

1 TO THE HOUSE OF REPRESENTATIVES:

2 The Committee on General, Housing and Military Affairs to which was
3 referred House Bill No. 640 entitled “An act relating to expenses for the repair
4 of town cemeteries” respectfully reports that it has considered the same and
5 recommends that the bill be amended by striking out all after the enacting
6 clause and inserting in lieu thereof the following:

7 * * * Town Cemetery Repair Expenses * * *

8 Sec. 1. 18 V.S.A. § 5362 is amended to read:

9 § 5362. REPAIR; EXPENSE; NOTICE

10 (a) When lots or walks in a ~~public burial ground~~ town cemetery become
11 unsightly with weeds or by an unchecked growth of grass or from any other
12 cause, or when headstones or monuments have become displaced or out of
13 repair, the ~~selectmen~~ selectboard or board of cemetery commissioners shall
14 cause such lots and walks to be cleared of weeds and grass, the headstones or
15 monuments to be replaced or repaired, or other disfigurements removed, and
16 may draw orders on the town treasurer for the expenses incurred. ~~The amount~~
17 ~~drawn from the treasury of a town for such purpose in any year shall not~~
18 ~~exceed \$500.00.~~

19 (b) When a headstone or monument is to be replaced, the ~~selectmen~~
20 selectboard or board of cemetery commissioners shall notify relatives of the
21 deceased, if known, of the date of the removal and that the relative may claim

1 the removed headstone or monument within 30 days after the date of the
2 notice.

3 * * * Use of “Town Cemetery” and Miscellaneous Amendments * * *

4 Sec. 2. 18 V.S.A. § 5302 is amended to read:

5 § 5302. DEFINITIONS

6 As used in this chapter and unless otherwise required by the context:

7 (1) “Agencies” mean town cemeteries, religious or ecclesiastical society
8 cemeteries, cemetery associations, and any person, firm, corporation, or
9 unincorporated association heretofore engaged in the business of a cemetery.

10 (2) “Cemetery” means any plot of ground used, or intended to be used,
11 for the burial or disposition permanently of the remains of the human dead in a
12 grave, a mausoleum, a columbarium, a vault, or other receptacle.

13 (3) “Cemetery association” means any corporation now or hereafter
14 organized ~~which~~ that is or shall be authorized by its articles to conduct the
15 business of a cemetery.

16 * * *

17 (14) “Town cemetery” means a cemetery that is owned and operated by
18 a municipality.

1 Sec. 3. 18 V.S.A. § 5316 is amended to read:

2 § 5316. ENCUMBRANCE OF CEMETERY PROPERTY PROHIBITED

3 A ~~public~~ community mausoleum, crematorium, columbarium, the land or
4 lot or right of burial shall not be mortgaged, pledged, or in any manner
5 encumbered by the agency owning or controlling the same.

6 Sec. 4. 18 V.S.A. § 5321 is amended to read:

7 § 5321. IMPROVEMENT OF PRIVATE BURIAL GROUNDS; DUTIES OF
8 OFFICERS

9 (a) When the use and care of a private burial ground has been abandoned
10 and such ground becomes unsightly from any cause, or when headstones or
11 monuments have been displaced, the ~~selectmen~~ selectboard or board of
12 cemetery commissioners having charge of the ~~public~~ town cemeteries in the
13 town where such burial ground is located, on written request of three legally
14 qualified voters of such town, shall forthwith cause a notice to be published
15 once a week on the same day of the week for three successive weeks in some
16 newspaper circulating therein, calling upon any person interested in such burial
17 ground to cause the same to be put in proper condition within three months
18 from the date of such notice.

19 (b) At the expiration of such time, if such demand is not complied with, the
20 ~~selectmen~~ selectboard or board of cemetery commissioners shall proceed then
21 and thereafter as if such ground were a ~~public burial place~~ town cemetery.

1 Sec. 5. 18 V.S.A. § 5323 is amended to read:

2 § 5323. NATURAL BURIAL GROUNDS; EXEMPTIONS

3 (a) A natural burial ground shall not be subject to the following provisions
4 of this chapter:

5 * * *

6 (3) section 5364 of this title, to the extent that a selectboard ~~members~~ or
7 board of cemetery commissioners need not maintain or repair a fence around a
8 public town cemetery that is a natural burial ground so long as the perimeter of
9 the natural burial ground is marked in a less obtrusive manner, such as by
10 survey markers; and

11 (4) section 5371 of this title, unless the regulations governing a
12 particular natural burial ground require a marker on a person's grave, in which
13 case the ~~selectboard members~~ of the town ~~or the aldermen of a city~~ where the
14 person is buried shall cause to be erected on the person's grave a marker in
15 keeping with the regulations of that natural burial ground.

16 * * *

17 Sec. 6. 18 V.S.A. § 5361 is amended to read:

18 § 5361. APPROPRIATIONS AND REGULATIONS BY TOWNS

19 (a) A town may vote sums of money necessary for purchasing, holding, and
20 keeping in repair suitable grounds and other conveniences for burying the
21 dead.

1 (b) The ~~selectmen~~ selectboard may make necessary regulations concerning
2 ~~public burial grounds~~ town cemeteries and for fencing and keeping the same in
3 proper order.

4 Sec. 7. 18 V.S.A. § 5364 is amended to read:

5 § 5364. FENCES; PENALTY

6 When the ~~selectmen~~ selectboard or board of cemetery commissioners
7 ~~neglect~~ neglects to keep in repair the fence around a ~~public burial ground~~ town
8 cemetery, the town may be prosecuted for ~~such~~ that neglect and fined not more
9 than \$400.00. The fine shall be expended in repairing the fences around ~~such~~
10 ~~burial grounds~~ the town cemetery under the direction of a commissioner
11 appointed by the court.

12 Sec. 8. 18 V.S.A. § 5365 is amended to read:

13 § 5365. DAMAGES FOR WANT OF FENCE; LIABILITY

14 When a person or estate is damaged by cattle, horses, sheep, or swine
15 breaking into a ~~public burial ground~~ town cemetery and injuring a grave,
16 headstone, monument, shrubbery, or flowers, for want of a legal fence around
17 ~~such burial ground~~ that town cemetery, ~~such~~ that person or estate may recover
18 ~~of~~ from the town in a civil action double the amount of damages, ~~in a civil~~
19 ~~action~~.

1 Sec. 9. 18 V.S.A. § 5366 is amended to read:

2 § 5366. NOT LIABLE UNTIL NOTIFIED

3 A town shall not be charged for not keeping in repair the fence around a
4 ~~burial ground~~ town cemetery, or be liable for damage done, unless the
5 ~~selectmen~~, selectboard or board of cemetery commissioners, as the case may
6 be, had notice in writing 20 days previous that the fence was out of repair.

7 Sec. 10. 18 V.S.A. § 5367 is amended to read:

8 § 5367. DUTIES OF ~~SELECTMEN~~ SELECTBOARD

9 When a town neglects to place one or more of its ~~public burial grounds~~
10 town cemeteries under the charge of a board of cemetery commissioners, the
11 ~~selectmen~~ selectboard shall have power to sell and convey lots in ~~such burial~~
12 ~~grounds~~ those town cemeteries. ~~They~~ The selectboard shall apply the proceeds
13 of ~~such~~ those sales and accept for the town and use legacies, bequests, and gifts
14 for improving and embellishing the ~~grounds~~ town cemeteries.

15 Sec. 11. 18 V.S.A. § 5368 is amended to read:

16 § 5368. EXCEPTIONS

17 Sections 5361-5367 of this ~~title~~ subchapter shall not apply to a burial
18 ground ~~which is subject to other control than that of the selectmen or the board~~
19 ~~of cemetery commissioners~~ that is not a town cemetery.

1 Sec. 12. 18 V.S.A. § 5369 is amended to read:

2 § 5369. REMOVAL

3 When it is impracticable to preserve a ~~burial ground~~ cemetery in proper
4 condition; and the removal of the remains of the dead therein is required, the
5 ~~selectmen~~ selectboard, in ~~their~~ its discretion, may cause ~~such~~ the remains to be
6 removed and interred in a more suitable ~~public burial ground~~ town cemetery.

7 Sec. 13. 18 V.S.A. § 5373 is amended to read:

8 § 5373. BOARD OF CEMETERY COMMISSIONERS

9 When a town votes to place its ~~public burial grounds~~ town cemeteries under
10 the charge of cemetery commissioners, it shall elect separately a board of three
11 or five cemetery commissioners, ~~who~~ which shall have the care and
12 management of ~~such burial ground~~ the town cemeteries and exercise all the
13 powers, rights, and duties with respect to ~~such~~ that care and management, and
14 all town cemetery responsibility on the part of the ~~selectmen~~ selectboard shall
15 cease.

16 Sec. 14. 18 V.S.A. § 5375 is amended to read:

17 § 5375. LAYING OUT AND IMPROVING ~~GROUNDS~~ TOWN

18 CEMETERIES; BURIAL WITHOUT CHARGE

19 The board of cemetery commissioners may set apart such portion of the
20 ~~burial grounds placed under its charge~~ town cemetery as it deems proper; as a
21 place for the burial of persons without charge therefor, under such regulations

1 as it prescribes. It may lay out the remaining unoccupied portions in suitable
2 lots, with necessary paths, avenues, or other reserved places, and may plant
3 and embellish the same with trees, shrubs, and flowers.

4 Sec. 15. 18 V.S.A. § 5376 is amended to read:

5 § 5376. SALE OF LOTS; TAX EXEMPTION

6 The board, by one of the commissioners appointed by it for that purpose, in
7 the name of the town, by deed, may grant and convey lots in ~~such burial~~
8 ~~grounds~~ its town cemeteries to be used for the burial of the dead and on which
9 tombs, cenotaphs, and other monuments are to be erected. Such lots shall be
10 exempt from taxation. The deeds thereof shall be recorded in the office of the
11 town clerk of the town wherein such lots lie.

12 Sec. 16. 18 V.S.A. § 5377 is amended to read:

13 § 5377. PROCEEDS OF SALE; EXPENDITURE

14 The proceeds of ~~such~~ the sale of town cemetery lots shall be paid into the
15 town treasury, and kept separate from other funds of the town, and subject to
16 the order of the board. Such proceeds, with the income thereof, shall be
17 devoted to maintaining, improving, and embellishing ~~such burial grounds~~ the
18 town cemeteries. If the town so votes, the board may sell town cemetery lots
19 upon condition that the proceeds therefrom shall be paid into the town treasury
20 in trust, and the income thereof be expended in caring for such lots and the

1 structures thereon. The board shall fix the prices for such lots and make
2 regulations in respect to the sale and care thereof.

3 Sec. 17. 18 V.S.A. § 5378 is amended to read:

4 § 5378. BYLAWS AND REGULATIONS

5 The board may make necessary bylaws and regulations in respect to ~~such~~
6 ~~burial grounds,~~ the town cemeteries, and interment of the dead not inconsistent
7 with law, and may alter the same. Such bylaws and regulations shall be
8 recorded in the office of the town clerk. A bylaw or regulation shall not be
9 adopted to restrain a person in the free exercise of his or her religious
10 sentiments as to the burial of the dead.

11 Sec. 18. 18 V.S.A. § 5379 is amended to read:

12 § 5379. REPORT OF BOARD OF CEMETERY COMMISSIONERS

13 The board shall submit annually a written report to the town auditors as to
14 the condition and needs of the ~~burial grounds under its charge~~ town cemeteries
15 and of its doings, including a detailed statement of its receipts and expenditures
16 and of the amount and disposition of the funds in its hands or subject to its
17 control.

1 Sec. 19. 18 V.S.A. § 5381 is amended to read:

2 § 5381. TRANSFER OF CARE FROM BOARD OF CEMETERY
3 COMMISSIONERS TO ~~SELECTMEN~~ SELECTBOARD

4 By vote, a town may take its ~~burial grounds~~ town cemeteries out of the
5 charge of the board of cemetery commissioners and place the same under the
6 charge of the ~~selectmen~~ selectboard. When a town so votes, the ~~office~~ board of
7 cemetery commissioners shall terminate.

8 Sec. 20. 18 V.S.A. § 5382 is amended to read:

9 § 5382. TOWN TRUST FUNDS-; ACCEPTANCE OF PROPERTY

10 A town may take and hold in trust grants, gifts, or bequests of property and
11 apply the same, or the income thereof, for the care, improvement, or
12 embellishment of its ~~burial grounds~~ town cemeteries, or a part thereof, or for
13 the erection, preservation, or removal of a monument, fence, or other structure
14 in or around the same according to the terms of the grant, gift, or bequest.

15 Sec. 21. 18 V.S.A. § 5383 is amended to read:

16 § 5383. ACCEPTANCE OF MONEY IN TRUST

17 A town may vote to receive and hold money in trust, the income of which is
18 to be used for the care and improvement of its ~~burial grounds~~ town cemeteries,
19 or of private lots within ~~such burial grounds~~ its town cemeteries or elsewhere.

1 Sec. 22. 18 V.S.A. § 5431 is amended to read:

2 § 5431. CEMETERY ASSOCIATIONS; CORPORATIONS

3 Every cemetery established after June 1, 1933; that is not a town cemetery
4 and which is not owned and operated by a ~~town or by a~~ religious or
5 ecclesiastical society shall be established, owned, and operated by a
6 corporation as hereinafter prescribed.

7 Sec. 23. 18 V.S.A. § 5439 is amended to read:

8 § 5439. DISSOLUTION OF CEMETERY ASSOCIATIONS

9 (a) A cemetery association, ~~which~~ that is not owned and operated by a
10 church or by a religious or ecclesiastical society; may be dissolved under the
11 provisions of 11B V.S.A. chapter 14.

12 (b) Upon dissolution, all lands owned or held by it for cemetery purposes
13 and all perpetual care funds, trust funds, and all other property held or owned
14 by it, less dissolution expenses, may be transferred to the town in which the
15 lands are located, and thereafter these lands may become ~~public burial grounds~~
16 a town cemetery, and the town shall hold the perpetual care funds and trust
17 funds in trust for the care, improvement, and embellishment of the lots therein,
18 according to the terms upon which they were held by the association.

1 Sec. 24. 18 V.S.A. § 5483 is amended to read:

2 § 5483. ACQUISITION OF LAND BY TOWN

3 When it is necessary to enlarge a ~~public burial ground~~ town cemetery or to
4 establish a new one, three or more freeholders of the town may apply in
5 writing to the ~~selectmen~~ selectboard, setting forth such necessity with a
6 description of the land necessary for the purpose. The ~~selectmen~~ selectboard
7 shall thereupon proceed as in case of an application by three or more
8 freeholders to lay out a highway.

9 Sec. 25. 18 V.S.A. § 5484 is amended to read:

10 § 5484. ACQUISITION OF GRAVEL BY TOWN OR ASSOCIATION

11 (a)(1) When public necessity requires that a ~~burial ground~~ cemetery be
12 raised or portions thereof filled up with gravel or earth, and the town or
13 association owning or managing the same cannot agree with the owner of such
14 gravel or earth for its purchase, three or more owners of lots in ~~such burial~~
15 ~~ground~~ that cemetery may apply in writing to the ~~selectmen~~ selectboard,
16 setting forth such necessity.

17 (2) The ~~selectmen~~ selectboard shall thereupon proceed as in case of an
18 application to them by three or more freeholders to lay out a highway. If in
19 ~~their~~ the selectboard's opinion such necessity exists, ~~they~~ it shall authorize, in
20 writing, such town or association to take and remove such gravel or earth, use

1 the same for the purposes aforesaid, and appraise the damage to the owner
2 thereof.

3 (b) Before such town or association takes or removes gravel or earth, as
4 provided in subsection (a) of this section, it shall pay or tender to the owner the
5 amount of damages as appraised by the ~~selectmen~~ selectboard.

6 Sec. 26. 18 V.S.A. § 5485 is amended to read:

7 § 5485. APPEAL TO SUPERIOR COURT

8 When, in accordance with the provisions of this chapter, a person owning or
9 having an interest in lands taken for a ~~burial-ground cemetery~~ or gravel or earth
10 for the same is dissatisfied with such taking or with the damages awarded to
11 him or her by the ~~selectmen~~ selectboard in such proceedings, he or she may
12 petition the ~~superior court~~ Superior Court of the county in which such lands lie
13 in the same manner as in case of an appeal as to the laying out of a highway by
14 ~~selectmen~~ a selectboard, and thereupon the same proceedings shall be had on
15 such petition.

16 Sec. 27. 18 V.S.A. § 5488 is amended to read:

17 § 5488. ENLARGEMENT OF CEMETERIES BY ASSOCIATIONS-;

18 PETITION TO SUPERIOR COURT TO ACQUIRE LAND

19 When an incorporated cemetery association wishes to enlarge the limits of
20 its ~~burial-ground cemetery~~, and votes to purchase additional land for burial
21 purposes and the owner of such land refuses to convey the same to such

1 cemetery association for a reasonable compensation, the trustees or president
2 of such association, by a petition in writing, may apply to the ~~superior court~~
3 Superior Court in the county in which ~~such burial ground~~ the cemetery is
4 located for the appointment of commissioners.

5 Sec. 28. 18 V.S.A. § 5491 is amended to read:

6 § 5491. SURVEY; DAMAGES

7 When the commissioners decide that public necessity and convenience
8 require the enlargement of ~~such burial grounds,~~ the cemetery and the amount
9 needed, they shall cause the same to be surveyed; and shall ascertain what
10 damages will be sustained by the owner of ~~such~~ the land.

11 * * * Effective Date * * *

12 Sec. 29. EFFECTIVE DATE

13 This act shall take effect on passage.

14

15

16

17 (Committee vote: _____)

18

19

Representative _____

20

FOR THE COMMITTEE