

Second Regular Session
Sixty-eighth General Assembly
STATE OF COLORADO

ENGROSSED

*This Version Includes All Amendments Adopted
on Second Reading in the House of Introduction*

LLS NO. 12-0524.01 Jery Payne x2157

HOUSE BILL 12-1068

HOUSE SPONSORSHIP

McKinley,

SENATE SPONSORSHIP

(None),

House Committees
Local Government

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE ADMINISTRATION OF A NONPROFIT CEMETERY**
102 **CORPORATION BY PERSONS WHO OWN THE RIGHT TO BURY A**
103 **DECEASED PERSON WITHIN THE CEMETERY.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

The bill requires the board of directors of a nonprofit cemetery to include at least one owner of a lot, grave space, niche, or crypt. The bill also gives owners and designees the right to inspect the cemetery's financial records and attend board meetings. If the right to inspection is

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

HOUSE
Amended 2nd Reading
February 13, 2012

denied, an owner may obtain a court order requiring disclosure and may be awarded reasonable attorney fees.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, 7-47-101, **add** (1.5)
3 as follows:

4 **7-47-101. Who may organize - powers.** (1.5) A BOARD OF
5 DIRECTORS FOR A NONPROFIT CEMETERY CORPORATION SHALL INCLUDE AT
6 LEAST ONE DIRECTOR WHO OWNS A LOT, GRAVE SPACE, NICHE, OR CRYPT.

7 **SECTION 2.** In Colorado Revised Statutes, **amend** 7-47-105 as
8 follows:

9 **7-47-105. Rights of lot owners.** (1) If the grounds purchased or
10 otherwise acquired for cemetery purposes have been previously used as
11 a burial ground, those who are lot owners at the time of the purchase ~~shall~~
12 continue to own the ~~same~~ LOTS and ~~shall be~~ ARE members of the
13 corporation.

14 (2) A NONPROFIT CEMETERY CORPORATION SHALL MAKE **BYLAWS,**
15 **FINANCIAL RECORDS,** AND BOARD-MEETING RECORDS OPEN FOR
16 INSPECTION TO ANY OWNER OF A LOT, GRAVE SPACE, NICHE, OR CRYPT
17 WITHIN THE CEMETERY OR TO THE OWNER'S DESIGNEE.

18 (3) THE OWNER OF A LOT, GRAVE SPACE, NICHE, OR CRYPT WITHIN
19 A NONPROFIT CEMETERY CORPORATION MAY ATTEND, OR MAY DESIGNATE
20 A PERSON TO ATTEND ON HIS OR HER BEHALF, ANY MEETING OF THE
21 CORPORATION'S BOARD OF DIRECTORS.

22 (4) THE OWNER, INCLUDING ANY PERSON WITH AN OWNERSHIP
23 INTEREST, OF A LOT, GRAVE SPACE, NICHE, OR CRYPT WITHIN A NONPROFIT
24 CEMETERY CORPORATION, OR THE OWNER'S DESIGNEE, MAY ENFORCE
25 SUBSECTIONS (2) AND (3) OF THIS SECTION THROUGH A CIVIL ACTION

1 SEEKING INJUNCTIVE RELIEF, DAMAGES, OR BOTH. ■ ■

2 **SECTION 3.** In Colorado Revised Statutes, **add 7-47-110** as
3 follows:

4 **7-47-110. Enforcement - attorney general.** IF A PERSON
5 PROVIDES INFORMATION THAT A CEMETERY CORPORATION MAY NOT BE
6 FULFILLING THE DUTIES REQUIRED BY THIS ARTICLE, THE ATTORNEY
7 GENERAL SHALL HOLD A HEARING AFTER SIXTY DAYS' NOTICE TO THE
8 CEMETERY AND THE PERSON PROVIDING THE INFORMATION. IF THE
9 ATTORNEY GENERAL FINDS PROBABLE CAUSE TO BELIEVE THAT A
10 CEMETERY CORPORATION HAS NOT FULFILLED ITS OBLIGATIONS UNDER
11 THIS ARTICLE, THE ATTORNEY GENERAL SHALL ENFORCE THIS ARTICLE IN
12 DISTRICT COURT TO REQUIRE CORRECTIVE ACTION. IF THE COURT FINDS
13 THAT A CEMETERY CORPORATION HAS FAILED TO FULFILL THE DUTIES
14 REQUIRED BY THIS ARTICLE, THE COURT SHALL REQUIRE THE CORPORATION
15 TO PAY THE ATTORNEY GENERAL REASONABLE ATTORNEY FEES. THE
16 ATTORNEY GENERAL RETAINS OVERSIGHT OF THE CORRECTIVE ACTION FOR
17 AS LONG AS NECESSARY TO ENSURE COMPLIANCE.

18 **SECTION 4. Act subject to petition - effective date.** This act
19 takes effect at 12:01 a.m. on the day following the expiration of the
20 ninety-day period after final adjournment of the general assembly (August
21 7, 2012, if adjournment sine die is on May 9, 2012); except that, if a
22 referendum petition is filed pursuant to section 1 (3) of article V of the
23 state constitution against this act or an item, section, or part of this act
24 within such period, then the act, item, section, or part will not take effect
25 unless approved by the people at the general election to be held in
26 November 2012 and, in such case, will take effect on the date of the
27 official declaration of the vote thereon by the governor.