

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 118

BY BUSINESS COMMITTEE

AN ACT

RELATING TO CEMETERIES; AMENDING SECTION 27-412, IDAHO CODE, TO GRANT THE DIRECTOR OF THE DEPARTMENT OF FINANCE TEMPORARY AUTHORITY REGARDING ADMINISTRATION OF THE CEMETERY ENDOWMENT CARE FUND, TO PROVIDE PROCEDURES, TO PROVIDE FOR VIOLATIONS AND TO MAKE TECHNICAL CORRECTIONS.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 27-412, Idaho Code, be, and the same is hereby amended to read as follows:

27-412. SUITS TO ENFORCE STATUTE. (1) Should the cemetery authority fail to remit to the trustee or trustees, in accordance with the law, the funds herein provided for endowment care, or fail to expend all such funds and ~~reasonable~~ reasonably care for and maintain any portion of a cemetery entitled to endowment care, or should the trustee or trustees fail to perform the trust obligations in accordance with the law, any three (3) separate lot owners whose lots or other burial spaces are entitled to endowment care, or the next of kin, heirs at law or personal representatives of such lot owners, shall have the right, or the prosecuting attorney of any county where such lots are situated, shall have the power, by suit for injunction or for appointment of a receiver, to sue for, to take charge of, and to expend such net income for the purposes set out in sections 27-407 and 27-408, Idaho Code. Such suit may be filed in the district court of the county in which said cemetery is located.

(2) Whenever it appears to the administrator that any cemetery authority or trustee has engaged or is about to engage in any act or practice constituting a violation of any provisions of this act or any rule or order hereunder or when an endowment care cemetery fails after thirty (30) days' notice of delinquency to make any report to the administrator required by section 27-411, Idaho Code, the administrator shall give notice of the foregoing to the trustee or trustees of the cemetery endowment care fund, the cemetery authority and the attorney general of Idaho. It shall be the duty of the attorney general within ninety (90) days after the receipt of such notice to institute suit in the district court of any county of this state in which such cemetery is located, for an injunction against further sales of graves, plots, crypts, niches, burial vaults, markers or other cemetery merchandise by such cemetery or for the appointment of a receiver to take charge of the cemetery or trust fund, unless he shall prior to that time be notified by the administrator that such failure to conform to the requirements of the law or to report has been corrected.

(3) In addition to the administrator's notice to the trustee or trustees of the cemetery endowment care fund, the cemetery authority and the attorney general of the state of Idaho, the administrator may order the trustee or the cemetery authority, or both, to freeze the endowment care

1 funds and to not expend or transfer them for any purpose other than directly
2 for the reasonable care and maintenance of the cemetery. This order must be
3 issued within thirty (30) days of the notice and will expire after ninety
4 (90) days or when the attorney general files suit, whichever is earlier.
5 Failure to comply with the order shall be a violation of this act.