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House passes cemetery bill



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The owner of Westlawn Memorial Gardens Cemetery in Topeka in 2005 lost a majority of the money in the statutorily required prepaid services trust fund, and customers who had pre-bought merchandise were out for thousands. A bill the Kansas House passed on Monday aims to better equip the secretary of state's office to handle those situations.

BY [JAMES CARLSON](#)

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Some of the biggest efforts to protect Kansans against shady cemetery operation will most likely continue in to the next legislative session.

The Kansas House approved legislation Monday providing to the secretary of state's office new powers to work with deficient cemeteries but missing some of the more robust consumer protection measures originally proposed.

House Substitute for Senate Bill 75, approved 118-1, would allow cemeteries who have underfunded prepaid merchandise and permanent maintenance trust funds to enter an agreement with the secretary of state's office to correct deficiencies. The measure provides to the secretary broad powers to equitably resolve

the problems.

The bill now will go to a conference committee composed of House and Senate members, who will hammer out a compromise. But the issue has been solved, said Bill Stalter, who writes a blog about the cemetery industry and advised a state task force that had been working on proposed legislation.

"They will be back at it next year," he said.

Attempts to change laws governing the management of cemetery trust funds was prompted by high-profile problems at Kansas cemeteries in recent years. In Topeka, the owner of Westlawn Memorial Gardens Cemetery illegally took the funds out of state and invested them poorly. By the time law enforcement caught up to him, the funds were depleted.

Around 1,300 Shawnee County residents learned last year that the prepaid services they had already bought on the grounds couldn't be completely honored.

The original bills went much further in providing safeguards against cemetery malfeasance.

House Bill 2712, for instance, would have required companies to submit monthly financial reports to the secretary of state's office, far more regularly than the current annual audit.

But some told the House Local Government Committee two weeks ago the strict reporting mandate would tax cemeteries.

Mark McGilley, who directs the Kansas City market for the national company Service Corporation International, told House members on March 18 that the burden of monthly reporting "would greatly overshadow any benefit which could otherwise be obtained through the more practical option of annual reporting."

Secretary of State Chris Biggs had pushed for the option in an effort to catch malfeasance before it gets too far. He said late last week a fair compromise would be quarterly reporting.

Stalter said another hang-up with the original bill was a requirement that the trustee of the two statutorily required funds be a Kansas institution or a federally chartered institution stationed in the state. Some in the industry worried that Kansas has too few trustees able to handle the task.

Another aspect to the original proposals was a mandate that cemeteries carry insurance protecting against \$100,000 of loss if an employee were to not properly deposit money into the trust funds.

None of those provisions were approved by the House Local Government Committee, and Rep. Sean Gatewood, D-Topeka, said efforts to amend that language back into the bill on the House floor last week was unsuccessful.

"It was too big a shift in policy to be doing on the floor," he said.

Gatewood said everyone involved wants to revisit the issue next year to address some holes. Biggs agreed, saying the consumers need strong protection.

"It's one thing to be ripped off," he said. "It's another thing to be going through a death of a family member and find out that the funds aren't there to do it."

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