

SUBJECT: Revising sale procedures for abandoned burial plots in private cemeteries

COMMITTEE: Business and Industry — committee substitute recommended

VOTE: 9 ayes — Brimer, Dukes, Corte, George, Giddings, Ritter, Siebert, Solomons, Woolley
0 nays

WITNESSES: For — B.F. Hank Carroll, Texas Cemeteries Association
Against — None

BACKGROUND: Section 714 of the Health and Safety Code provides regulations for nonprofit, private cemetery organizations attempting to locate owners of abandoned burial plots. A burial plot is presumed to be abandoned when its owner or the owner's successors have not paid for or maintained the plot for 10 years. The cemetery organization can petition a court for an order declaring the lot abandoned if the organization has not been unable locate the person responsible for the plot. Upon receiving a court order declaring the property abandoned, the title for ownership is transferred to the governing board of the cemetery. When a cemetery organization sells a reclaimed plot, it is required to place the proceeds from the sale into an account maintained solely for perpetual upkeep of the cemetery.

DIGEST: CSHB 3694 would specify that sale of an abandoned, unused burial plot in a private cemetery could take place, with court approval, after the cemetery organization had attempted and failed to find the owner or the owner's known successor. The organization would be required to deposit the balance of the funds from the sale of the plot, minus reasonable expenses related to reacquisition, restoration, court costs, legal fees, or sale of the plot, into an account maintained for the care, rather than the perpetual care, of the cemetery.

The bill would specify that a nonprofit cemetery organization means an organization under Internal Revenue Code of 1986, section 501(c) (13), rather than 501 (c) (3). It also would change all references in the law from "lot" to

“plot” and define a plot as a grave space in a cemetery that has not been used to inter human remains.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house.

**SUPPORTERS
SAY:**

CSHB 3694 would clarify the law governing abandoned burial plots. The law would specify that the cemetery must attempt to locate “known” successors before reclaiming a plot presumed abandoned. Currently, the law states that the cemetery must attempt to locate any successor, which can require costly and complicated genealogical research.

Nonprofit cemeteries benefit from the resale of abandoned plots because proceeds go toward upkeep of the cemetery. Many older cemeteries desperately need the space, but cannot claim abandoned plots because the cost to search for all possible successors is prohibitive.

**OPPONENTS
SAY:**

No apparent opposition.

NOTES:

The original bill would have specified that a cemetery would have to petition a court of competent jurisdiction in order to receive an order claiming abandonment and require advertising in a local newspaper to attempt to locate successors.