

CARE AND PRESERVATION OF CEMETERY LOTS (EXCERPT)
Act 81 of 1903

***** 128.89.added THIS ADDED SECTION IS EFFECTIVE APRIL 26, 2018 *****

128.89.added Transfer of money after June 30, 2018; inability to identify location of cemetery or cemetery lot; certification of abandoned legal interests or rights; presumption; requirements; record of certification.

Sec. 9. (1) After June 30, 2018, a county treasurer may transfer money held for a lot under section 1 to any of the following to be held, invested, and expended for the care of the lot or the cemetery in which the lot is located:

- (a) The cemetery owner or operator of the cemetery in which the lot is located.
- (b) An irrevocable endowment and perpetual care trust fund or other trust fund under the cemetery regulation act, 1968 PA 251, MCL 456.521 to 456.543, authorized to care for the lot or the cemetery in which the lot is located.
- (c) A trust fund under 1909 PA 95, MCL 128.71 to 128.74, authorized to care for the lot or the cemetery in which the lot is located.
- (d) A perpetual care and maintenance fund under 1937 PA 215, MCL 128.1 to 128.4, authorized to care for the lot or the cemetery in which the lot is located.
- (e) An irrevocable endowment and perpetual care fund established under section 4 of 1937 PA 215, MCL 128.4, authorized to care for the lot or the cemetery in which the lot is located.

(2) After June 30, 2018, if a county treasurer is unable to identify the location of a cemetery or a cemetery lot for which money was deposited under section 1, and the county treasurer certifies as abandoned the legal interests or rights in money deposited under section 1 or in the use of money deposited for the purpose of caring for the cemetery lot under this act under subsections (3) to (5), the county treasurer may transfer the money deposited and any earnings from the investment of the money to the county general fund.

(3) A person or an estate possessing a legal interest or right in money deposited under section 1 or in the use of money deposited for the purpose of caring for a cemetery lot under this act, or both, is presumed to have abandoned the legal interest or right if 1 or more of the following apply:

- (a) The cemetery described at the time money was deposited under section 1 does not exist or cannot be located by the county treasurer based on the information provided under section 1, or both.
- (b) The lot described at the time money was deposited under section 1 does not exist or cannot be located by the county treasurer based on the description of the lot provided under section 1, or both.
- (c) The description of the cemetery lot for which money was deposited under section 1 was inaccurate and as a result the cemetery lot cannot be located by the county treasurer.
- (d) The number of a cemetery lot for which money was deposited under section 1 does not exist or the location of the cemetery lot cannot be identified by the county treasurer based on the number provided under section 1, or both.
- (e) Money was deposited under section 1 for the purpose of caring for a cemetery lot in an unplatted cemetery containing the remains of an individual whose name was designated under section 1 and the cemetery does not contain the remains of an individual with the name provided under section 1 or the location of the remains of the named individual cannot be located within the cemetery identified, or both.

(4) If a legal interest or right is presumed to be abandoned under subsection (3), and the county treasurer seeks to certify the legal interest or right as abandoned under subsection (5), the county treasurer shall first satisfy all of the following requirements:

(a) The county treasurer shall publish a notice of intent to certify as abandoned the legal interests or rights in money deposited under section 1 or in the use of money deposited for the purpose of caring for a cemetery lot under this act. The notice under this subdivision must be published for 2 consecutive weeks in a newspaper of general circulation in the county in which the money was deposited, and, if the money was deposited for a cemetery lot located in another county, in a newspaper of general circulation in that county. A notice under this subdivision must include all of the following:

- (i) The information relating to the cemetery lot provided to the county treasurer at the time money was deposited.
- (ii) A statement indicating that the cemetery lot cannot be located.
- (iii) Contact information for the office of the county treasurer.
- (iv) A request that persons possessing a legal interest or right described in this subdivision or possessing information regarding the location of the cemetery lot contact the office of the county treasurer.
- (v) A statement indicating that the money deposited with the county treasurer will be transferred to the

general fund of the county if the cemetery lot cannot be located and the legal interests and rights described in this subdivision are certified as abandoned under this section.

(b) The county treasurer shall post a copy of a notice published under subdivision (a) on the internet website of the county treasurer for at least 90 consecutive days.

(c) If the county treasurer was able to identify the location of a cemetery designated under section 1, the county treasurer shall send a written notice by first-class mail to the owner or operator of the cemetery notifying the cemetery owner or operator of the legal interest or right presumed to be abandoned under subsection (3), providing any information about the cemetery lot provided to the county treasurer at the time money was deposited with the county treasurer under section 1, and requesting that the cemetery owner or operator notify the county treasurer within 90 days after receipt of the notice if the cemetery owner or operator can identify the location of the cemetery lot. The cemetery owner or operator shall attempt to identify the location of the cemetery lot within the cemetery. If the cemetery owner or operator identifies the location of the cemetery lot within the cemetery, the cemetery owner or operator shall notify the county treasurer within 90 days after the receipt of the notice under this subdivision. If a county treasurer is notified of the location of a cemetery lot under this subdivision, the county treasurer may not certify a legal right or interest as abandoned under subsection (5).

(5) If 120 days have elapsed after the provision of notice under subsection (4) and the county treasurer is still unable to identify the location of the cemetery lot based on any information provided in response to notice under subsection (4), the county treasurer may certify as abandoned the legal interests and rights in money deposited under section 1 or in the use of money deposited for the purpose of caring for the cemetery lot under this act. The county treasurer shall retain a record of the certification under this subsection in the office of the county treasurer.

History: Add. 2018, Act 8, Eff. Apr. 26, 2018.

Compiler's note: Enacting section 3 of Act 8 of 2018 provides:

"Enacting section 3. Section 9 of 1903 PA 81, as added by this amendatory act, is intended by the legislature to advance the significant and legitimate public purpose of ensuring the availability and productive use of money deposited with a county treasurer for the purpose of maintaining cemetery lots and providing security in rights consistent with the health, safety, and welfare of the people of this state."