

1-1 By: Campbell S.B. No. 1402
 1-2 (In the Senate - Filed March 7, 2017; March 16, 2017, read
 1-3 first time and referred to Committee on Business & Commerce;
 1-4 April 10, 2017, reported favorably by the following vote: Yeas 8,
 1-5 Nays 0; April 10, 2017, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7				
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 the regulation of cemeteries and the administration of
 1-20 perpetual care trust funds.

1-21 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-22 SECTION 1. Section 711.056(a), Health and Safety Code, is
 1-23 amended to read as follows:

1-24 (a) If after a hearing conducted as provided by Chapter
 1-25 2001, Government Code, the trier of fact finds that a violation of
 1-26 this chapter or a rule of the Finance Commission of Texas
 1-27 establishes a pattern of wilful disregard for the requirements of
 1-28 this chapter or rules of the finance commission, the trier of fact
 1-29 may [~~shall~~] recommend to the commissioner that the maximum
 1-30 administrative penalty permitted under Section 711.055 be imposed
 1-31 on the person committing the violation or that the commissioner
 1-32 cancel or not renew:

1-33 (1) the person's registration under Subchapter C-1, if
 1-34 the person is registered under that subchapter; or

1-35 (2) the person's permit under Chapter 154, Finance
 1-36 Code, if the person holds such a permit.

1-37 SECTION 2. Section 712.0034, Health and Safety Code, is
 1-38 amended by amending Subsection (b) and adding Subsection (c) to
 1-39 read as follows:

1-40 (b) To qualify for a certificate of authority under this
 1-41 chapter, an applicant must demonstrate to the satisfaction of the
 1-42 commissioner that:

1-43 (1) the applicant's business ability, experience,
 1-44 character, financial condition, and general fitness warrant the
 1-45 public's confidence;

1-46 (2) the cemetery operations manager has at least two
 1-47 years of experience in cemetery management;

1-48 (3) the issuance of the certificate of authority is in
 1-49 the public interest;

1-50 (4) the applicant, a principal of the applicant, or a
 1-51 person who controls the applicant does not owe the department a
 1-52 delinquent fee, assessment, administrative penalty, or other
 1-53 amount imposed under this chapter or a rule adopted or order issued
 1-54 under this chapter; and

1-55 (5) the applicant corporation:

1-56 (A) is in good standing and statutory compliance
 1-57 with this state;

1-58 (B) is authorized to engage in the perpetual care
 1-59 cemetery business in this state; ~~and~~

1-60 (C) does not owe any delinquent franchise or
 1-61 other taxes to this state; and

2-1 (D) wholly owns all land on which the perpetual
2-2 care cemetery will be located.

2-3 (c) For purposes of Subsection (b)(5)(D), an applicant
2-4 corporation is considered to wholly own land regardless of whether
2-5 the land is subject to a mortgage, deed of trust, or other lien.

2-6 SECTION 3. Section 712.0037, Health and Safety Code, is
2-7 amended by adding Subsections (a-1) and (a-2) to read as follows:

2-8 (a-1) Notwithstanding Subsection (a), a certificate holder
2-9 holding a certificate of authority issued before September 1, 2017,
2-10 that does not on that date satisfy the ownership requirement under
2-11 Section 712.0034(b)(5)(D) is not required to satisfy that ownership
2-12 requirement as a condition of renewal until September 1, 2022. The
2-13 commissioner may extend the period of compliance for the ownership
2-14 requirement if the certificate holder:

2-15 (1) files a written application for the extension in
2-16 the form and manner required by the department; and

2-17 (2) shows good cause for the extension.
2-18 (a-2) This subsection and Subsection (a-1) expire September
2-19 1, 2028.

2-20 SECTION 4. Section 712.021, Health and Safety Code, is
2-21 amended by amending Subsections (a) and (g) and adding Subsection
2-22 (h) to read as follows:

2-23 (a) Except as provided by Subsection (h), a [A] corporation
2-24 that operates a perpetual care cemetery in this state shall have a
2-25 fund established with a trust company or a bank with trust powers
2-26 that is located in this state. The trust company or bank may not
2-27 have more than one director who is also a director of the
2-28 corporation.

2-29 (g) In this subsection, "master trust account" means an
2-30 account containing the perpetual care trust funds of two or more
2-31 certificate holders for the purpose of collective investment and
2-32 administration. The trustors of two or more perpetual care trust
2-33 funds may establish a master ~~common~~ trust account ~~[fund]~~ in which
2-34 deposits required by this chapter are made, provided that separate
2-35 records of principal and income are maintained for each perpetual
2-36 care cemetery for the benefit of which the master ~~common~~ trust
2-37 account ~~[fund]~~ is established, and further provided that the income
2-38 attributable to each perpetual care cemetery is used only for the
2-39 perpetual care of that cemetery.

2-40 (h) A corporation may apply to the commissioner for
2-41 temporary relief and placement of a perpetual care trust fund in a
2-42 segregated interest bearing account at a Texas financial
2-43 institution, as defined by Section 201.101, Finance Code, if the
2-44 corporation:

2-45 (1) has been operating a perpetual care cemetery in
2-46 this state for at least two years; and

2-47 (2) has a perpetual care trust fund with a balance of
2-48 less than \$100,000, the income of which is insufficient to pay
2-49 trustee fees.

2-50 SECTION 5. This Act takes effect September 1, 2017.

2-51 * * * * *