities to cover future repair and maintenance expenses. In September 2023, after conducting a site visit, Senator Wakai suggested investigating the possibility of installing solar panels at the cemetery that could generate revenues for an entity wishing to take over ownership. Preliminary reviews by Hawaiian Electric and the Hawaii State Energy Office indicate this could be a viable option and DCCA recommends that this be investigated in greater detail should an entity come forward and express interest.

Further DCCA believes that having the State (DAGS) take over ownership of the cemetery will be a costly recurring expense to taxpayers.

## **Conclusion**

The DCCA recognizes that the proposed amendment to HRS Chapter 662D will not solve all concerns identified by the Legislature regarding Sunset. The DCCA hopes that this step will create a foundation towards securing the property and support community efforts to keeping the cemetery free of crime, litter, and habitual trespassers.

The DCCA will continue its efforts to locate an owner or non-profit that is willing to take ownership and manage Sunset. While a long-term option could include the State's control of the cemetery, engaging in any action that could be considered a "bailout" of a failed business could establish a concerning precedent. In addition to potential liability and considerable costs, Sunset is significantly larger than all the other cemeteries being managed by DAGS and would therefore require substantial maintenance funding in perpetuity. The DCCA would like to respectfully request that the Legislature give careful consideration regarding a possible State takeover of Sunset and the utilization of perpetual care funds for purposes other than what is authorized by law.

\_\_\_\_.B. NO. \_\_\_\_\_

---

---

# A BILL FOR AN ACT

RELATING TO DESIGNATION OF LIMITED OWNER FOR CEMETERY WITHOUT AN OWNER IN NEED OF SECURITY AND PERPETUAL CARE.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. The legislature finds that Sunset Memorial Park  
2 in Pearl City, Oahu, has been neglected for years and has been  
3 the subject of numerous complaints by individuals who have  
4 family members buried there. The cemetery has been described as  
5 having a damaged mausoleum, sinking graves and markers are  
6 hidden under overgrown grass and bushes.

7           The cemetery was owned and operated by a corporation. That  
8 corporation, Hawaiian Cemetery Association Ltd. dba Sunset  
9 Memorial Park involuntarily dissolved in 2010. Garden Crypts  
10 Inc. owns a small portion of the property that is the site of  
11 the mausoleum. That entity was involuntarily dissolved in 2006.

12           The Legislature enacted Act 193, Session Laws of Hawaii  
13 2018 (Act 193), in response to the overwhelming number of  
14 volunteers at Sunset Memorial Park, to limit liability for  
15 volunteers maintaining or repairing cemetery grounds. Act 193  
16 further required the department of commerce and consumer  
17 affairs, in consultation with the department of accounting and

.B. NO.          

1 general services, to develop short-term and long-term strategies  
2 for the upkeep, repair, and maintenance of Sunset Memorial Park.  
3 As a result of Act 193, the department of commerce and consumer  
4 affairs worked with a surveyor to map the cemetery and create a  
5 website and database to help identify graves at Sunset Memorial  
6 Park.

7         The department of commerce and consumer affairs launched  
8 the website portal on February 18, 2022, to provide access to  
9 grave marker information at Sunset Memorial Park. This portal  
10 also allowed members of the public who have family members  
11 buried at the cemetery to share information regarding their plot  
12 as well as information on purchased plots that are vacant or  
13 unmarked. The department of commerce and consumer affairs did  
14 not receive much information regarding plots at the cemetery.  
15 Due to the lack of an owner for the cemetery there is no  
16 security for Sunset Memorial, and the Park is often the target  
17 of vandalism and desecration, with thieves displacing ashes from  
18 copper urns to sell the urns, headstones taken off grave sites,  
19 and homeless encampments setting fire to the area. The effects  
20 of cemetery vandalism are not limited to property damage, but  
21 can result in emotional trauma to the relatives and friends of  
22 the descendant whose grave has been damaged or desecrated. The



.B. NO.          

1 purpose of this Act is to permit the director of the department  
2 of commerce and consumer affairs to appoint a limited owner of a  
3 cemetery for which no owner can be found and will authorize the  
4 limited owner to: (1) file complaints, including but not limited  
5 to trespass complaints with the appropriate law enforcement  
6 authorities against persons engaged in wrongful acts at the  
7 cemetery; and (2) install security measures to deter trespassers  
8 from entering the property.

9 SECTION 2. Chapter 662, Hawaii Revised Statutes, is  
10 amended by adding a section to be appropriately designated and  
11 to read as follows:

12 **"§662D- Organizations designated as limited owner for**  
13 **purposes of perpetual care and trespass.** (a) The director of  
14 department of commerce and consumer affairs may appoint in  
15 accordance with subsection (b) an organization as the limited  
16 owner of the cemetery property for the purpose of bringing  
17 criminal, civil, or administrative complaints including trespass  
18 or other complaints to secure appropriate relief against persons  
19 engaged in wrongful acts. For the purposes of this section  
20 wrongful acts shall include but not be limited to, activities  
21 that are illegal pursuant to any federal, state, or county laws,  
22 rules, or ordinances.

.B. NO.    

1       (b) Appointments made under subsection (a) shall be done  
2 if the director makes the following determinations:

3       (1) A cemetery has been abandoned;

4       (2) A cemetery is in need of perpetual care or protection  
5 from wrongful acts; and

6       (3) No owner or operator for the cemetery can be located.

7       (c) Any organization so designated may engage in security  
8 and perpetual care activities for the cemetery including but not  
9 limited to, the installation of security measures such as  
10 fencing and lighting, the implementation of hours of operation,  
11 and any activities that a volunteer may engage under section  
12 662D-5, Hawaii Revised Statutes. Any entity designated under  
13 this section shall be entitled to the same limited liability  
14 protections as volunteers under section 662D-5, Hawaii Revised  
15 Statutes. The director may terminate the designation under this  
16 section if the director determines that the designation is no  
17 longer necessary, or at any time the director, in the director's  
18 discretion, determines that termination of the designation is  
19 appropriate.

20       SECTION 3. Statutory material to be repealed is bracketed  
21 and stricken. New statutory material is underscored.

22       SECTION 4. This Act shall take effect upon its approval.

\_\_\_\_\_.B. NO.\_\_\_\_\_

1

2

3

INTRODUCED BY: \_\_\_\_\_

BY REQUEST

\_\_\_\_\_.B. NO.\_\_\_\_\_

**Report Title:**

Sunset Memorial Park; Security; Cemetery; Limited Owner;  
Department of Commerce and Consumer Affairs

**Description:**

The Director of the Department of Commerce and Consumer Affairs may appoint an organization as the limited owner of a cemetery without an owner. Authorizes the appointed limited owner to file complaints against persons engaged in wrongful acts at the cemetery and install security measures to deter trespassers from entering the property.

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