

*House* BILL NO. *760*

INTRODUCED BY *Elison Cox*

A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE FOR THE PROTECTION OF PERSONS DEALING WITH CEMETERY OR MAUSOLEUM-COLUMBARIUM CORPORATIONS AND TO INSURE THE PERFORMANCE OF CONTRACTUAL OBLIGATIONS BY THOSE CORPORATIONS."

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

Section 1. Bond required of cemetery and mausoleum-columbarium corporations. (1) Each association organized for any purpose for which an association may be formed under Title 9, chapter 1, or Title 9, chapters 5 through 10, and transacting business in Montana shall file a bond with the secretary of state in the amount of \$15,000 to assure the full and timely performance of its contractual obligations including but not limited to:

- (a) delivery of caskets, urns, monuments, and other merchandise;
- (b) provision of vaults or tombs;
- (c) inurnment, entombment, or interment of remains;
- (d) care, maintenance, or improvement of plots, tombs, urn gardens, or other structures or grounds used for the disposition of human remains; and

(e) the proper management and preservation of all funds entrusted to it.

(2) Any person injured or aggrieved by the failure to fulfill such obligations may bring suit on the bond in person or by his duly appointed representative.

(3) The secretary of state may charge and collect a fee of \$10 for receiving and recording the bond.

(4) If for any reason the bond is cancelled, invalidated, or diminished, all powers and privileges granted to the association as an entity by the state of Montana are suspended until the bond is fully reinstated. However, the suspension does not affect the rights of persons who deal with such association, in good faith and without notice of the suspension, during the period of suspension.

-End-

Approved by Committee  
on Business and Industry

HOUSE BILL NO. 760

INTRODUCED BY ELLISON, COX

A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE FOR THE PROTECTION OF PERSONS DEALING WITH CEMETERY OR MAUSOLEUM-COLUMBARIUM CORPORATIONS AND TO INSURE THE PERFORMANCE OF CONTRACTUAL OBLIGATIONS BY THOSE CORPORATIONS; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

Section 1. Bond SURETY BOND required of cemetery and mausoleum-columbarium corporations. (1) Each association organized for any purpose for which an association may be formed under Title 9, chapter 1, or Title 9, chapters 5 through 10, and transacting business in Montana shall file a SURETY bond with the secretary of state in the amount of \$15,000 to assure the full and timely performance of its contractual obligations including but not limited to:

(a) delivery of caskets, urns, monuments, and other merchandise;

(b) provision of vaults or tombs;

(c) inurnment, entombment, or interment of remains;

AND

~~(d) care, maintenance, or improvement of plots, tombs, urn gardens, or other structures or grounds used for the~~

~~disposition of human remains; and~~

~~(1) the proper management and preservation of all funds entrusted to it.~~

(2) Any person injured or aggrieved by the failure to fulfill such obligations may bring suit on the SURETY bond in person or by his duly appointed representative.

(3) The secretary of state may charge and collect a fee of \$10 for receiving and recording the SURETY bond.

(4) If for any reason the SURETY bond is cancelled, invalidated, or diminished, all powers and privileges granted to the association as an entity by the state of Montana are suspended until the SURETY bond is fully reinstated. However, the suspension does not affect the rights of persons who deal with such association, in good faith and without notice of the suspension, during the period of suspension.

SECTION 2. EFFECTIVE DATE. THIS ACT IS EFFECTIVE ON ITS PASSAGE AND APPROVAL.

-End-

1 HOUSE BILL NO. 760  
2 INTRODUCED BY ELLISON, COX

3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE FOR THE  
5 PROTECTION OF PERSONS DEALING WITH CEMETERY OR  
6 MAUSOLEUM-COLUMBARIUM CORPORATIONS AND TO INSURE THE  
7 PERFORMANCE OF CONTRACTUAL OBLIGATIONS BY THOSE  
8 CORPORATIONS; ~~AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.~~"

9  
10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11 Section 1. ~~Bond~~ SURETY BOND required of cemetery and  
12 mausoleum-columbarium corporations. (1) Each association  
13 organized for any purpose for which an association may be  
14 formed under Title 9, chapter 1, or Title 9, chapters 5  
15 through 10, and transacting business in Montana shall file a  
16 SURETY bond with the secretary of state in the amount of  
17 \$15,000 to assure the full and timely performance of its  
18 contractual obligations including but not limited to:

19 (a) delivery of caskets, urns, monuments, and other  
20 merchandise;

21 (b) provision of vaults or tombs;

22 (c) inurnment, entombment, or interment of remains;

23 AND

24 ~~(d) care, maintenance, or improvement of plots, tombs,  
25 urn gardens, or other structures or grounds used for the~~

1 ~~disposition of human remains; and~~

2 ~~(e) (1) the proper management and preservation of all~~  
3 ~~funds entrusted to it.~~

4 (2) Any person injured or aggrieved by the failure to  
5 fulfill such obligations may bring suit on the SURETY bond  
6 in person or by his duly appointed representative.

7 (3) The secretary of state may charge and collect a  
8 fee of \$10 for receiving and recording the SURETY bond.

9 (4) If for any reason the SURETY bond is cancelled,  
10 invalidated, or diminished, all powers and privileges  
11 granted to the association as an entity by the state of  
12 Montana are suspended until the SURETY bond is fully  
13 reinstated. However, the suspension does not affect the  
14 rights of persons who deal with such association, in good  
15 faith and without notice of the suspension, during the  
16 period of suspension.

17 SECTION 2. EFFECTIVE DATE. THIS ACT IS EFFECTIVE ON  
18 ITS PASSAGE AND APPROVAL.

-End-

March 30, 1977

SENATE  
COMMITTEE OF THE WHOLE

That House Bill 760 be amended as follows:

1. Amend title, line 8.

Following: "CORPORATIONS;"

Insert: "AMENDING SECTION 86-701, R.C.M. 1947;"

2. Amend page 1, section 1, line 11.

Following: "Section 1."

Strike: section 1 in its entirety

Insert: "Section 86-701, R.C.M. 1947, is amended to read as follows:

"86-701. Contract for prearranged funeral plan or related services--trust created. In all cases when, prior to his death, a person, or someone in his behalf, makes a contract for the final disposition of his body, under which contract, pursuant to a prearranged funeral plan, personal property will be delivered upon his death or the professional services of a funeral director, or embalmer, cemetery firm, or mausoleum-columbarium corporation will then be furnished, all money paid under such contract shall be held in trust for the purpose for which it was paid until the obligation is fulfilled according to its terms or, by mutual consent of both parties to the contract, said money is refunded to the proper party. Accruals of interest upon this money are subject to this same trust. Such a trust is not necessary for that part of the contract that involves the sale of a cemetery lot if title is passed at the time the cemetery firm receives payment for the cemetery lot."

HOUSE BILL NO. 760

INTRODUCED BY ELLISON, COX

A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE FOR THE PROTECTION OF PERSONS DEALING WITH CEMETERY OR MAUSOLEUM-COLUMBARIUM CORPORATIONS AND TO INSURE THE PERFORMANCE OF CONTRACTUAL OBLIGATIONS BY THOSE CORPORATIONS; AMENDING SECTION 86-701, R.C.M., 1947; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

Section 1 is Bond SURETY BOND required of cemetery and mausoleum-columbarium corporations. (1) Each association organized for any purpose for which an association may be formed under Title 9, chapter 1, or Title 9, chapters 5 through 10, and transacting business in Montana shall file a SURETY bond with the secretary of state in the amount of \$15,000 to assure the full and timely performance of its contractual obligations including but not limited to:

- (a) delivery of caskets, urns, monuments, and other merchandise;
(b) provision of vaults or tombs;
(c) inurnment, entombment, or interment of remains;
AND
(d) care, maintenance, or improvement of plots, tombs,

urn, gardens, or other structures or grounds used for the disposition of human remains; and

(1) the proper management and preservation of all funds entrusted to it;

(2) Any person injured or aggrieved by the failure to fulfill such obligations may bring suit on the SURETY bond in person or by his duly appointed representative;

(3) The secretary of state may charge and collect a fee of \$10 for receiving and recording the SURETY bonds;

(4) If for any reason the SURETY bond is cancelled, invalidated, or diminished, all powers and privileges granted to the association as an entity by the state of Montana are suspended until the SURETY bond is fully reinstated. However, the suspension does not affect the rights of persons who deal with such association in good faith and without notice of the suspension during the period of suspension.

SECTION 1. SECTION 86-701, R.C.M., 1947, IS AMENDED TO READ AS FOLLOWS:

"86-701. Contract for prearranged funeral plan or related services -- trust created. In all cases when, prior to his death, a person, or someone in his behalf, makes a contract for the final disposition of his body, under which contract, pursuant to a prearranged funeral plan, personal property will be delivered upon his death or the

1 professional services of a funeral director, or embalmer,  
2 ~~cemetary firm, or mausoleum-columbarium corporation~~ will  
3 then be furnished, all money paid under such contract shall  
4 be held in trust for the purpose for which it was paid until  
5 the obligation is fulfilled according to its terms or, by  
6 mutual consent of both parties to the contract, said money  
7 is refunded to the proper party. Accruals of interest upon  
8 this money are subject to this same trust. ~~Such a trust is~~  
9 ~~not necessary for that part of the contract that involves~~  
10 ~~the sale of a cemetery lot if title is passed at the time~~  
11 ~~the cemetery firm receives payment for the cemetery lot."~~

12 SECTION 2. EFFECTIVE DATE. THIS ACT IS EFFECTIVE ON  
13 ITS PASSAGE AND APPROVAL.

-End-