

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 203 Session of 1991

INTRODUCED BY SCHULER, NICKOL, NAILOR, SCHEETZ, CIVERA, STURLA, BILLOW, STRITTMATTER, NOYE, BUNT, SAURMAN, KOSINSKI, BARLEY, VROON, HASAY, GEIST, KAISER, FAIRCHILD, COLAFELLA, E. Z. TAYLOR, TRELLO, BATTISTO, TELEK, DAVIES, KING, VANCE AND STEELMAN, FEBRUARY 4, 1991

AS AMENDED ON THIRD CONSIDERATION, IN SENATE, JUNE 22, 1992

AN ACT

1 ~~Encouraging~~ PROVIDING CEMETERY COMPANIES OR ASSOCIATIONS WITH <—
2 THE RIGHT TO INTER A DEAD HUMAN BODY IN A GROUND SPACE, A
3 MAUSOLEUM, A COLUMBARIUM OR A NICHE TO WHICH INTERMENT RIGHTS
4 HAVE BEEN ABANDONED; AND ENCOURAGING caretaker organizations
5 to assume responsibility for restoration and maintenance of
6 historic burial places by limiting liability in connection
7 therewith.

8 The General Assembly of the Commonwealth of Pennsylvania
9 hereby enacts as follows:

10 ~~Section 1. Purpose.~~ <—

11 SECTION 1. ABANDONED INTERMENT RIGHTS. <—

12 (A) GENERAL RULE.--WHEN INTERMENT RIGHTS THAT HAVE BEEN
13 GRANTED BY A CEMETERY COMPANY OR ASSOCIATION ARE NOT USED FOR A
14 PERIOD OF 50 YEARS OR MORE, THEY SHALL BE DEEMED ABANDONED AND
15 SHALL REVERT TO THE CEMETERY COMPANY OR ASSOCIATION IF THE
16 PROCEDURE IN SUBSECTION (B) IS FOLLOWED.

17 (B) PROCEDURE.--A CEMETERY COMPANY OR ASSOCIATION SHALL SEND
18 A REGISTERED RETURN RECEIPT LETTER TO THE OWNER OF RECORD, HIS

1 OR HER HEIRS OR ASSIGNS OR ANY NEXT OF KIN KNOWN TO THE CEMETERY
2 COMPANY OR ASSOCIATION OF THE INTERMENT RIGHTS AT HIS OR HER
3 LAST KNOWN ADDRESS REQUESTING THE OWNER'S CURRENT ADDRESS OR THE
4 NAMES AND ADDRESSES OF THE HEIRS OR ASSIGNS OF THE OWNER OF
5 RECORD. IF A WRITTEN RESPONSE IS RECEIVED, THE RECORDS OF THE
6 CEMETERY COMPANY OR ASSOCIATION SHALL BE AMENDED ACCORDINGLY,
7 AND THE INTERMENT RIGHTS SHALL NOT BE DEEMED ABANDONED. THE
8 RECEIPT OF THIS WRITTEN RESPONSE SHALL GUARANTEE THE INTERMENT
9 RIGHTS MAY NOT BE DEEMED ABANDONED FOR 50 YEARS FROM THE DATE
10 THE WRITTEN RESPONSE WAS RECEIVED BY THE CEMETERY COMPANY OR
11 ASSOCIATION. IF THE REGISTERED LETTER IS UNDELIVERABLE, OR IF NO
12 RESPONSE IS RECEIVED WITHIN 30 DAYS AFTER THE REGISTERED LETTER
13 WAS SENT, THE CEMETERY COMPANY OR ASSOCIATION SHALL ADVERTISE A
14 NOTICE OF ITS INTENT TO DECLARE THE RIGHTS DEEMED ABANDONED IN A
15 NEWSPAPER OF GENERAL CIRCULATION IN THE COUNTY WHERE THE
16 CEMETERY IS LOCATED AND ALSO IN THE COUNTY OF THE LAST KNOWN
17 ADDRESS OF THE OWNER OF RECORD, WHICH NOTICE SHALL CONTAIN THE
18 NAME AND BUSINESS ADDRESS OF THE CEMETERY AND THE NAME OF THE
19 LAST OWNER OF RECORD. IF NO RESPONSE TO THE NOTICE OF INTENT TO
20 DECLARE THE INTERMENT RIGHTS ABANDONED IS MADE ON BEHALF OF THE
21 OWNER OF RECORD OR HIS OR HER HEIRS OR ASSIGNS WITHIN 120 DAYS,
22 THE INTERMENT RIGHT SHALL BE DEEMED ABANDONED AND SHALL REVERT
23 TO THE CEMETERY COMPANY OR ASSOCIATION. IF A WRITTEN RESPONSE IS
24 RECEIVED, THE RECEIPT OF THIS RESPONSE SHALL GUARANTEE THE
25 INTERMENT RIGHTS MAY NOT BE DEEMED ABANDONED FOR 50 YEARS FROM
26 THE DATE THE WRITTEN RESPONSE WAS RECEIVED BY THE CEMETERY
27 COMPANY OR ASSOCIATION.

28 (C) RIGHTS OF OWNER OF RECORD.--IF, WITHIN 30 YEARS AFTER
29 THE INTERMENT RIGHT HAS BEEN ABANDONED, THE OWNER OF RECORD OR
30 HIS OR HER HEIRS OR ASSIGNS CAN PROVE TO A CEMETERY COMPANY OR

1 ASSOCIATION OR A COURT OF COMPETENT JURISDICTION THAT HE OR SHE
2 IS ENTITLED TO THE INTERMENT RIGHT, THE CEMETERY COMPANY OR
3 ASSOCIATION SHALL, AT NO COST, PROVIDE A RIGHT OF INTERMENT
4 SIMILAR TO THE ONE THAT WAS ABANDONED.

5 SECTION 2. HISTORIC BURIAL PLACES.

6 (A) PURPOSE.--The purpose of this act is to encourage <—
7 caretaker organizations to restore and maintain historic burial
8 places by limiting their liability toward persons entering such
9 burial places.

10 ~~Section 2. Definitions.~~ <—

11 ~~The following words and phrases when used in this act shall~~
12 ~~have the meanings given to them in this section unless the~~
13 ~~context clearly indicates otherwise:~~

14 ~~"Caretaker organization." A nonprofit organization under~~
15 ~~section 501(c)(3) of the Internal Revenue Code of 1954 (68A~~
16 ~~Stat. 3, 26 U.S.C. § 501(c)(3)) which owns or otherwise assumes~~
17 ~~responsibility for the restoration and maintenance of a historic~~
18 ~~burial place.~~

19 ~~"Historic burial place." A tract of land that has been in~~
20 ~~existence as a burial ground for more than 100 years wherein~~
21 ~~there have been no burials for at least 50 years and wherein~~
22 ~~there will be no future burials.~~

23 ~~Section 3. General rule.~~

24 ~~Except as provided in section 5, a caretaker organization~~

25 (B) GENERAL RULE.--EXCEPT AS PROVIDED IN SUBSECTION (D), A <—
26 CARETAKER ORGANIZATION owes no duty of care to keep a historic
27 burial place safe for entry or use by others, or to give any
28 warning of a dangerous condition, use, structure or activity on
29 the premises of the historic burial place to persons who enter
30 the premises.

1 ~~Section 4. Limitations.~~ <—

2 ~~Except as provided in section 5, a caretaker organization~~

3 (C) LIMITATIONS.--EXCEPT AS PROVIDED IN SUBSECTION (D), A <—

4 CARETAKER ORGANIZATION which either directly or indirectly

5 invites or permits any person to enter the premises of the

6 historic burial place without charge does not thereby:

7 (1) Extend any assurance that the premises are safe for
8 any purpose.

9 (2) Confer upon such person the legal status of an
10 invitee or licensee to whom a duty of care is owed.

11 (3) Assume responsibility for or incur liability for any
12 injury to persons or property by an act of omission of such
13 persons.

14 ~~Section 5. Willful or malicious actions.~~ <—

15 (D) WILLFUL OR MALICIOUS ACTIONS.--Nothing in this act <—

16 limits in any way any liability which otherwise exists for

17 willful or malicious failure to guard or warn against a

18 dangerous condition, use, structure or activity on the premises

19 of a historic burial place.

20 ~~Section 6. Construction.~~ <—

21 ~~Nothing in this act shall be construed to:~~

22 (E) CONSTRUCTION.--NOTHING IN THIS SECTION SHALL BE <—

23 CONSTRUED TO:

24 (1) Create a duty of care or ground of liability for
25 injury to persons or property.

26 (2) Relieve any person entering upon the premises of a
27 historic burial place from any obligation which he may have
28 in the absence of this act to exercise care in his use of the
29 premises and in his activities on the premises, or from the
30 legal consequences of failure to employ such care.

1 (F) DEFINITIONS.--AS USED IN THIS SECTION, THE FOLLOWING <—
2 WORDS AND PHRASES SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS
3 SUBSECTION:

4 "CARETAKER ORGANIZATION." A NONPROFIT ORGANIZATION UNDER
5 SECTION 501(C)(3) OF THE INTERNAL REVENUE CODE OF 1954 (68A
6 STAT. 3, 26 U.S.C.§ 501(C)(3)) WHICH OWNS OR OTHERWISE ASSUMES
7 RESPONSIBILITY FOR THE RESTORATION AND MAINTENANCE OF A HISTORIC
8 BURIAL PLACE.

9 "HISTORIC BURIAL PLACE." A TRACT OF LAND THAT HAS BEEN IN
10 EXISTENCE AS A BURIAL GROUND FOR MORE THAN 100 YEARS WHEREIN
11 THERE HAVE BEEN NO BURIALS FOR AT LEAST 50 YEARS AND WHEREIN
12 THERE WILL BE NO FUTURE BURIALS.

13 Section 7 3. Effective date. <—

14 This act shall take effect immediately.