By: Campbell S.B. No. 1821

A BILL TO BE ENTITLED

AN ACT

relating to enforcement of the regulation of perpetual care cemeteries.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 712.0034(a), Health and Safety Code, is amended to read as follows:

(a) The commissioner may:

(1) investigate an applicant before issuing a certificate of authority; and

(2) recover from the applicant reasonable costs the commissioner incurs in the investigation.

SECTION 2. Subchapter C, Chapter 712, Health and Safety Code, is amended by adding Section 712.0435 to read as follows:

Sec. 712.0435. INVESTIGATIONS. The commissioner may:

(1) conduct an investigation to administer and enforce this chapter; and

(2) 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. Section 712.0443, Health and Safety Code, is amended by adding Subsection (c) to read as follows:

(c) If a cease and desist order issued under this section names an officer, director, or employee of a perpetual care cemetery, the order may require the person named in the order to

take corrective action to remedy the violation described by the order.

SECTION 4. Subchapter C, Chapter 712, Health and Safety Code, is amended by adding Section 712.045 to read as follows:

Sec. 712.045. REVOCATION OR SUSPENSION OF CERTIFICATE OF AUTHORITY. (a) The commissioner by order may 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:

(1) violated this chapter, a rule adopted or order issued under this chapter, or another law of this state relating to cemeteries;

(2) misrepresented or concealed a material fact in the certificate application; or

(3) obtained or attempted to obtain the certificate by misrepresentation, concealment, or fraud.

(b) An order issued under Subsection (a) must state:

(1) with reasonable certainty, the grounds for the order; and

(2) the effective date of the order, which may not be earlier than the 16th day after the date the order is mailed.

(c) The commissioner shall 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) A person may request a hearing on an order described by Subsection (a) not later than the 15th day after the date the order is mailed. If the person requests a hearing, the order is stayed

until the hearing is resolved. A hearing is a contested case under Chapter 2001, Government Code.

SECTION 5. The changes in law made by this Act apply only to a violation that occurs or an investigation conducted on or after the effective date of this Act.

SECTION 6. This Act takes effect September 1, 2019.