

HOUSE BILL REPORT

HB 2740

As Reported by House Committee On:
Commerce & Labor

Title: An act relating to private cemeteries.

Brief Description: Concerning private cemeteries.

Sponsors: Representatives Hudgins, Conway and Condotta.

Brief History:

Committee Activity:

Commerce & Labor: 1/24/08 [DP].

<p style="text-align: center;">Brief Summary of Bill</p> <ul style="list-style-type: none">• Grants Limited Liability Companies (LLCs) the authority to own and operate a cemetery in Washington.
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HOUSE COMMITTEE ON COMMERCE & LABOR

Majority Report: Do pass. Signed by 8 members: Representatives Conway, Chair; Wood, Vice Chair; Condotta, Ranking Minority Member; Chandler, Assistant Ranking Minority Member; Crouse, Green, Moeller and Williams.

Staff: Brian Considine (786-7290).

Background:

In Washington, corporations were granted the authority to own and operate cemeteries in 1943 and sections of the Cemeteries Act were rewritten in 2005. A Limited Liability Company (LLC) is a relatively new business structure and Washington did not authorize LLCs until 1994. When the law was changed in 1994, many businesses and professions were given the authority to form as a LLC. Cemeteries were not given the authority to form as an LLC.

Business Entities

Under state law, there are several different business entities that may legally exist. Three of those entities are general partnerships, corporations, and LLCs. Some factors a business may

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consider when selecting its entity's structure include: limiting liability, taxation, transferability of interests, and desired level of formality.

General Partnerships

General partnerships are business entities recognized as common law that require no formal creation, are owned and managed by the same individuals, and each owner/partner is liable for the debts of the partnership. A general partnership is not taxed as the entity; the partners are each taxed individually.

Corporations

Corporations are formed according to formal statutorily prescribed procedures. A corporation is managed by directors and officers, but is owned by shareholders who may have very little direct role in management. A corporation exists for perpetuity unless the articles of incorporation state an ending time or event. Corporations may generally own property, sign binding contracts, pay taxes in a capacity that is separate from that of its shareholders, and the corporation is treated as a taxable entity.

Other characteristics of corporations include: transferable shares (shareholders can change without affecting its status as a legal entity); limited liability (including, but not limited to, the shareholders' limited responsibility for corporate debt, insulation from judgments against the corporation, and shareholders' amnesty from criminal actions of the corporation); and formal operation requirements.

Limited Liability Companies

An LLC is formed by one or more individuals or entities through a special written agreement called a certificate of formation. The agreement details the organization of the LLC, including provisions for management, assignability of interests, and distribution of profits or losses. An LLC exists for perpetuity unless the articles of formation state an ending time or event.

Other characteristics for an LLC are: limited personal liability by the members for the LLC's debts and actions (similar to a corporation); ability for the owners to participate actively in management; no double taxation (profits are taxed personally at the member level, not the LLC level); no formal requirements concerning annual meetings and record-keeping; ability to generally own property and sign contracts; and its liability ensures members are mostly protected from acts and debts of the LLC.

Summary of Bill:

Limited Liability Companies may own and operate cemeteries in Washington.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony:

(In support) Since LLCs were not in place in Washington until 1994, there was not even an issue about corporations owning cemeteries until recently. StoneMor owns and operates three cemeteries in Washington. The standard of practice around the country is to allow LLCs to own and operate cemeteries, and this legislation would bring Washington into conformity with this standard of practice. This is viewed as a technical correction to the law and it will have no effect upon regulatory oversight by the state, and no difference in service to the public.

(Opposed) None.

Persons Testifying: Representative Hudgins, prime sponsor; and Kristen Michal, StoneMor.

Persons Signed In To Testify But Not Testifying: None.