

BILL ANALYSIS

Senate Research Center
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S.B. 1821
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Business & Commerce
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As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Amendments to the law regarding perpetual care cemeteries are needed to provide authority for the recovery of certain agency costs; to authorize the banking commissioner to require a certificate holder to take corrective action under the terms of a cease and desist order; and to provide for revocation of a certificate of authority in case of a violation, after due process has been followed. S.B. 1821 seeks to amend the Health and Safety Code to implement these changes.

As proposed, S.B. 1821 amends current law relating to enforcement of the regulation of perpetual care cemeteries.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 712.0034(a), Health and Safety Code, to authorize the banking commissioner of Texas (commissioner) to recover from an applicant for a certificate of authority reasonable costs the commissioner incurs in the investigation of the applicant.

SECTION 2. Amends Subchapter C, Chapter 712, Health and Safety Code, by adding Section 712.0435, as follows:

Sec. 712.0435. INVESTIGATIONS. Authorizes the commissioner to conduct an investigation to administer and enforce this chapter (Perpetual Care Cemeteries) and to recover reasonable costs incurred by the commissioner in the investigation from the subject of the investigation if the commissioner determines a violation occurred.

SECTION 3. Amends Section 712.0443, Health and Safety Code, by adding Subsection (c) to authorize a cease and desist order, if the order issued under this section names an officer, director, or employee of a perpetual care cemetery, to require the person named in the order to take corrective action to remedy the violation described by the order.

SECTION 4. Amends Subchapter C, Chapter 712, Health and Safety Code, by adding Section 712.045, as follows:

Sec. 712.045. REVOCATION OR SUSPENSION OF CERTIFICATE OF AUTHORITY. (a) Authorizes the commissioner by order to revoke or suspend a certificate of authority issued under this chapter if the commissioner determines through an investigation or other credible evidence that the certificate holder violated this chapter, a rule adopted or order issued under this chapter, or another law of this state relating to cemeteries; misrepresented or concealed a material fact in the certificate application; or obtained or attempted to obtain the certificate by misrepresentation, concealment, or fraud.

(b) Requires an order under Subsection (a) to state, with reasonable certainty, the grounds for the order and the effective date of the order, which is prohibited from being earlier than the 16th day after the date the order is mailed.

(c) Requires the commissioner to provide an order described by Subsection (a) to the person named in the order by certified mail, return receipt requested, at the person's last known address.

(d) Authorizes a person to request a hearing on an order described by Subsection (a) not later than the 15th day after the date the order is mailed. Provides that, if the person requests a hearing, the order is stayed until the hearing is resolved. Provides that a hearing is a contested case under Chapter 2001 (Administrative Procedure), Government Code.

SECTION 5. Makes application of this Act prospective.

SECTION 6. Effective date: September 1, 2019.