

## LEGISLATIVE BILL 312

Approved by the Governor April 23, 2021

Introduced by Sanders, 45; Aguilar, 35; Albrecht, 17; Blood, 3; Clements, 2; Slama, 1.

A BILL FOR AN ACT relating to cemeteries; to amend sections 12-501 and 12-502, Revised Statutes Cumulative Supplement, 2020; to change cemetery association membership eligibility and record-keeping requirements; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 12-501, Revised Statutes Cumulative Supplement, 2020, is amended to read:

12-501 (1) For purposes of sections 12-501 to 12-532, cemetery association means an association formed under such sections.

(2) Every cemetery, other than those owned, operated, and maintained by the state, by towns, villages, and cities, by churches, by public charitable corporations, by cemetery districts, and by fraternal and benevolent societies, shall be owned, conducted, and managed by cemetery associations organized and incorporated as provided in sections 12-501 to 12-532 except as specifically provided in sections 12-530 and 12-812.

(3) The establishment of a cemetery by any agency other than those enumerated in this section shall constitute a nuisance, and its operation may be enjoined at the suit of any taxpayer in the state.

(4) Any number of the following individuals, not less than five, may form and organize a cemetery association: (a) A resident of the county in which the cemetery association is to be formed, (b) an owner of a lot within the cemetery for which the cemetery association is formed, and (c) any family member, including, but not limited to, a parent, spouse, sibling, child, or grandchild, of an individual buried in such cemetery. Cemetery association members shall elect at least three members to serve as trustees and one member to serve as clerk, who shall continue to serve in office at the pleasure of the association. It shall be lawful for any number of persons, not less than five, who are residents of the county in which they desire to form themselves into an association, to form themselves into a cemetery association and to elect any number of their members, not less than three, to serve as trustees, and one member as clerk, who shall continue in office during the pleasure of the association. All such elections shall take place at a meeting of four or more members of such association by a majority vote of those present. A notice for such meeting shall be published in a local newspaper, or posted in three places within the precinct or township in which the cemetery is or will be located, at least fifteen days prior to the meeting.

Sec. 2. Section 12-502, Revised Statutes Cumulative Supplement, 2020, is amended to read:

12-502 The clerk of the cemetery association shall make out a true record of the proceedings of the meeting provided for by section 12-501 and certify and deliver the same to the clerk of the county in which the cemetery is located such meeting is held, together with the name by which such association shall be known. The county clerk, immediately upon the receipt of such certified statement, shall record the same in a book provided by the county clerk for that purpose at the expense of the county and shall be entitled to the same fees for the services as the county clerk is entitled to demand for other similar services. After the making of such record by the county clerk, the trustees and the associated members and successors shall be invested with the powers, privileges, and immunities incident to aggregate corporations. A certified transcript of the record made by the county clerk shall be deemed and taken in all courts and places whatsoever within this state as prima facie evidence of the existence of such cemetery association.

Sec. 3. Original sections 12-501 and 12-502, Revised Statutes Cumulative Supplement, 2020, are repealed.