

No. 1992-110

AN ACT

HB 203

Providing cemetery companies or associations with the right to inter a dead human body in a ground space, a mausoleum, a columbarium or a niche to which interment rights have been abandoned; and encouraging caretaker organizations to assume responsibility for restoration and maintenance of historic burial places by limiting liability in connection therewith.

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

Section 1. Abandoned interment rights.

(a) General rule.—When interment rights that have been granted by a cemetery company or association are not used for a period of 50 years or more, they shall be deemed abandoned and shall revert to the cemetery company or association if the procedure in subsection (b) is followed.

(b) Procedure.—A cemetery company or association shall send a registered return receipt letter to the owner of record, his or her heirs or assigns or any next of kin known to the cemetery company or association of the interment rights at his or her last known address requesting the owner's current address or the names and addresses of the heirs or assigns of the owner of record. If a written response is received, the records of the cemetery company or association shall be amended accordingly, and the interment rights shall not be deemed abandoned. The receipt of this written response shall guarantee the interment rights may not be deemed abandoned for 50 years from the date the written response was received by the cemetery company or association. If the registered letter is undeliverable or if no response is received within 30 days after the registered letter was sent, the cemetery company or association shall advertise a notice of its intent to declare the rights deemed abandoned in a newspaper of general circulation in the county where the cemetery is located and also in the county of the last known address of the owner of record, which notice shall contain the name and business address of the cemetery and the name of the last owner of record. If no response to the notice of intent to declare the interment rights abandoned is made on behalf of the owner of record or his or her heirs or assigns within 120 days, the interment right shall be deemed abandoned and shall revert to the cemetery company or association. If a written response is received, the receipt of this response shall guarantee the interment rights may not be deemed abandoned for 50 years from the date the written response was received by the cemetery company or association.

(c) Rights of owner of record.—If, within 30 years after the interment right has been abandoned, the owner of record or his or her heirs or assigns can prove to a cemetery company or association or a court of competent jurisdiction that he or she is entitled to the interment right, the cemetery company or association shall, at no cost, provide a right of interment similar to the one that was abandoned.

Section 2. Historic burial places.

(a) Purpose.—The purpose of this act is to encourage caretaker organizations to restore and maintain historic burial places by limiting their liability toward persons entering such burial places.

(b) General rule.—Except as provided in subsection (d), a caretaker organization owes no duty of care to keep a historic burial place safe for entry or use by others or to give any warning of a dangerous condition, use, structure or activity on the premises of the historic burial place to persons who enter the premises.

(c) Limitations.—Except as provided in subsection (d), a caretaker organization which either directly or indirectly invites or permits any person to enter the premises of the historic burial place without charge does not thereby:

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

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

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

(d) Willful or malicious actions.—Nothing in this act limits in any way any liability which otherwise exists for willful or malicious failure to guard or warn against a dangerous condition, use, structure or activity on the premises of a historic burial place.

(e) Construction.—Nothing in this section shall be construed to:

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

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

(f) Definitions.—As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

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

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

Section 3. Effective date.

This act shall take effect immediately.

APPROVED—The 24th day of November, A. D. 1992.

ROBERT P. CASEY