

2016 Regular Session

HOUSE BILL NO. 856

BY REPRESENTATIVE HUVAL

1 AN ACT

2 To enact R.S. 9:2800.23, relative to the granting of a voluntary right of passage to certain  
3 enclosed cemeteries; to provide a limitation of liability for granting a voluntary right  
4 of passage; to provide for exceptions; to provide for revocability; to provide  
5 definitions; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 9:2800.23 is hereby enacted to read as follows:

8 §2800.23. Limitation of liability for granting voluntary right of passage to enclosed  
9 cemetery

10 A. The owner of property adjoining an enclosed cemetery who grants a  
11 voluntary right of passage to persons who desire to have access to the enclosed  
12 cemetery shall not be liable for any injury, death, loss, or damages to persons using  
13 the voluntary right of passage to access the enclosed cemetery.

14 B. The owner of the property granting the voluntary right of passage owes  
15 no duty of care to keep such property safe for entry or use by persons using the right  
16 of passage to access the enclosed cemetery and is not extending a duty of care or any  
17 assurance that the property is safe, or assuming responsibility for or incurring  
18 liability for any injury, death, loss, or damages to persons or property caused by any  
19 act of a person using the voluntary right of passage.

20 C. The limitation of liability provided by this Section shall not apply to  
21 intentional or grossly negligent acts by the landowner granting the voluntary right  
22 of passage.

1           D. A voluntary right of passage otherwise available by law to visitors and  
2           descendants cannot be unreasonably withheld by the owner, but may be limited to  
3           reasonable times and durations and may follow a path designated by the owner.

4           E. For purposes of this Section:

5           (1) "Adjoining property" means any property, whether contiguous to the  
6           enclosed cemetery or not, over which a voluntary right of passage to a public road  
7           may be granted.

8           (2) "Enclosed cemetery" means an historic cemetery as defined in R.S.  
9           25:933, for which a site record form has been filed with and accepted by the Division  
10           of Archaeology within the Department of Culture, Recreation and Tourism, and to  
11           which there is no access to a public road other than across adjoining property.

12           (3) "Voluntary right of passage" means a passage of ingress and egress to an  
13           enclosed cemetery from a public road which passage is suitable for the kind of  
14           traffic, whether pedestrian or vehicular, that is reasonably necessary for access for  
15           personal, historic, or other non-commercial purposes. The voluntary right of passage  
16           does not include any passage granted in return for payment of any form of  
17           consideration to the adjoining landowner.

18           F. The provisions of this Section shall apply only to an enclosed cemetery  
19           located within a parish having a population of more than fifty thousand and less than  
20           fifty-two thousand two hundred according to the latest federal decennial census.

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

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PRESIDENT OF THE SENATE

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GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_