

ACT 193

H.B. NO. 2192

A Bill for an Act Relating to Cemeteries.

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

SECTION 1. The legislature finds that Sunset Memorial Park in Pearl City, Oahu, has been neglected for years and has been the subject of numerous complaints by individuals who have family members buried there. The cemetery

has been described as having a damaged mausoleum, sinking graves, and markers that are hidden under overgrown grass and bushes. The cemetery was owned and operated by a corporation. That corporation, Hawaiian Cemetery Association, Ltd., dba Sunset Memorial Park, involuntarily dissolved in 2010. Garden Crypts, Inc., owns a small portion of the property that is the site of the mausoleum. That entity was involuntarily dissolved in 2006.

Act 193, Session Laws of Hawaii 2018 (Act 193), was enacted to limit liability for the overwhelming number of volunteers maintaining or repairing the cemetery grounds at Sunset Memorial Park. Act 193 further required the department of commerce and consumer affairs, in consultation with the department of accounting and general services, to develop short-term and long-term strategies for the upkeep, repair, and maintenance of Sunset Memorial Park. As a result of Act 193, the department of commerce and consumer affairs worked with a surveyor to map the cemetery and create a website and database to help identify graves at Sunset Memorial Park.

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

The purpose of this Act is to permit the director of commerce and consumer affairs to appoint a limited owner of a cemetery for which no owner can be found and authorize the limited owner to:

- (1) File complaints, including trespass complaints, with the appropriate law enforcement authorities against persons engaged in wrongful acts at the cemetery; and
- (2) Engage in certain security and perpetual care activities for the cemetery.

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

“§662D- Limited ownership of cemetery grounds. (a) The director of commerce and consumer affairs, in accordance with subsection (b), may appoint an organization as the limited owner of a cemetery for the purpose of bringing criminal, civil, or administrative complaints, including trespass or other complaints, to secure appropriate relief against persons engaged in wrongful acts.

(b) Appointment of limited ownership shall only be made if the director of commerce and consumer affairs determines that:

- (1) A cemetery has been abandoned;
- (2) A cemetery is in need of perpetual care or protection from wrongful acts; and
- (3) No owner or operator for the cemetery can be located.

(c) Any organization granted limited ownership pursuant to subsection (a) may engage in security and perpetual care activities for the cemetery, including but not limited to:

- (1) The installation of security measures, such as fencing and lighting;
- (2) The implementation of hours of operation;
- (3) Major repair work by contract, such as tree trimming, electrical and plumbing connectivity, and the integration of solar photovoltaic structures;
- (4) The generation and raising of long-term funds to support the cemetery; and
- (5) Any activities in which a volunteer may engage under section 662D-5.

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

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

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

(g) Appointment as a limited owner of a cemetery property under this section shall vest no property rights in or entitlements to the land or property. The limited privileges granted to a limited owner under this section shall not be construed as vested rights and may be revoked at any time at the sole discretion of the director of commerce and consumer affairs. No action, including an action seeking damages, or appeal under chapter 91 may be brought by any person against the director or department of commerce and consumer affairs or against the State relating to an organization's appointment, non-appointment, or termination of a designation as a limited owner, or an organization's actions or omissions as a limited owner.

(h) For purposes of this section, "wrongful acts" includes activities that are illegal pursuant to any federal, state, or county law, rule, or ordinance."

SECTION 3. New statutory material is underscored.¹

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

(Approved July 3, 2024.)

Note

1. Edited pursuant to HRS §23G-16.5.