

2016 Regular Session

HOUSE BILL NO. 292

BY REPRESENTATIVE HALL

1 AN ACT

2 To enact Chapter 6-A of Title 8 of the Louisiana Revised Statutes of 1950, to be comprised
3 of R.S. 8:411 through 418, relative to abandoned cemeteries; to provide for
4 definitions; to provide for an abandoned cemetery sales and management license
5 application procedure; to provide for fees; to authorize licensees; to regulate the
6 operation of abandoned cemeteries; to enumerate certain powers of the Louisiana
7 Cemetery Board; to regulate the use of prison labor; to provide for limited liability;
8 to provide for inadvertent discovery of unknown graves; to provide for effectiveness;
9 and to provide for related matters.

10 Be it enacted by the Legislature of Louisiana:

11 Section 1. Chapter 6-A of Title 8 of the Louisiana Revised Statutes of 1950,
12 comprised of R.S. 8:411 through 418, is hereby enacted to read as follows:

13 CHAPTER 6-A. ABANDONED CEMETERIES

14 §411. Definitions

15 As used in this Chapter, the following terms have the meanings hereinafter
16 ascribed to them:

17 (1) "Abandoned cemetery" means any cemetery for which the board, in its
18 discretion and after having been provided with the requisite title information
19 establishing the title owner of the property, determines it is impossible or impractical
20 to locate the current owner based upon its findings, including but not limited to a
21 presentation of title history by the applicant for an abandoned cemetery sales and
22 management license.

23 (2) "Abandoned cemetery sales and management license" means any license
24 issued by the board pursuant to the provisions of this Chapter.

1 (3) "Board" means the Louisiana Cemetery Board.

2 (4) "Division" means the division of archaeology of the office of cultural
 3 development within the Department of Culture, Recreation and Tourism.

4 (5) "Licensee" means any person who has been issued an abandoned
 5 cemetery sales and management license by the board.

6 §412. Application for license; qualifications; fees

7 A. The board may charge an application fee for an abandoned cemetery sales
 8 and management license in the amount of two hundred fifty dollars and an annual
 9 license renewal fee in the amount of two hundred fifty dollars.

10 B. An abandoned cemetery sales and management license shall be issued
 11 only to a nonprofit juridical person, and the officers and directors of such entities
 12 shall serve voluntarily and without compensation for their services.

13 (1) Any excess funds realized by a licensee shall be deposited into a trust
 14 account, and the funds of the account may be used only for the maintenance and
 15 upkeep of the cemetery and the cemetery records.

16 (2) Nothing herein shall restrict a licensee from paying necessary expenses
 17 and maintenance costs to contractors.

18 C. Nonprofit juridical persons whose officers, directors, or members have
 19 ancestors within an abandoned cemetery and who meet the qualifications to obtain
 20 a cemetery management organization or cemetery sales organization license pursuant
 21 to R.S. 8:402 may apply to the board, pursuant to this Chapter, for an abandoned
 22 cemetery sales and management license.

23 D.(1) Prior to the issuance of any license issued pursuant to this Chapter, the
 24 board shall consult with the division regarding the reasonableness of the operation
 25 of any abandoned cemetery.

26 (2) The division may impose reasonable conditions and limitations on any
 27 license issued by the board relative to a particular abandoned cemetery.

28 (3) The division shall have a cause of action for specific performance against
 29 any licensee who violates the provisions of this Subsection.

1 §413. Licensee authority; restrictions

2 A. A licensee shall have exclusive authority to operate the cemetery,
 3 regardless of any other person who subsequently applies for licensure to operate the
 4 same cemetery, for as long as his abandoned cemetery sales and management license
 5 is valid.

6 B. A licensee may do any of the following relative to the cemetery subject
 7 to the license:

8 (1) Sell grave spaces, openings, and closings in the cemetery.

9 (2) Make and enforce written rules and regulations for the operation and
 10 maintenance of the cemetery.

11 C.(1) A licensee is expressly prohibited from selling merchandise in any
 12 manner that would either require monies to be deposited into a trust fund as required
 13 by the provisions of Chapter 8 of this Title or otherwise necessitate adherence to any
 14 provision of Chapter 8 of this Title.

15 (2) Any merchandise or service sold by a licensee shall be delivered or
 16 performed within one hundred twenty days of entering into the applicable contract
 17 with the consumer.

18 D.(1) The licensee is prohibited from destroying or removing any original
 19 grave markers from the premises of the cemetery without obtaining the permission
 20 required by R.S. 8:659.

21 (2) Nothing in this Subsection shall prohibit the licensee from removing
 22 trash or other common waste or debris from the cemetery premises.

23 §414. Additional powers of the board

24 The board may do any of the following:

25 (1) Refuse issuance of an abandoned cemetery sales and management license
 26 if the board finds that ownership of the abandoned cemetery is in dispute.

27 (2) Revoke or suspend an abandoned cemetery sales and management
 28 license if the board finds:

29 (a) The existence of credible evidence of an ownership dispute for the
 30 cemetery subject to the license.

1 **(b) The violation by a licensee of any provision of this Title or any**
 2 **applicable rule or regulation promulgated by the board.**

3 **(3) Summarily suspend an abandoned cemetery sales and management**
 4 **license, pursuant to R.S. 49:961, when the board finds that public health, safety, or**
 5 **welfare imperatively requires emergency action.**

6 **(4) Impose upon a licensee certain retroactive recordkeeping or record**
 7 **creation requirements, including but not limited to the creation of known interment**
 8 **logs, plats, and maps, and any other documentation reasonably necessary for the**
 9 **cemetery subject to the license to be operated in compliance with the provisions of**
 10 **this Title.**

11 **§415. Labor by prisoners permitted**

12 **A. For the purpose of abating any public health or safety risks, the state or**
 13 **any local political subdivision may, after consultation with the division, use prison**
 14 **labor, subject to the provisions of R.S. 15:708, to clean and maintain abandoned**
 15 **cemeteries.**

16 **B.(1) The state or any local political subdivision shall obtain the consent of**
 17 **a licensee prior to using prison labor to perform any work on a cemetery that is**
 18 **subject to an abandoned cemetery sales and management license.**

19 **(2) In the event that a licensee consents to the use of prison labor on the**
 20 **abandoned cemetery subject to his license, the licensee shall reimburse the**
 21 **appropriate prison any cost incurred by use of the prison labor.**

22 **C. The cost of any use of prison labor on an abandoned cemetery shall be**
 23 **reimbursed to the appropriate prison by the requesting governmental entity except**
 24 **as provided for in Paragraph (B)(2) of this Section.**

25 **§416. Liability**

26 **A. A licensee shall adhere to all provisions of this Title that would otherwise**
 27 **be applicable to an actual owner of the cemetery.**

28 **B.(1) Any liability that results from the unlawful act or inadequate**
 29 **management of a prior owner or operator of a cemetery shall be strictly limited to the**
 30 **prior owner or operator.**

1 (2) No cause or right of action shall be enforceable against a licensee for any
2 unlawful action or inadequate management of a prior owner or operator of the
3 cemetery.

4 C. Nothing in this Section is intended to relieve a licensee from his own
5 independent liability.

6 §417. Inadvertent discovery

7 In the event of an inadvertent discovery of an unknown or unmarked grave
8 by a licensee, the licensee shall document the existence of the grave and close the
9 grave, but he shall neither disturb any human remains therein nor reuse the grave
10 without the authority of those individuals identified in R.S. 8:659.

11 §418. Scope

12 No provision within this Chapter shall supersede any other provisions of this
13 Title to the contrary.

14 Section 2. This Act shall become effective on January 1, 2017.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____