

HOUSE BILL NO. 523

INTRODUCED BY B. MERCER

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR THE DISPOSITION OF ABANDONED LOTS IN PUBLIC CEMETERIES; PROVIDING REQUIREMENTS FOR ABANDONMENT; PROVIDING A PETITION PROCESS FOR A FINDING OF ABANDONMENT; REQUIRING PUBLIC NOTICE; PROVIDING EXCEPTIONS; AND PROVIDING DEFINITIONS."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Abandoned public cemetery lots -- petition -- public notice --

exceptions -- definitions. (1) A lot in a public cemetery may be considered abandoned when:

- (a) the lot has not been used for the purposes of interment for 75 years or more; and
- (b) the cemetery administrator has had no contact with the owner or the owner's heirs for 75 years or more.

(2) An individual may petition the cemetery administrator for a finding of abandonment. The petition must include:

- (a) the full name, address, and contact information for the petitioner;
- (b) a description of the lot that the petitioner believes to be abandoned;
- (c) a statement that the petitioner has diligently attempted to find the owner, heirs, or assignees of the lot, including a description of the efforts undertaken;
- (d) a request that the cemetery administrator determine that the lot is abandoned;
- (e) a request that the petitioner be allowed to purchase the lot on a finding of abandonment;
- (f) if the petition is for a plot containing multiple lots, the name and date of death of the last individual buried in the plot; and
- (g) an affirmation of the truth of the statements in the petition, which includes the language found in 1-6-105 or a notarized oath.

(3) On receipt of a petition, the cemetery administrator shall publish a notice or order the petitioner

to publish a notice ~~once a week for 3 successive weeks in a newspaper published in the county in which the cemetery is located or, if no newspaper is published in that county, then in a newspaper published in an adjoining county that has a general circulation~~ AS PROVIDED IN 7-1-4127 IF THE CEMETERY IS OWNED BY A MUNICIPALITY OR AS PROVIDED IN 7-1-2121 IF THE CEMETERY IS OWNED BY ANY OTHER LOCAL GOVERNMENT UNIT. The notice must include:

(a) a statement that there has been a petition to determine that a certain lot has been abandoned in the specified cemetery;

(b) a reasonable description of where the specified lot is located;

(c) the full name of the recorded owner of the lot and the nearest estimate of the date when the lot was purchased. The date may be an approximate year or range if the records do not give an exact date.

(d) a statement that anyone who believes that they are entitled to legal ownership of the lot shall contact the cemetery administrator by the last date of publication of the notice;

(e) the last date of publication of the notice; and

(f) a phone number and address for the cemetery administrator.

(4) The petitioner shall provide an affidavit of publication to the cemetery administrator after the last date of publication of the notice. If publication was enacted by the cemetery administrator, then the cemetery administrator shall execute an affidavit of publication.

(5) If no owner, heir, or assignee has contacted the cemetery administrator to claim the lot after receipt and execution of the affidavit of publication, the lot must be considered legally abandoned. The cemetery administrator shall approve the petition submitted pursuant to subsection (2) and set a price for the petitioner to purchase the lot. A copy of the instrument of conveyance must be filed in the office of the county clerk and recorder for the county in which a majority of the cemetery is located.

(6) If an owner, heir, or assignee contacts the cemetery administrator to claim the lot, the cemetery administrator shall determine whether ownership is valid or not. If the claim is not valid, then the cemetery administrator may proceed as prescribed in subsection (5).

(7) This section does not apply to lots in a public cemetery designated for veteran burials.

(8) This section does not apply to lots in a public cemetery that the cemetery administrator has determined contain buried human remains, even if there is no cemetery lot marker.

(9) This section does not apply to privately owned cemeteries, although privately owned cemeteries may choose to adopt the procedures set forth in this section.

(10) For the purposes of this section, the following definitions apply:

(a) "Cemetery administrator" means a government entity, a secretary, an appointed individual, or a board, including a board of trustees, that is responsible for administering a public cemetery.

(b) "Plot" means an area of land within a public cemetery that includes multiple burial lots.

NEW SECTION. **Section 2. Codification instruction.** [Section 1] is intended to be codified as an integral part of Title 7, chapter 35, and the provisions of Title 7, chapter 35, apply to [section 1].

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