

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1019 Session of 2017

INTRODUCED BY GILLEN, BARRAR, CALTAGIRONE, D. COSTA, COX, DIAMOND, DRISCOLL, FARRY, FRANKEL, GABLER, A. HARRIS, HICKERNELL, JOZWIAK, KNOWLES, LAWRENCE, McCARTER, MCGINNIS, McNEILL, MILLARD, B. MILLER, MOUL, NEILSON, O'BRIEN, O'NEILL, PICKETT, QUIGLEY, ROZZI, STAATS, TALLMAN, WARD, WATSON, ZIMMERMAN, RADER, WARNER, EMRICK, MACKENZIE, TOOHL, MAHER, WHEELAND, READSHAW, MASSER, DeLUCA, REESE, SAYLOR AND DAWKINS, MARCH 30, 2017

AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES, JUNE 30, 2017

AN ACT

1 Amending Titles 9 (Burial Grounds) and 68 (Real and Personal
2 Property) of the Pennsylvania Consolidated Statutes, in
3 general provisions relating to burial grounds, further
4 providing for definitions; AND providing for transfer of <--
5 ownership of cemeteries and for reasonable access to burial
6 grounds; ~~prescribing a penalty; and, in seller disclosures,~~ <--
7 ~~further providing for disclosure form.~~

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

10 ~~Section 1. Section 101 of Title 9 of the Pennsylvania~~ <--
11 ~~Consolidated Statutes is amended by adding definitions to read:~~

12 SECTION 1. THE DEFINITION OF "CEMETERY" IN SECTION 101 OF <--
13 TITLE 9 OF THE PENNSYLVANIA CONSOLIDATED STATUTES IS AMENDED AND
14 THE SECTION IS AMENDED BY ADDING DEFINITIONS TO READ:

15 § 101. Definitions.

16 Subject to additional definitions contained in subsequent
17 provisions of this title which are applicable to specific

1 chapters or other provisions of this title, the following words
2 and phrases when used in this title shall have, unless the
3 context clearly indicates otherwise, the meanings given to them
4 in this section:

5 "Burial plot." Real property where an individual has the
6 right to be interred when the individual dies, but legal title
7 to ownership of the land has not been conveyed by the person who
8 owns the land.

9 "CEMETERY." A PLACE FOR THE DISPOSAL OR BURIAL OF DECEASED <--
10 HUMAN BEINGS, BY CREMATION OR IN A GRAVE, MAUSOLEUM, VAULT,
11 COLUMBARIUM OR OTHER RECEPTACLE, BUT THE TERM DOES NOT INCLUDE A
12 PRIVATE CEMETERY OR A PRIVATE FAMILY CEMETERY.

13 * * *

14 "Private cemetery." A place for the disposal or burial of
15 deceased human beings, by cremation or in a grave, mausoleum,
16 vault, columbarium or other receptacle, but the ownership or
17 right to use any burial plot is not offered to the public.

18 "Private family cemetery." A place for the disposal or
19 burial of deceased human beings, by cremation or in a grave,
20 mausoleum, vault, columbarium or other receptacle, but the
21 ownership or right to use any burial plot is restricted to a
22 group of persons related to each other by blood or marriage.

23 "Proof of purchase." A grave deed, contract or other
24 document or receipt which reasonably demonstrates ownership or
25 the right to use a burial plot.

26 * * *

27 Section 2. Title 9 is amended by adding chapters to read:

28 CHAPTER 5
29 TRANSFER OF OWNERSHIP
30 OF CEMETERIES

1 Sec.

2 501. Notification. <--

3 ~~502.—Responsibilities.~~

4 ~~§ 501. Notification.~~ <--

5 ~~Prior to purchasing real property, a potential purchaser~~
6 ~~shall be notified of a cemetery, private cemetery or private~~
7 ~~family cemetery on the property in accordance with the~~
8 ~~following:~~

9 ~~(1) If the real property is subject to a residential~~
10 ~~real estate transaction, the seller shall inform the~~
11 ~~purchaser of a cemetery, private cemetery or private family~~
12 ~~cemetery on the real property, in accordance with 68 Pa.C.S.~~
13 ~~§ 7304(b)(18) (relating to disclosure form).~~

14 ~~(2) If the real property is subject to a commercial real~~
15 ~~estate transaction, the seller shall inform the purchaser of~~
16 ~~a cemetery, private cemetery or private family cemetery on~~
17 ~~the real property.~~

18 § 502 501. Responsibilities. <--

19 When there is a transfer of ownership of real property where
20 burial plots are located, the new owner shall:

21 (1) Honor all purchases of burial plots on the real
22 property made before the transfer of ownership.

23 (2) Allow for the interment of any individual for whom
24 proof of purchase of a burial plot prior to the transfer of
25 ownership can be produced, provided that:

26 (i) The new owner may discontinue the sale of burial
27 plots.

28 (ii) Failure by the new owner to comply with the
29 provisions of this chapter shall be a violation of the
30 act of December 17, 1968 (P.L.1224, No.387), known as the

1 Unfair Trade Practices and Consumer Protection Law, and
2 the Office of Attorney General may bring an enforcement
3 action against the new owner.

4 (3) Establish reasonable access procedures in accordance
5 with Chapter 7 (relating to reasonable access to burial
6 grounds).

7 CHAPTER 7

8 REASONABLE ACCESS TO

9 BURIAL GROUNDS

10 Sec.

11 701. Definitions.

12 702. Declaration of policy.

13 703. Reasonable access for visitation.

14 § 701. Definitions.

15 The following words and phrases when used in this chapter
16 shall have the meanings given to them in this section unless the
17 context clearly indicates otherwise:

18 "Burial plot." The location of a deceased human being
19 located in a grave, mausoleum, vault, columbarium or other
20 receptacle.

21 § 702. Declaration of policy.

22 The General Assembly finds and declares as follows:

23 (1) An individual has a right to reasonable access for
24 visitation to a burial plot in a cemetery that is owned by a
25 cemetery company or person other than a cemetery company or
26 is a private cemetery or private family cemetery.

27 (2) The Commonwealth has a significant interest in
28 protecting that right.

29 § 703. Reasonable access for visitation.

30 (a) Cemetery companies.--A cemetery company shall grant an

1 individual reasonable ingress and egress to a burial plot in a
2 cemetery owned by a cemetery company for the purpose of visiting
3 the burial plot.

4 (b) Cemeteries not owned by cemetery companies.--The owner
5 of a cemetery not owned by a cemetery company shall grant an
6 individual reasonable ingress and egress to a burial plot in the
7 cemetery for the purpose of visiting the burial plot.

8 (c) Private cemeteries and private family cemeteries.--The
9 owner of property where a private cemetery or private family
10 cemetery is located shall grant an individual reasonable ingress
11 and egress to a burial plot in the private cemetery or the
12 private family cemetery for the purpose of visiting the burial
13 plot.

14 (d) Residential buildings.--For cemeteries, private
15 cemeteries or private family cemeteries where a residential
16 building is located on the real property, the owner of the real
17 property may determine that reasonable access includes
18 prearranged times for visitation and the methods of ingress and
19 egress to the burial plot.

20 (e) Access standards.--The cemetery company or ~~owner~~ THE <--
21 OWNER OF REAL PROPERTY WHERE A CEMETERY, PRIVATE CEMETERY,
22 PRIVATE FAMILY CEMETERY OR BURIAL PLOT IS LOCATED may designate
23 the frequency, hours and duration of visitation and the route of
24 ingress and egress.

25 (f) Immunity.--The cemetery company or ~~owner~~ THE OWNER OF <--
26 REAL PROPERTY WHERE A CEMETERY, PRIVATE CEMETERY, PRIVATE FAMILY
27 CEMETERY OR BURIAL PLOT IS LOCATED shall, in the absence of
28 gross negligence or willful misconduct, be immune from liability
29 in a civil suit, claim or cause of action arising out of access
30 granted under this section.

1 (g) Petition.--An individual denied reasonable access under
2 this section may petition the court of common pleas having
3 jurisdiction where the cemetery, private cemetery, private
4 family cemetery or burial plot is located for relief.

5 ~~(h) Penalty. A person who violates this section commits a~~ <--
6 ~~misdemeanor of the third degree.~~

7 Section 3. ~~Section 7304(b) of Title 68 is amended by adding~~
8 ~~a paragraph to read:~~

9 ~~§ 7304. Disclosure form.~~

10 ~~* * *~~

11 ~~(b) Contents of property disclosure statement. The form of~~
12 ~~property disclosure statement promulgated by the State Real~~
13 ~~Estate Commission shall call for disclosures with respect to all~~
14 ~~of the following subjects:~~

15 ~~* * *~~

16 ~~(18) Condition, if known, and location of a burial plot,~~
17 ~~cemetery, private cemetery, private family cemetery or other~~
18 ~~grave marker on the property, the responsibilities related to~~
19 ~~access and additional interments as provided under 9 Pa.C.S.~~
20 ~~Chs. 5 (relating to transfer of ownership of cemeteries) and~~
21 ~~7 (relating to reasonable access to burial grounds).~~

22 ~~* * *~~

23 Section 4 3. This act shall apply to cemeteries, private <--
24 cemeteries and private family cemeteries regardless of the date
25 of burial or acquisition of title to the cemetery, private
26 cemetery or private family cemetery.

27 Section 5 4. This act shall take effect in 60 days. <--