

The Commonwealth of Massachusetts

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MEMORANDUM OF COMMISSIONER OF CORPORATIONS AND TAXATION PURSUANT TO GENERAL LAWS, CHAPTER 3, SECTION 7, WITH RESPECT TO PETITION OF WALTER D. WEKSTEIN FOR LEGISLATION TO AUTHORIZE THE INDEPENDENT WORKMEN'S CIRCLE CEMETERY ASSOCIATION TO TRANSFER TO BANKS, TRUST COMPANIES, CORPORATE TRUSTEES OR CHARITABLE CORPORATIONS CERTAIN REAL AND PERSONAL PROPERTY TO BE HELD FOR CEMETERY OR CHARITABLE PURPOSES.

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DECEMBER 11, 1961.

*To the Honorable Senate and House of Representatives.*

The above-named petition was transmitted to me by the Clerk of the House of Representatives on November 13, 1961, with a request for a memorandum.

Independent Workmen's Circle Cemetery Association was organized on August 7, 1928.

This corporation seeks by deed, instrument of trust or other instrument of conveyance duly executed to convey and transfer to any bank, trust company, corporate trustee or charitable organization, and that said designated bodies be authorized and empowered to receive for cemetery and charitable purposes only, and subject to all rights heretofore existing in any burial lots, all or part of the real and personal property of said corporation subject to the terms of said deed, instrument of trust or other instrument of conveyance.

Section 2 of the bill provides that the said receiving instrumentalities, upon taking possession and assuming control of said property, as provided herein, may receive all the funds and other property held by said corporation in trust for the perpetual care of the lots in said cemetery and for other charitable purposes, and receive

as well interest and dividends accruing on funds deposited in trust with any savings bank for the benefit of said corporation.

Section 3 of the bill provides for the protection of the rights any persons may have acquired in the cemetery of said corporation and that the same shall remain in full force and effect to the same extent as if the said proposed act had not been passed and such transfer had not occurred.

It is respectfully suggested that, inasmuch as the public trust funds are involved, that the receiving instrumentalities of any of the funds described in said bill be named so that it may be ascertained just where they are located and under whose jurisdiction they operate.

Attention is respectfully called to chapter 529 of the Acts of 1954, wherein a Division of Public Charities was established in the Department of the Attorney General and which department was given direct supervisory powers concerning the operations of public charities as such. It is also respectfully suggested that provision be made for the taking of a vote of the corporation, authorizing the same transfer and the manner in which the vote should be taken and the provisions to be made for the recording of said vote with some public agency so that the same may be readily ascertained should the occasion require it.

It is respectfully suggested that an opinion be sought from the Attorney General on the merits of this bill and as to form thereof.

No fee is required to be paid by a corporation of this type.

Respectfully submitted,

GUY J. RIZZOTTO,

*Commissioner of Corporations and Taxation.*

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By Mr. Weinberg of Boston, petition of Walter D. Wekstein for legislation to authorize the Independent Workmen's Circle Cemetery Association to transfer to banks, trust companies, corporate trustees or charitable corporations certain real and personal property to be held for cemetery or charitable purposes. Mercantile Affairs.

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## **The Commonwealth of Massachusetts**

In the Year One Thousand Nine Hundred and Sixty-Two.

AN ACT AUTHORIZING THE INDEPENDENT WORKMEN'S CIRCLE CEMETERY ASSOCIATION TO TRANSFER CERTAIN REAL AND PERSONAL PROPERTY.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1 The Independent Workmen's Circle Cemetery Association, a  
2 corporation duly organized under the provisions of section 1 of  
3 chapter one hundred and fourteen, and sections one to thirteen  
4 of chapter one hundred and seventy-nine of the General Laws of  
5 Massachusetts, and having a usual place of business in the city  
6 of Boston, may, by deed, instrument of trust or other instrument  
7 of conveyance duly executed, convey and transfer to any bank,  
8 trust company, corporate trustee or charitable organization, and  
9 said bank, trust company, corporate trustee or charitable organ-  
10 ization is hereby authorized and empowered to receive and there-  
11 after to hold and maintain, but for cemetery and charitable pur-  
12 poses only, and subject to all rights heretofore existing in any  
13 burial lots, all or part of the real and personal property of said  
14 corporation subject to the terms of said deed, instrument of  
15 trust or other instrument of conveyance.

1 SECTION 2. Insofar as authorized by the deed, instrument of  
2 trust, or other instrument of conveyance, said bank, trust com-  
3 pany, corporate trustee, or charitable organization, upon taking  
4 possession and assuming control of said property as provided in  
5 Section 1 of this Act, may receive from the said corporation all  
6 funds and other property held by said corporation in trust for

7 the perpetual care of the lots in said cemetery and for other  
8 charitable purposes, and also any property devised or bequeathed  
9 to the corporation under the will of any person living at the time  
10 of said transfer or conveyance, or under the will of any deceased  
11 person, which will has not then been probated. Interest and  
12 dividends accruing on funds deposited in trust with any savings  
13 bank under authority of section twenty-five of chapter one  
14 hundred and sixty-eight of the General Laws of Massachusetts,  
15 or with any other banking institution, for the benefit of said  
16 corporation, or of any lot in said cemetery, may, after such  
17 conveyance be paid by such bank or institution to the treasurer  
18 of said bank, trust company, corporate trustee, or charitable  
19 organization; and upon such payment, said treasurer shall use  
20 the same for the purposes of said trust.

1 SECTION 3. All real and personal property and property rights  
2 acquired by said bank, trust company, corporate trustee, or char-  
3 itable organization, from said corporation under authority of this  
4 act, shall be held and managed by said bank, trust company, cor-  
5 porate trustee, or charitable organization in accordance with the  
6 terms of the deed, instrument of trust, or other instrument of  
7 conveyance; provided, that all rights which any persons have ac-  
8 quired in the cemetery of said corporation or in any lot therein  
9 shall remain in force to the same extent as if this act had not  
10 been passed and such transfers had not occurred.