

Second Regular Session
Sixty-eighth General Assembly
STATE OF COLORADO

REVISED

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

LLS NO. 12-0524.01 Jery Payne x4217

HOUSE BILL 12-1068

HOUSE SPONSORSHIP

McKinley,

SENATE SPONSORSHIP

Grantham,

House Committees

Local Government
Appropriations

Senate Committees

Local Government

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.

SENATE
Am ended 2nd Reading
April 30, 2012

HOUSE
3rd Reading Unamended
March 27, 2012

HOUSE
Am ended 2nd Reading
March 23, 2012

HOUSE
Am ended 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) 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 **IF SUCH AN OWNER CANNOT BE FOUND TO SERVE AS A DIRECTOR, THE**
8 **BOARD OF DIRECTORS SHALL MAINTAIN A VACANCY UNTIL THE DIRECTOR**
9 **POSITION CAN BE FILLED WITH SUCH AN OWNER. A NONPROFIT CEMETERY**
10 **CORPORATION MAY WAIT UNTIL THE FIRST VACANCY ON THE BOARD OF**
11 **DIRECTORS OCCURS AFTER JANUARY 1, 2013, BEFORE APPOINTING A**
12 **DIRECTOR WHO OWNS A LOT, GRAVE SPACE, NICHE, OR CRYPT.**

13 **(b) THIS SUBSECTION (1.5) APPLIES ONLY TO CEMETERIES AS**
14 **DEFINED IN SECTION 12-12-101 (1.5), C.R.S.**

15 **SECTION 2. In Colorado Revised Statutes, add 7-47-104.5 as**
16 **follows:**

17 **7-47-104.5. Reports. (1) EACH NONPROFIT CEMETERY**
18 **CORPORATION SHALL KEEP IN ITS PRINCIPAL OFFICE AND, UPON**
19 **REASONABLE REQUEST, SHALL MAKE AVAILABLE FOR INSPECTION AND**
20 **STUDY TO THE OWNER OF ANY GRAVE SPACE, NICHE, OR CRYPT, OR TO A**
21 **DULY AUTHORIZED REPRESENTATIVE OF THE OWNER THE FOLLOWING:**

22 **(a) AN ANNUAL WRITTEN REPORT SETTING FORTH THE NUMBER OF**
23 **INTERMENTS AND ENTOMBMENTS MAINTAINED BY THE NONPROFIT**
24 **CEMETERY CORPORATION, THE NUMBER OF INTERMENTS AND**
25 **ENTOMBMENTS FOR THE PRECEDING YEAR, AND ANY OTHER FACTS**

1 NECESSARY TO SHOW THE ACTUAL FINANCIAL CONDITION OF THE
2 NONPROFIT CEMETERY CORPORATION;

3 (b) A COMPLETE AND CURRENT COPY OF ANY BYLAWS OR ARTICLES
4 OF INCORPORATION ADOPTED BY THE BOARD OF DIRECTORS;

5 (c) A COPY OF THE MINUTES OF EACH MEETING OF THE BOARD OF
6 DIRECTORS FOR THE LAST THREE YEARS;

7 (d) A COPY OF EACH PERIODIC REPORT FILED DURING THE LAST
8 THREE YEARS WITH THE COLORADO SECRETARY OF STATE IN ACCORDANCE
9 WITH SECTION 7-90-501;

10 (e) A COPY OF INTERNAL REVENUE SERVICE FORM 990 REPORTS, OR
11 ANY SUCCESSOR FORM OR REPORT, FOR THE LAST THREE YEARS; AND

12 (f) A COPY OF THE CORPORATION'S CURRENT BALANCE SHEET,
13 INCOME STATEMENT, AND CASH-FLOW STATEMENT.

14 (2) TO COMPLY WITH THIS SECTION, THE REPORT MUST BE
15 ATTESTED TO BY THE ACCOUNTANT, AUDITOR, OR OTHER PERSON
16 PREPARING THE REPORT AND VERIFIED BY A VOTE OF THE BOARD OF
17 DIRECTORS.

18 (3) UPON WRITTEN REQUEST FOR A SPECIFIC LIST OF DOCUMENTS,
19 THE NONPROFIT CEMETERY SHALL PROVIDE TO ANY OWNER OF A LOT,
20 GRAVE SPACE, NICHE, OR CRYPT ELECTRONIC OR PHYSICAL COPIES OF ANY
21 REPORTS REQUIRED BY THIS SECTION. THE NONPROFIT CEMETERY SHALL
22 FULFILL THE REQUEST WITHIN SEVEN DAYS AFTER RECEIPT OF THE
23 REQUEST AND PAYMENT OF A COPYING CHARGE, IF PAPER COPIES ARE
24 REQUIRED OR REQUESTED, NOT TO EXCEED TWENTY-FIVE CENTS PER
25 PHYSICAL COPIED PAGE. THE NONPROFIT CEMETERY SHALL NOT CHARGE
26 FOR ELECTRONIC COPIES.

27 **SECTION 3. In Colorado Revised Statutes, amend 7-47-105 as**

1 follows:

2 **7-47-105. Rights of lot owners.** (1) If the grounds purchased or
3 otherwise acquired for cemetery purposes have been previously used as
4 a burial ground, those who are lot owners at the time of the purchase shall
5 continue to own the same LOTS and shall be ARE members of the
6 corporation.

7 (2) AN OWNER OF A LOT, GRAVE SPACE, NICHE, OR CRYPT MAY
8 ATTEND ANY MEETING OF THE BOARD OF DIRECTORS. THE BOARD OF
9 DIRECTORS SHALL PROVIDE REASONABLE NOTICE OF ANY BOARD MEETING
10 TO OWNERS OF A LOT, GRAVE SPACE, NICHE, OR CRYPT, WHO MAY NOT
11 PARTICIPATE IN MEETINGS OF THE BOARD OF DIRECTORS WITHOUT
12 PERMISSION OF THE CHAIRPERSON.

13 **SECTION 4. Act subject to petition - effective date.** This act
14 takes effect at 12:01 a.m. on the day following the expiration of the
15 ninety-day period after final adjournment of the general assembly (August
16 7, 2012, if adjournment sine die is on May 9, 2012); except that, if a
17 referendum petition is filed pursuant to section 1 (3) of article V of the
18 state constitution against this act or an item, section, or part of this act
19 within such period, then the act, item, section, or part will not take effect
20 unless approved by the people at the general election to be held in
21 November 2012 and, in such case, will take effect on the date of the
22 official declaration of the vote thereon by the governor.