

## PUBLIC CEMETERIES Act 46 of 1931

AN ACT to supplement the laws providing for the establishment, control, maintenance and care of public cemeteries by cities and townships within this state; to define the powers and duties of cemetery boards and other public officials invested by law with the management thereof; to provide for the termination and forfeiture of rights in certain unused burial spaces in such cemeteries; to prescribe and regulate the procedure with reference thereto; to authorize the resale of such spaces and to direct the investment and use of the funds received therefrom; and to repeal all acts or parts of acts inconsistent with the provisions hereof.

**History:** 1931, Act 46, Eff. Sept. 18, 1931;—Am. 1947, Act 149, Eff. Oct. 11, 1947.

*The People of the State of Michigan enact:*

### **128.11 Definitions.**

Sec. 1. The term “cemetery” as used herein shall be deemed to refer to any public cemetery owned, managed or controlled by any city, village or township within this state. “Cemetery Board” as used herein shall be construed as referring to and including any board, trustees or public official or officials invested by law with the duty of managing or controlling any public cemetery as herein defined. “Burial space” means a lot or portion thereof in any cemetery as aforesaid designed and intended for the interment of human bodies or of a human body, but not used for such purpose. “Owner” means any person or persons owning or possessing the privilege, license or right of interment in any burial space.

**History:** 1931, Act 46, Eff. Sept. 18, 1931;—Am. 1947, Act 149, Eff. Oct. 11, 1947;—CL 1948, 128.11;—Am. 1949, Act 107, Imd. Eff. May 17, 1949.

### **128.12 Failing or neglecting to care for and maintain burial space; proceedings for termination and forfeiture of owner's rights and interest; resolution; petition; service; publication of hearing notice; failure to appear and answer; default.**

Sec. 2. If the owner of a burial space in a public cemetery, subject to the provisions of this act, fails and neglects for a period of 7 years or more to care for and maintain the burial space in accordance with the laws, rules, and regulations relating to the care and maintenance of burial spaces, the cemetery board may institute proceedings for the termination and forfeiture of the owner's rights and interest in the burial space. If the cemetery board determines that the owner has failed or neglected to care and maintain the burial space, the cemetery board shall adopt a resolution reciting this determination. A certified copy of the resolution shall be served on the owner personally by a competent person or shall be sent by first class mail to the owner's last known address. If within 30 days after the sending of the resolution the owner does not comply or make provisions for complying with the laws, rules, and regulations, the cemetery board may cause a petition to be filed in the circuit court for the county in which the cemetery is located. The petition shall set forth the facts relating to the sale and ownership of the burial space, the owner's failure and neglect to comply with the laws, rules, and regulations for the care and maintenance of the burial space, and shall ask for the termination and forfeiture of the owner's rights to the burial space. The petition shall be noticed for a hearing, on a date not less than 40 days from the date of filing. Within 15 days after filing, a copy of the petition with the hearing notice shall be personally served on the owner or copies of the petition shall be sent by first class mail to the last known address of the owner. Notice of the hearing shall be published once each week for 3 successive weeks in a newspaper of general circulation in the county in which the cemetery is located. The first notice shall be published not less than 30 days before the date of hearing. After the petition and notice have been served or sent, it is the owner's duty to appear and answer to the allegations of the petition. If the owner fails to appear and answer on the day noticed for hearing, the owner's default may be entered in the manner provided for by law.

**History:** 1931, Act 46, Eff. Sept. 18, 1931;—CL 1948, 128.12;—Am. 1989, Act 14, Imd. Eff. May 10, 1989.

### **128.13 Burial space; proceedings for termination of rights; forfeiture; city, village or township may re-sell; copy of order served on owner; redemption.**

Sec. 3. On the day noticed for the hearing of said petition or on any subsequent day to which the hearing of the cause is adjourned, the proofs and allegations of the parties shall be presented to the court and if said court shall determine therefrom that the owner has failed and neglected for a period of 7 years preceding the filing of said petition to comply with the rules and regulations relating to the maintenance and the care of said burial space or spaces, an order shall be entered accordingly, forfeiting and terminating the rights and interest of such owner in and to said burial space or spaces, subject to the provisions of this act, and shall further provide

that the city, village or township, through and by its proper board or other officials shall have the right to re-sell such spaces and to use the proceeds derived from such sale in the manner and for the purposes hereinafter provided. A duly certified copy of such order shall, within a period of 10 days after the entering thereof, be personally served on such owner or shall be sent by registered mail to his last known place of address. Following the entering of such order aforesaid, the owner shall have a period of 60 days in which to redeem the right or interest in and to such spaces by paying the costs incurred in the proceeding, not exceeding \$15.00, and by complying with the rules and regulations provided for the care and maintenance thereof, or by making provision for such compliance. If it shall be made to appear to the court at any time before the expiration of such 60 day period that the owner has so redeemed the right or interest, an order shall be made and entered, setting aside the previous order of termination and forfeiture.

**History:** 1931, Act 46, Eff. Sept. 18, 1931;—Am. 1933, Act 72, Imd. Eff. May 5, 1933;—Am. 1935, Act 18, Eff. Sept. 21, 1935;—Am. 1937, Act 150, Imd. Eff. July 2, 1937;—Am. 1939, Act 257, Imd. Eff. June 15, 1939;—Am. 1941, Act 187, Imd. Eff. June 16, 1941;—CL 1948, 128.13;—Am. 1949, Act 107, Imd. Eff. May 17, 1949.

#### **128.14 Duty of board.**

Sec. 4. It shall be the duty of the cemetery board to keep an accurate account of all expenses incurred by it under the provision of this act and shall charge such expenses against the burial spaces involved. If, at the expiration of 60 days from and after the entering of the order of termination and forfeiture hereinbefore provided for, the owner shall not have redeemed his right or interest, the board is authorized and empowered to maintain and care for the burial space or spaces involved and shall keep an accurate and detailed account of all money expended for such purpose.

**History:** 1931, Act 46, Eff. Sept. 18, 1931;—CL 1948, 128.14.

#### **128.15 Reconveyance; perpetual care trust fund.**

Sec. 5. At any time during the period of 2 years from and after the entering of the order of termination and forfeiture, the owner of any burial space or spaces shall be entitled to a reconveyance to him by the cemetery board on the payment of the costs and expenses incurred in said proceeding, not exceeding 15 dollars, in the care and maintenance of such space or spaces. If such reconveyance is not sought and obtained during said 2 year period, then and thereupon the cemetery board shall be authorized and empowered to offer such spaces for sale in accordance with the rules and regulations of said board governing the sale of lots and spaces in the cemetery concerned. The proceeds derived therefrom shall be used to defray the expenses incurred in accordance with the provisions of this act and the balance, if any, shall be placed in a fund to be known as the "Perpetual care trust fund" of the cemetery. The income therefrom shall be used by the board for the future maintenance, care and upkeep of the cemetery.

**History:** 1931, Act 46, Eff. Sept. 18, 1931;—CL 1948, 128.15.

#### **128.16 Rights not forfeited; conditions.**

Sec. 6. Nothing in this act contained shall be construed to authorize the forfeiture or termination of rights or interest in and to any burial space that has been used for interment nor shall any such space be subject to resale under the provisions hereof.

**History:** 1931, Act 46, Eff. Sept. 18, 1931;—CL 1948, 128.16.