

1-1 By: Eltife S.B. No. 656
 1-2 (In the Senate - Filed February 19, 2015; February 24, 2015,
 1-3 read first time and referred to Committee on Business and Commerce;
 1-4 March 23, 2015, reported favorably by the following vote: Yeas 8,
 1-5 Nays 1; March 23, 2015, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7	X			
1-8	X			
1-9	X			
1-10	X			
1-11		X		
1-12	X			
1-13	X			
1-14	X			
1-15	X			
1-16	X			

1-17 A BILL TO BE ENTITLED
 1-18 AN ACT

1-19 relating to perpetual care cemeteries.
 1-20 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
 1-21 SECTION 1. Subchapter B, Chapter 712, Health and Safety
 1-22 Code, is amended by adding Section 712.020 to read as follows:
 1-23 Sec. 712.020. CONFLICT WITH OTHER LAW. To the extent of any
 1-24 conflict between this subchapter and Subtitle B, Title 9, Property
 1-25 Code, this subchapter controls.
 1-26 SECTION 2. Section 712.021(b), Health and Safety Code, is
 1-27 amended to read as follows:
 1-28 (b) Except as provided by Section 712.0255, the [The]
 1-29 principal of the fund may not be reduced voluntarily, and it must
 1-30 remain inviolable. The trustee shall maintain the principal of the
 1-31 fund separate from all operating funds of the corporation.
 1-32 SECTION 3. Subchapter B, Chapter 712, Health and Safety
 1-33 Code, is amended by adding Section 712.0255 to read as follows:
 1-34 Sec. 712.0255. JUDICIAL MODIFICATION OR TERMINATION OF
 1-35 FUND. (a) The commissioner may petition a court to modify or
 1-36 terminate a fund under Section 112.054, Property Code. In addition
 1-37 to the grounds described by that section, the commissioner may
 1-38 petition a court under that section if the income from the fund is
 1-39 inadequate to maintain, repair, and care for the perpetual care
 1-40 cemetery and another source for providing additional contributions
 1-41 to the fund is unavailable.
 1-42 (b) If feasible, the corporation for the perpetual care
 1-43 cemetery and the trustee of the fund are necessary parties to an
 1-44 action described by this section. A court may not modify or
 1-45 terminate the fund without the consent of the commissioner.
 1-46 (c) At the request or with the consent of the commissioner,
 1-47 the court may order the distribution and transfer of all or a
 1-48 portion of the assets in the fund to a nonprofit corporation,
 1-49 municipality, county, or other appropriate person who is willing to
 1-50 accept, continue to care for, and maintain the perpetual care
 1-51 cemetery. A transfer under this subsection does not limit the
 1-52 court's ability to modify or terminate the fund under an action
 1-53 described by this section.
 1-54 SECTION 4. Section 712.0441(d), Health and Safety Code, is
 1-55 amended to read as follows:
 1-56 (d) In addition to any penalty that may be imposed under
 1-57 Subsection (a), the commissioner may bring a civil action against a
 1-58 person [corporation] to enjoin a violation described in Subsection
 1-59 (a) that has not been corrected within 30 days after the receipt by
 1-60 the person [corporation] of written notice from the commissioner of
 1-61 the violation. Any such civil action may be brought in a [the]

2-1 district court of Travis County or a [the] county in which the
2-2 [corporation's] perpetual care cemetery is operated.

2-3 SECTION 5. Section 712.0444, Health and Safety Code, is
2-4 amended by adding Subsections (a-1) and (d) and amending
2-5 Subsections (b) and (c) to read as follows:

2-6 (a-1) An emergency order must:

2-7 (1) state the grounds on which the order is granted;

2-8 (2) advise the person against whom the order is
2-9 directed that the order takes effect immediately;

2-10 (3) to the extent applicable, require the person to:

2-11 (A) immediately cease and desist from the conduct
2-12 or violation that is the basis of the order; or

2-13 (B) take the affirmative action stated in the
2-14 order as necessary to correct a condition resulting from the
2-15 conduct or violation that is the basis of the order or as otherwise
2-16 appropriate;

2-17 (4) be delivered by personal delivery or sent by
2-18 certified mail, return receipt requested, to the person at the
2-19 person's last known address; and

2-20 (5) notify the person against whom the order is
2-21 directed that the person may request a hearing on the order by
2-22 filing a written request for a hearing with the commissioner not
2-23 later than the 18th day after the date the order is delivered or
2-24 mailed, whichever is earlier.

2-25 (b) The emergency order takes effect as soon as the person
2-26 against whom the order is directed has actual or constructive
2-27 knowledge of the issuance of the order. An emergency order remains
2-28 in effect unless stayed by the commissioner.

2-29 (c) The person named in the emergency order may request in
2-30 writing, not later than the 18th day after the date the order is
2-31 delivered or mailed, whichever is earlier, a hearing to show that
2-32 the emergency order should be stayed. On receipt of the request,
2-33 the commissioner shall set a time for the hearing not later than the
2-34 21st day after the date the commissioner received the request,
2-35 unless extended at the request of the person named in the order.

2-36 (d) Unless the commissioner receives a written request for a
2-37 hearing in accordance with Subsection (c), the order is final on the
2-38 19th day after the date the order is delivered or mailed, whichever
2-39 is earlier, and may not be appealed.

2-40 SECTION 6. This Act takes effect immediately if it receives
2-41 a vote of two-thirds of all the members elected to each house, as
2-42 provided by Section 39, Article III, Texas Constitution. If this
2-43 Act does not receive the vote necessary for immediate effect, this
2-44 Act takes effect September 1, 2015.

2-45 * * * * *