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STATE AND LOCAL GOVERNMENT

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STATE OF MAINE
SENATE
127TH LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT " " to S.P. 307, L.D. 862, Bill, "An Act To Clarify Who May Authorize Repairs in a Burying Ground"

Amend the bill by striking out everything after the enacting clause and before the summary and inserting the following:

'Sec. 1. 13 MRSA §1371, as amended by PL 1997, c. 193, §1, is further amended to read:

§1371. Approval for repair, maintenance and removal

1. Prior authorization or approval for repair, maintenance or removal. Any person may repair, maintain or remove, subject to the restrictions of subsection 2 or 3, any tomb, monument, gravestone, marker or other structure placed or designed as a memorial to the dead, or any portion or fragment of any such memorial, or any fence, railing, curb or other enclosure for the burial of the dead, after obtaining: written approval of the owner or operator of the cemetery or burial ground, if an owner or operator exists, and one of the following, in the following order of priority.

A. The person must first seek the authorization of the owner of the burial lot or a lineal descendant of the deceased buried there, if the owner or a lineal descendant is reasonable to locate and notify;

A-1. If an owner or lineal descendant listed in paragraph A cannot reasonably be located and notified, the person shall seek the authorization of a next of kin, if reasonable to locate and notify, of the deceased buried there.

B. If none of the persons listed in paragraph A or A-1 can reasonably be located and notified, the person shall obtain the written approval of the municipality or, in the case of unorganized territory, the county in which the cemetery or burial ground is located.

2. Conditions on removal for repair, restoration or preservation. Removal of a tomb, monument, gravestone, marker or other structure placed or designed as a memorial to the dead, or a portion or fragment of a memorial, is permitted only for the purpose of

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1 preservation. A tomb, monument, gravestone, marker or other structure placed or
2 designed as a memorial to the dead, or a portion or fragment of a memorial, may not be
3 removed from the confines of the cemetery or burial ground, except that a person who has
4 obtained authorization or approval described in subsection 1, ~~paragraph A or B,~~ may
5 remove all or a portion of a memorial for a period of no longer than 6 months for the
6 purpose of repair, restoration or preservation, but only when repair, restoration or
7 preservation can not reasonably be accomplished on the site of the cemetery or burial
8 ground. Prior to removal of the memorial, a notice must be submitted to the municipality,
9 or to the county in the case of an unorganized territory, stating the location of the burial
10 ground, the identification of the memorial, the authority requesting the removal, the site
11 to which the memorial will be temporarily removed, the proposed date of removal and the
12 proposed date of replacement in the burial ground.

13 **3. Permanent removal of memorial.** If a tomb, monument, gravestone, marker or
14 other structure placed or designed as a memorial to the dead is in such poor condition that
15 it cannot be preserved in its original location, that memorial may be removed by a person
16 who has obtained authorization or approval described in subsection 1 to another location
17 accessible to the public. Prior to removal of the memorial, a notice must be submitted to
18 the municipality, or to the county in the case of a memorial in unorganized territory,
19 stating the location and identification of the memorial, the authority requesting the
20 removal and the site to which the memorial will be moved and providing documentation
21 of the reason the memorial cannot be preserved in its original location.

22 When possible, a replacement or replica of the removed memorial must be placed in the
23 original location along with information as to the location of the original memorial. If
24 such placement is not possible, a sign must be placed recording the new location of the
25 memorial.

26 All costs associated with actions taken pursuant to this section must be paid by the
27 person or entity that requests the repair, maintenance or removal of a tomb, monument,
28 gravestone, marker or other structure placed or designed as a memorial to the dead, or
29 any portion or fragment of any such memorial, or any fence, railing, curb or other
30 enclosure in the burial lot or cemetery.

31 The owner, operator or caretaker of a burial lot or a cemetery association that
32 authorizes removal of a memorial pursuant to this section is not responsible or liable for
33 the location or care of the memorial.'

34 SUMMARY

35 This amendment makes the following changes to the bill.

36 1. It establishes an order of persons from whom authorization or approval must be
37 sought prior to repairing or removing a memorial. After obtaining approval of the owner
38 or operator of the cemetery or burial ground, if one exists, a person first must seek the
39 authorization of the owner of the burial lot or a lineal descendant of the deceased buried
40 there; if unable to obtain that authorization, the person must seek the authorization of a
41 next of kin of the deceased; if unable to obtain that authorization, the person must obtain
42 the approval of the municipality or, if the memorial is in unorganized territory, the county
43 in which the cemetery or burial ground is located.

1 2. It requires that all costs associated with repair, maintenance or removal of a
2 memorial must be paid by the person or entity requesting the repair, maintenance or
3 removal.

4 3. It provides that the owner, operator or caretaker of a burial lot or a cemetery
5 association that authorizes removal of a memorial is not responsible or liable for the
6 location or care of the memorial.