

AMENDMENTS TO LB863

Introduced by General Affairs

1 1. Strike the original sections and insert the following
2 new sections:

3 Section 1. (1) A cemetery association which takes over
4 the management and operation of a cemetery pursuant to section 12
5 of this act shall, within one year after taking over, prepare a
6 map of the cemetery and make a good faith effort to identify the
7 remains buried in the cemetery according to the headstones and the
8 owner of all lots. The cemetery association shall file the map and
9 identifying information and a record of all business conducted by
10 the cemetery association in the prior calendar year with the county
11 clerk at the time it files the audit, compilation, or statement of
12 accounts under subsection (2) of this section.

13 (2) (a) On June 30 of each year, the individual trustees
14 or corporate trustee, as the case may be, of a perpetual care trust
15 fund for a cemetery association described in subsection (1) of this
16 section which has a balance of one hundred thousand dollars or more
17 on such date shall have an audit of the perpetual care trust fund
18 made by a certified public accountant. The report of such audit by
19 the auditor shall be filed within thirty days after June 30 of such
20 year with the county clerk of the county in which the cemetery is
21 located. The expense of the audit and the filing fee of the report
22 shall be paid by the cemetery association.

23 (b) On June 30 of each year, the individual trustees or

1 corporate trustee, as the case may be, of a perpetual care trust
2 fund for a cemetery association described in subsection (1) of this
3 section which has a balance of more than ten thousand dollars and
4 less than one hundred thousand dollars on such date shall have a
5 compilation of the perpetual care trust fund made by a certified
6 public accountant. The report of such compilation by the certified
7 public accountant shall be filed within thirty days after June 30
8 of such year with the county clerk of the county in which the
9 cemetery is located. The expense of the compilation and the filing
10 fee of the report shall be paid by the cemetery association.

11 (c) On June 30 of each year, the individual trustees or
12 corporate trustee, as the case may be, of a perpetual care trust
13 fund for a cemetery association described in subsection (1) of this
14 section which has a balance of ten thousand dollars or less on such
15 date shall file a statement of accounts of the perpetual care trust
16 fund within thirty days after June 30 of such year with the county
17 clerk of the county in which the cemetery is located. There shall
18 be no filing fee for filing the statement of accounts.

19 Sec. 2. Any cemetery association shall provide for at
20 least one mowing annually of the cemetery it manages, and one
21 of such mowings shall occur within two weeks prior to Memorial
22 Day. Additional mowings shall be at the discretion of the cemetery
23 association.

24 Sec. 3. Section 12-501, Reissue Revised Statutes of
25 Nebraska, is amended to read:

26 12-501 (1) For purposes of sections 12-501 to 12-530
27 and sections 1 and 2 of this act, cemetery association means an

1 association formed under such sections.

2 (2) Every cemetery, hereafter established, other
3 than those owned, operated, and maintained by the state, by
4 towns, villages, and cities, by churches, by public charitable
5 corporations, by cemetery districts, and by fraternal and
6 benevolent societies, shall be owned, conducted, and managed by
7 cemetery associations organized and incorporated as ~~hereinafter~~
8 provided in sections 12-501 to 12-530 and sections 1 and 2 of this
9 act except as specifically provided in section 12-530 and section
10 12 of this act.

11 (3) The establishment of a cemetery by any agency other
12 than those enumerated ~~herein~~ in this section shall constitute a
13 nuisance, and its operation may be enjoined at the suit of any
14 taxpayer in the state.

15 (4) It shall be lawful for any number of persons, not
16 less than five, who are residents of the county in which they
17 desire to form themselves into an association, to form themselves
18 into a cemetery association, and to elect any number of their
19 members, not less than three, to serve as trustees, and one member
20 as clerk, who shall continue in office during the pleasure of the
21 ~~society;~~ all association. All such elections shall take place at a
22 meeting of four or more members of such association by a majority
23 vote of those present. ~~A + Provided,~~ a notice for such meeting
24 shall ~~have been~~ be published in a local newspaper, or posted in
25 three places within the precinct or township in which the cemetery
26 is or will be located, at least fifteen days prior to ~~said the~~
27 meeting.

1 Sec. 4. Section 12-502, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 12-502 The clerk~~7~~, ~~hereinbefore~~ authorized to be
4 ~~appointed7~~, of the cemetery association shall ~~forthwith~~ make out
5 a true record of the proceedings of the meeting provided for by
6 section 12-501~~7~~ and certify and deliver the same to the clerk of
7 the county in which such meeting ~~shall be~~ is held, together with
8 the name by which such association shall ~~desire to~~ be known. The
9 ~~7~~ and it shall be the duty of each county clerk~~7~~ in the state~~7~~,
10 immediately upon the receipt of such certified statement, ~~to~~ shall
11 record the same in a book ~~by him~~ provided by the county clerk for
12 that purpose at the expense of the county~~7~~ and ~~the clerk~~ shall be
13 entitled to the same fees for ~~his~~ the services as ~~he~~ the county
14 clerk is entitled to demand for other similar services. After 7
15 ~~and from and after~~ the making of such record by the county clerk,
16 the said trustees, and ~~their~~ the associated members and successors,
17 shall be invested with the powers, privileges~~7~~, and immunities
18 incident to aggregate corporations. A 7 and a certified transcript
19 of the record~~7~~, ~~herein~~ authorized ~~to be~~ made by the county clerk~~7~~,
20 shall be deemed and taken in all courts and places whatsoever
21 within this state as prima facie evidence of the existence of such
22 cemetery association.

23 Sec. 5. Section 12-512.01, Reissue Revised Statutes of
24 Nebraska, is amended to read:

25 12-512.01 Every cemetery association organized after
26 ~~September 14, 1953,~~ under the provisions of Chapter 12, article
27 ~~5,~~ shall provide for and select trustees, other than officers or

1 members of the association, who shall be selected, as provided for
2 in section 12-512.03, to invest, safeguard, and look after certain
3 funds of the association, including the sums provided for by
4 section 12-512.02 and any other money acquired for the purposes of
5 such fund, in a perpetual care trust fund, the income therefrom to
6 be used for the perpetual care of the cemetery by the association.

7 Sec. 6. Section 12-512.02, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 12-512.02 The cemetery association shall place at least
10 ~~the following sums~~ one hundred dollars for each cemetery lot sold
11 into the perpetual care trust fund. ~~(1) Monument plan cemeteries,~~
12 ~~fifty cents per square foot of each cemetery lot sold;~~ ~~(2) park~~
13 ~~plan or memorial plan cemeteries,~~ ~~twenty-five cents per square foot~~
14 ~~of each cemetery lot sold;~~ and ~~(3) combined monument and park~~
15 ~~plan cemeteries,~~ ~~fifty cents per square foot of each cemetery lot~~
16 ~~sold.~~ Such funds shall be paid by the cemetery association to the
17 trustees of the perpetual care trust fund, who shall invest the
18 funds under the same conditions and restrictions as trust funds are
19 invested under ~~the provisions of section 30-3201.~~ If ~~Provided,~~
20 ~~that when~~ any lots are sold on contract, thirty percent of all
21 payments received on the contract shall be paid to the trustee or
22 trustees of the perpetual care trust fund until the entire payments
23 required by this section are made.

24 Sec. 7. Section 12-512.04, Reissue Revised Statutes of
25 Nebraska, is amended to read:

26 12-512.04 On June 30 of each year, the individual
27 trustees or corporate trustee, as the case may be, of ~~such a~~ a

1 perpetual care trust fund shall have an audit of the perpetual
2 care trust fund made by a certified public accountant except as
3 otherwise provided in section 1 of this act. The ~~and the~~ report of
4 such audit by the auditor shall be filed within thirty days after
5 June 30 of such year with the county clerk of the county in which
6 the cemetery is located. The expense of the audit and the filing
7 fee of the report shall be paid by the cemetery association.

8 Sec. 8. Section 12-512.05, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 12-512.05 Every cemetery association ~~organized after~~
11 ~~September 18, 1955, under the provisions of Chapter 12, article 5,~~
12 shall, before selling or disposing of any interment space or lots,
13 establish a minimum perpetual care and maintenance guarantee fund
14 of not less than two thousand five hundred dollars in cash to be
15 administered by the trustee or trustees of the perpetual care trust
16 fund selected as provided in section 12-512.03.

17 Sec. 9. Section 12-516, Reissue Revised Statutes of
18 Nebraska, is amended to read:

19 12-516 ~~Whenever~~ If the trustees of any cemetery
20 association ~~organized under sections 12-501 to 12-505~~ shall receive
21 the gift of any property, real or personal, in their own name, in
22 trust, for the perpetual care of said the cemetery, or anything
23 connected therewith, ~~said~~ the trustees shall, upon the enactment
24 of bylaws to that effect by the association, give a bond to ~~said~~
25 the association of at least one thousand dollars, conditioned for
26 the faithful administration of ~~said~~ the trust and care of ~~said~~
27 the funds and property. ~~Said~~ The bond shall be filed with ~~and~~

1 approved by the county clerk of the county ~~wherein said~~ in which
2 the association is located, and the clerk shall be paid the same
3 fee for approving and filing ~~said~~ the bond as ~~is now~~ fixed by law
4 for approving and filing official bonds. The cost of ~~said~~ the bond
5 shall be paid by ~~said~~ the cemetery association.

6 Sec. 10. Section 12-518, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 12-518 ~~Such~~ A cemetery association shall cause a plat
9 of ~~its~~ the cemetery grounds, and of the lots ~~by it~~ laid out in
10 the cemetery, to be made and recorded, such lots to be numbered
11 by regular consecutive numbers. It shall have power to enclose,
12 improve, and adorn the grounds and avenues, and erect buildings for
13 the use of the association, to prescribe rules for the enclosing
14 and adorning of lots, and for erecting monuments in the cemetery,
15 and to prohibit any use, division, improvement, or adornment of a
16 lot which it may deem improper. An annual exhibit shall be made of
17 the affairs of the association.

18 Sec. 11. Section 12-808, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 12-808 For purposes of sections 12-807 to 12-810 and
21 section 12 of this act, an abandoned or neglected pioneer cemetery
22 shall be defined according to the following criteria:

23 (1) Such cemetery was founded or the land upon which such
24 cemetery is situated was given, granted, donated, sold, or deeded
25 to the founders of the cemetery prior to January 1, 1900;

26 (2) Such cemetery contains the grave or graves of a
27 person or persons who were homesteaders, immigrants from a foreign

1 nation, prairie farmers, pioneers, sodbusters, first generation
2 Nebraskans, or Civil War veterans; and

3 (3) Such cemetery has been generally abandoned or
4 neglected for a period of at least five consecutive years.

5 Sec. 12. A county which is maintaining an abandoned
6 or neglected pioneer cemetery may transfer the management of the
7 cemetery to a cemetery association formed under sections 12-501 to
8 12-530 and sections 1 and 2 of this act or to a cemetery district
9 organized under sections 12-909 to 12-923 if:

10 (1) The county has been maintaining the cemetery pursuant
11 to sections 12-807 to 12-810 for at least five years;

12 (2) The planning commission appointed pursuant to section
13 23-114.01, if any, reviews the proposed transfer; and

14 (3) The county board approves the transfer of the
15 cemetery by resolution after a public hearing for which notice
16 is provided to the public.

17 Sec. 13. Section 17-934, Reissue Revised Statutes of
18 Nebraska, is amended to read:

19 17-934 In any ~~such~~ city of the second class or village
20 where in which there exists a duly perfected cemetery association,
21 formed under the provisions of sections 12-501 to 12-529, and
22 in the further event that said as defined in section 12-501,
23 if the cemetery association, formed as aforesaid, shall propose
24 proposes to the mayor and council of such city or to the ~~chairman~~
25 chairperson and board of trustees of such village by means of a
26 resolution duly enacted by such cemetery association, signed by its
27 president and attested by its secretary, signifying the willingness

1 of ~~said~~ the cemetery association to exercise control and management
2 of any cemetery belonging to such city or village, then ~~and in that~~
3 ~~event,~~ said the mayor and council, or ~~said chairman~~ chairperson
4 and board of trustees shall submit at the next regular municipal
5 election the question of the management and control over ~~said the~~
6 cemetery under the conveyance made by the proper authorities of
7 such city or village. If a majority of the votes cast at such
8 election ~~shall~~ are in favor of the transfer of the management
9 and control of the cemetery belonging to such city or village to
10 the ~~said~~ cemetery association, the management and control of such
11 cemetery shall be relinquished forthwith by the proper authorities
12 of such city or village to ~~said the~~ cemetery association. ~~Where~~
13 If the real estate of the cemetery of such city or village ~~shall~~
14 ~~have~~ has been acquired by gift or devise, the relinquishment of
15 the management and control to ~~such~~ the cemetery association shall
16 be subject to the conditions imposed by the donor; and upon
17 acceptance by the president and secretary of ~~such~~ the cemetery
18 association, ~~said the~~ conditions shall be binding upon ~~such the~~
19 cemetery association.

20 Sec. 14. Section 17-944, Reissue Revised Statutes of
21 Nebraska, is amended to read:

22 17-944 Whenever, in cities of the second class and
23 villages, one-fifth of the resident lot owners of any cemetery
24 under the control of such city or village shall so desire it, it
25 shall be lawful for such lot owners to associate themselves into
26 and form a cemetery association, ~~as provided by sections 12-501 to~~
27 ~~12-529.~~ defined in section 12-501.

1 Sec. 34. If any section in this act or any part of any
2 section is declared invalid or unconstitutional, the declaration
3 shall not affect the validity or constitutionality of the remaining
4 portions.

5 Sec. 35. Original sections 12-501, 12-502, 12-512.01,
6 12-512.02, 12-512.04, 12-512.05, 12-516, 12-518, 12-808, 17-934,
7 and 17-944, Reissue Revised Statutes of Nebraska, are repealed.

8 Sec. 37. Since an emergency exists, this act takes effect
9 when passed and approved according to law.