

SECOND REGULAR SESSION

SENATE BILL NO. 915

90TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR CLAY.

Read 1st time January 26, 2000, and 1,000 copies ordered printed.

TERRY L. SPIELER, Secretary.

4102S.011

AN ACT

To repeal section 214.205, RSMo 1994, relating to cemeteries, and to enact in lieu thereof one new section relating to the same subject.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Section 214.205, RSMo 1994, is repealed and one new section enacted in lieu thereof, to be known as section 214.205, to read as follows:

214.205. 1. If any cemetery not described in section 214.090 is found to be in violation of a city, town, village or county nuisance ordinance for failure to cut grass or weeds, or care for graves, grave markers, walls, fences, driveways or buildings, the governing body of such city, town, village or county shall be authorized to take those actions necessary to restore and maintain the cemetery, and the governing body shall be authorized to charge the expenses of such actions against the cemetery. If actions are taken by a city, town, village or county pursuant to this subsection, the city, town, village or county may assess all true costs of restoration, maintenance and operation against any responsible person, partnership or corporation whether such person, partnership or corporation is a lessee, lessor, equitable title holder or legal title holder to the unmaintained cemetery. Any city, town, village or county which assesses costs pursuant to this section reserves the right to pursue any and all legal, equitable or criminal remedies to collect such assessed costs. Any city, town, village or county which pursues a civil remedy pursuant to this section may employ independent attorneys and law firms to collect the costs of restoration, maintenance and operation of any unmaintained cemetery.

2. As used in this section, the term "abandoned cemetery" means any cemetery, except one described in section 214.090, in which, for a period of at least one year, there has been a

EXPLANATION--Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

substantial failure to cut grass or weeds or care for graves, grave markers, walls, fences, driveways and buildings or for which proper records have not been maintained pursuant to section 214.340.

3. Whenever the attorney general determines the existence of an abandoned cemetery in this state, the attorney general [shall immediately proceed to dissolve the cemetery] **may file a petition in the circuit court of Cole County or the county within which the cemetery is located for an order dissolving the corporation, partnership, limited liability company, trust, association or other entity** owning the same. **The petition shall name any person or entity that has recorded a lien on the property.**

4. Upon the dissolution of such corporation, **partnership, limited liability company, trust, association or other entity, the circuit court shall order that** title to all property owned by the [cemetery corporation shall vest in] **dissolved entity be transferred to** the municipality or county in which the cemetery is located, **or, upon approval by the municipality or county, to a Missouri not-for-profit corporation, or religious or charitable association, that is unrelated to the previous cemetery owner or operator and is established for the exclusive purpose of maintaining, caring for and operating the cemetery.** [and] The endowed care fund, together with all investments then outstanding, and all books, records and papers of such corporation shall be transferred to the treasurer of such municipality or county, **or to the not-for-profit corporation, or religious or charitable association,** and shall become the property thereof.

5. Upon the transfer of such property and funds **to a municipality or county,** the governing body of such municipality or county shall care for and maintain such cemetery with any moneys of the [cemetery corporation] **dissolved entity,** including the principal of and income from the endowed care funds, and, if such moneys are insufficient to properly maintain such cemetery, then it may use funds of the municipality or county.

6. **Upon the transfer of such property and funds to a not-for-profit corporation, or a religious or charitable association, that corporation or association shall care for and maintain such cemetery with the money and property of the dissolved entity. The principal and interest of the endowed care fund, if any, shall be preserved, managed and used by the not-for-profit corporation, or religious or charitable association, in accordance with the requirements of sections 214.270 to 214.410 and sections 214.500 to 214.516. This section shall not require the not-for-profit corporation, or religious or charitable organization, to restore deficiencies that existed in an endowed care trust fund before a transfer made pursuant to this section.**

7. **Any and all liens, mortgages, deeds of trusts or other encumbrances existing against the title of the cemetery shall be extinguished upon a transfer of the cemetery pursuant to this section.**

8. **If a not-for-profit corporation, or a religious or charitable association, obtaining ownership of a cemetery pursuant to this section desires to sell, grant,**

transfer or convey in the future additional rights for the internment of the human dead within the cemetery, it shall first elect to operate as an endowed care cemetery and fully comply with the requirements set forth in sections 214.270 to 214.410 and sections 214.500 to 214.516.

[3.] 9. In addition to those powers granted the attorney general in subsection 2 of this section, every municipality or county in which any abandoned cemetery is located may acquire through its power of eminent domain such cemetery, together with all endowed care funds, maintenance equipment, books and records, accounts receivable and other personal property used or created in the operation of the cemetery and owned or controlled by the person or association which owns the cemetery. The municipality or county shall acquire the cemetery and related property subject to the rights of owners of burial lots or other interment spaces. Upon so acquiring the cemetery and related property, the acquiring municipality or county shall operate and maintain the cemetery as a public cemetery. The municipality or county which so acquires an abandoned cemetery shall not be liable for any act or transaction which occurred prior to such acquisition, including, without limitation, any obligation to third parties or incorrect lot ownership or burial records.

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