

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 118, As Amended in the Senate

BY BUSINESS COMMITTEE

AN ACT

1 RELATING TO CEMETERIES; AMENDING SECTION 27-412, IDAHO CODE, TO GRANT THE  
2 DIRECTOR OF THE DEPARTMENT OF FINANCE TEMPORARY AUTHORITY REGARDING  
3 ADMINISTRATION OF THE CEMETERY ENDOWMENT CARE FUND, TO PROVIDE PROCE-  
4 DURES, TO PROVIDE FOR VIOLATIONS AND TO MAKE TECHNICAL CORRECTIONS.  
5

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

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

9 27-412. SUITS TO ENFORCE STATUTE. (1) Should the cemetery authority  
10 fail to remit to the trustee or trustees, in accordance with the law, the  
11 funds herein provided for endowment care, or fail to expend all such funds  
12 and ~~reasonable~~ reasonably care for and maintain any portion of a cemetery en-  
13 titled to endowment care, or should the trustee or trustees fail to perform  
14 the trust obligations in accordance with the law, any three (3) separate lot  
15 owners whose lots or other burial spaces are entitled to endowment care, or  
16 the next of kin, heirs at law or personal representatives of such lot owners,  
17 shall have the right, or the prosecuting attorney of any county where such  
18 lots are situated, shall have the power, by suit for injunction or for ap-  
19 pointment of a receiver, to sue for, to take charge of, and to expend such net  
20 income for the purposes set out in sections 27-407 and 27-408, Idaho Code.  
21 Such suit may be filed in the district court of the county in which said ceme-  
22 tery is located.

23 (2) Whenever it appears to the administrator that any cemetery author-  
24 ity or trustee has engaged or is about to engage in any act or practice con-  
25 stituting a violation of any provisions of this act or any rule or order here-  
26 under or when an endowment care cemetery fails after thirty (30) days' no-  
27 tice of delinquency to make any report to the administrator required by sec-  
28 tion 27-411, Idaho Code, the administrator shall give notice of the forego-  
29 ing to the trustee or trustees of the cemetery endowment care fund, the ceme-  
30 tery authority and the attorney general of Idaho. It shall be the duty of  
31 the attorney general within ninety (90) days after the receipt of such notice  
32 to institute suit in the district court of any county of this state in which  
33 such cemetery is located, for an injunction against further sales of graves,  
34 plots, crypts, niches, burial vaults, markers or other cemetery merchandise  
35 by such cemetery or for the appointment of a receiver to take charge of the  
36 cemetery or trust fund, unless he shall prior to that time be notified by the  
37 administrator that such failure to conform to the requirements of the law or  
38 to report has been corrected.

39 (3) In addition to the administrator's notice to the trustee or  
40 trustees of the cemetery endowment care fund, the cemetery authority and  
41 the attorney general of the state of Idaho, the administrator may order the  
42 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 ninety (90) days  
4 after the order is issued or when the attorney general files suit, whichever  
5 is earlier. Failure to comply with the order shall be a violation of this  
6 act.