

REFERENCE TITLE: private historic cemeteries; historic preservation

State of Arizona  
Senate  
Forty-eighth Legislature  
Second Regular Session  
2008

# **SB 1189**

Introduced by  
Senator Gray C

AN ACT

AMENDING TITLE 33, CHAPTER 4, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 33-425; AMENDING SECTIONS 41-511.04 AND 42-11110, ARIZONA REVISED STATUTES; RELATING TO PRIVATE HISTORIC CEMETERIES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 33, chapter 4, article 2, Arizona Revised Statutes.  
3 is amended by adding section 33-425, to read:

4 33-425. Sales of private historic cemetery property; disclosure;  
5 definition

6 A. ANY SELLER OF REAL PROPERTY IN THIS STATE SHALL DISCLOSE TO A  
7 PROSPECTIVE BUYER IF THE REAL PROPERTY CONTAINS A PRIVATE HISTORIC CEMETERY  
8 OR OTHER BURIAL GROUND FOR HUMAN REMAINS. THE SELLER SHALL MAKE THIS  
9 DISCLOSURE IN WRITING TO THE PROSPECTIVE BUYER AT LEAST TEN DAYS BEFORE THE  
10 TRANSFER OF TITLE TO THE PROPERTY AND THIS DISCLOSURE IS DEEMED A MATERIAL  
11 DISCLOSURE AS TO THE CONDITION OF THE REAL PROPERTY.

12 B. FOR THE PURPOSES OF THIS SECTION, "PRIVATE HISTORIC CEMETERY" HAS  
13 THE SAME MEANING PRESCRIBED IN SECTION 41-511.04.

14 Sec. 2. Section 41-511.04, Arizona Revised Statutes, is amended to  
15 read:

16 41-511.04. Duties; board; partnership fund; state historic  
17 preservation officer; definition

18 A. The board shall:

19 1. Select areas of scenic beauty, natural features and historical  
20 properties now owned by the state, except properties in the care and custody  
21 of other agencies by virtue of agreement with the state or as established by  
22 law, for management, operation and further development as state parks and  
23 historical monuments.

24 2. Manage, develop and operate state parks, monuments or trails  
25 established or acquired pursuant to law, or previously granted to the state  
26 for park or recreation purposes, except those falling under the jurisdiction  
27 of other state agencies as established by law.

28 3. Investigate lands owned by the state to determine in cooperation  
29 with the agency that manages the land which tracts should be set aside and  
30 dedicated for use as state parks, monuments or trails.

31 4. Investigate federally owned lands to determine their desirability  
32 for use as state parks, monuments or trails and negotiate with the federal  
33 agency having jurisdiction over such lands for the transfer of title to the  
34 Arizona state parks board.

35 5. Investigate privately owned lands to determine their desirability  
36 as state parks, monuments or trails and negotiate with private owners for the  
37 transfer of title to the Arizona state parks board.

38 6. Enter into agreements with the United States, other states or local  
39 governmental units, private societies or persons for the development and  
40 protection of state parks, monuments and trails.

41 7. Plan, coordinate and administer a state historic preservation  
42 program including the program established pursuant to the national historic  
43 preservation act of 1966, as amended.

1           8. Advise, assist and cooperate with federal and state agencies,  
2 political subdivisions of this state and other persons in identifying and  
3 preserving properties of historic or prehistoric significance.

4           9. Keep and administer an Arizona register of historic places composed  
5 of districts, sites, buildings, structures and objects significant in this  
6 state's history, architecture, archaeology, engineering and culture which  
7 meet criteria which the board establishes or which are listed on the national  
8 register of historic places. Entry on the register requires nomination by  
9 the state historic preservation officer and owner notification in accordance  
10 with rules which the board adopts.

11           10. Accept, on behalf of the state historic preservation officer,  
12 applications for classification as historic property received from the county  
13 assessor.

14           11. Adopt rules with regard to classification of historic property  
15 including:

16           (a) Minimum maintenance standards for the property.

17           (b) Requirements for documentation.

18           12. Monitor the performance of state agencies in the management of  
19 historic properties as provided in chapter 4.2 of this title.

20           13. Advise the governor on historic preservation matters.

21           14. Plan and administer a statewide parks and recreation program,  
22 including the programs established pursuant to the land and water  
23 conservation fund act of 1965 (P.L. 88-578; 78 Stat. 897).

24           15. Prepare, maintain and update a comprehensive plan for the  
25 development of the outdoor recreation resources of this state.

26           16. Initiate and carry out studies to determine the recreational needs  
27 of this state and the counties, cities and towns.

28           17. Coordinate recreational plans and developments of federal, state,  
29 county, city, town and private agencies.

30           18. Receive applications for projects to be funded through the land and  
31 water conservation fund, the state lake improvement fund and the law  
32 enforcement and boating safety fund on behalf of the Arizona outdoor  
33 recreation coordinating commission.

34           19. Provide staff support to the Arizona outdoor recreation  
35 coordinating commission.

36           20. Maintain a statewide off-highway vehicle recreational plan which  
37 shall be updated at least once every six years and shall be used by all  
38 participating agencies to guide distribution and expenditure of monies under  
39 section 28-1176.

40           21. Collaborate with the state forester in presentations to legislative  
41 committees on issues associated with forest management and wildfire  
42 prevention and suppression as provided by section 37-622, subsection B.

43           B. Notwithstanding section 41-511.11, the board may annually collect  
44 and expend monies to plan and administer the land and water conservation fund  
45 program, in conjunction with other administrative tasks and recreation plans,

1 as a surcharge to subgrantees in a proportionate amount, not to exceed ten  
2 per cent, of the cost of each project. The surcharge monies shall be set  
3 aside to fund staff support for the land and water conservation fund program.

4 C. A partnership fund is established consisting of monies received  
5 pursuant to subsection B of this section, monies received from  
6 intergovernmental agreements pursuant to title 11, chapter 7, article 3 and  
7 monies received pursuant to section 35-148. The board shall administer the  
8 fund monies as a continuing appropriation for the purposes provided in these  
9 sections.

10 D. The state historic preservation officer shall:

11 1. In cooperation with federal and state agencies, political  
12 subdivisions of this state and other persons, direct and conduct a  
13 comprehensive statewide survey of historic properties AND PRIVATE HISTORIC  
14 CEMETERIES and maintain inventories of historic properties AND PRIVATE  
15 HISTORIC CEMETERIES.

16 2. Identify and nominate eligible properties to the national register  
17 of historic places and the Arizona register of historic places and otherwise  
18 administer applications for listing historic properties on the national and  
19 state registers.

20 3. FOR PRIVATE HISTORIC CEMETERIES ESTABLISH A SEPARATE STATE REGISTRY  
21 AND CRITERIA FOR LISTING.

22 ~~3-~~ 4. Administer grants-in-aid for historic preservation projects  
23 within this state.

24 ~~4-~~ 5. Advise, assist and monitor, as appropriate, federal and state  
25 agencies and political subdivisions of this state in carrying out their  
26 historic preservation responsibilities and cooperate with federal and state  
27 agencies, political subdivisions of this state and other persons to ensure  
28 that historic properties AND PRIVATE HISTORIC CEMETERIES are taken into  
29 consideration at all levels of planning and development.

30 ~~5-~~ 6. Develop and make available information concerning professional  
31 methods and techniques for the preservation of historic properties AND  
32 PRIVATE HISTORIC CEMETERIES.

33 ~~6-~~ 7. Make recommendations on the certification, classification and  
34 eligibility of historic properties AND PRIVATE HISTORIC CEMETERIES for  
35 property tax and investment tax incentives.

36 E. FOR THE PURPOSES OF THIS SECTION, "PRIVATE HISTORIC CEMETERY" MEANS  
37 A PLACE WHERE BURIALS OR INTERMENTS OF HUMAN REMAINS ARE MADE, THAT WAS FIRST  
38 USED FOR BURIAL MORE THAN FIFTY YEARS AGO AND THAT IS NOT OPEN TO THE PUBLIC  
39 AT LARGE.

40 Sec. 3. Section 42-11110, Arizona Revised Statutes, is amended to  
41 read:

42 42-11110. Exemption for cemeteries

43 A. Cemeteries as defined in section 32-2101 that are set apart and  
44 used to inter deceased human beings AND PRIVATE HISTORIC CEMETERIES AS  
45 DEFINED IN SECTION 41-511.04 are exempt from taxation.

1           B. The owner of a cemetery OR PRIVATE HISTORIC CEMETERY shall  
2 initially establish qualification for exemption under this section by filing  
3 an affidavit with the county assessor under section 42-11152. Thereafter,  
4 the owner is not required to file an affidavit under section 42-11152 unless:  
5           1. Any part of the property is no longer, or will not be, used as a  
6 cemetery or has been rezoned, and the assessor shall sever that part of the  
7 property from the exempt parcel.  
8           2. Any interest in the title to any part of the property is conveyed  
9 to a new owner.