

CHAPTER 188**CEMETERIES – PERPETUAL CARE***H.F. 237*

AN ACT relating to the perpetual care of cemeteries and cemetery lots and spaces.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 250.17, Code 1991, is amended to read as follows:

250.17 MAINTENANCE OF GRAVES.

The county boards of supervisors shall each year appropriate and pay to the owners of, or to the public board or officers having control of cemeteries within the state in which any such deceased service person is buried, a sum sufficient to pay for the care and maintenance of the lots on which they are buried, in all cases in which provision for such care is not otherwise made, or may conclude their responsibility by paying a mutually agreed to fee for perpetual care when the cemetery authority has established a perpetual care fund for the cemetery, to be paid either as a lump sum, or in not to exceed five installments in a manner agreed to by the parties.

Sec. 2. Section 368.3, Code 1991, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. When a city is discontinued under this section or under sections 368.11 through 368.22, and that city owns a cemetery, the board shall determine if any perpetual care funds exist and provide for their transfer to a trustee named by a district court or to the county or other suitable governmental entity.

Sec. 3. Section 566.14, Code 1991, is amended to read as follows:

566.14 MUNICIPAL CORPORATION POLITICAL SUBDIVISIONS AS TRUSTEE TRUSTEES.

Counties, cities, irrespective of their form of government, boards of trustees of cities to whom the management of municipal cemeteries has been transferred by ordinance, and civil townships wholly outside of any city, ~~shall be and they are hereby created~~ trustees in perpetuity, and are required to accept, receive, and expend all moneys and property donated or left to them by bequest for perpetual care, and that portion of cemetery lot sales or permanent charges made against cemetery lots which has been set aside in a perpetual care fund for which there is no other acting trustee, to be used in caring for the property of the donor, or lot owner who by purchase or otherwise has provided for the perpetual care of a cemetery lot in any cemetery, or in accordance with the terms of ~~such~~ the donation, bequest, or agreement for sale and purchase of a cemetery lot, and the money or property thus received shall be used for no other purpose.

Sec. 4. Section 566.15, Code 1991, is amended to read as follows:

566.15 AUTHORITY TO INVEST FUNDS.

The board of supervisors, mayor and council, or ~~board of trustees~~ other elected governmental body, as the case may be, ~~shall have~~ has the authority to receive and invest all moneys and property, ~~so~~ donated or bequeathed, and that portion of cemetery lot sales and permanent charges made against cemetery lots which ~~has have~~ been set aside in a perpetual care fund, in ~~such~~ authorized investments and in the manner prescribed in section 682.23, ~~or as the same may be hereafter amended.~~ Such money must be invested at the market value of such securities, and they shall use the for which they have exercised the judgment and care, under the circumstances then prevailing, which persons of prudence, discretion, and intelligence exercise in the management of their affairs. The income from such the investment shall be used in caring for the property of the donor in any cemetery, or as shall be provided in the terms of such the gift or donations or agreement for sale and purchase of a cemetery lot.

Sec. 5. Section 566.15, Code 1991, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. All current charges received shall be allocated to the perpetual care fund or to the fund paying the costs of cemetery operation. Care charge payments received one year or more after the date they were incurred shall be used to fund the cost of operating the cemetery. Care charge payments received one year or more in advance of their due date shall be deposited in the perpetual care fund. Interest from the perpetual care fund shall be used for the maintenance of both occupied and unoccupied lots or spaces. Any remaining interest may be used for costs of access roads and paths, fencing, and general maintenance of the cemetery. Lots under perpetual care shall be maintained in accordance with the cemetery covenants of sale.

Sec. 6. Section 566.16, Code 1991, is amended to read as follows:

566.16 RESOLUTION OF ACCEPTANCE — INTEREST.

Before any part of the principal may be so invested or used, the county, city, board of trustees of a city to whom the management of a municipal cemetery has been transferred by ordinance, or civil township shall, by resolution, accept the ~~donation or bequest, and that portion of cemetery lot sales or permanent charges made against cemetery lots which is to be used for perpetual care of cemetery lots, moneys described in section 566.14 and, by resolution, shall provide for the payment of interest annually to the appropriate fund, or to the cemetery association, or to the person having in charge of the cemetery, to be used in caring for or maintaining the individual property of the donor in the cemetery, or lots which have been sold if provision was made for perpetual care, all in accordance with the terms of the donation or bequest, or the terms of the sale or purchase of a cemetery lot.~~

In case If there is no cemetery association or person in charge of the cemetery, then the income from said the fund shall be expended under the direction of the board of supervisors, city council, board of trustees, or civil township trustees, as the case may be, in accordance with the terms of said the donation or bequest, or the terms of the sale or purchase of a cemetery lot.

Sec. 7. Section 566.21, Code 1991, is amended to read as follows:

566.21 PRESUMPTION OF ABANDONMENT.

The continued failure by the owner to maintain or care for a an unoccupied cemetery lot or space not under perpetual care, or to pay the annual care fee, for a period of ten years shall create and establish the presumption that the same lot or space has been abandoned. A lot with empty space under perpetual care which has not had a burial for seventy-five years shall create a presumption that the empty space has been abandoned.

Sec. 8. Section 566.22, Code 1991, is amended to read as follows:

566.22 NOTICE OF ABANDONMENT.

Abandonment shall not be deemed complete unless after such the ten-year or seventy-five year period, whichever is applicable, there shall have been is given by the reversionary owner to the recorded owner, or if the recorded owner is deceased or the recorded owner's whereabouts are unknown, to the heirs of such deceased the recorded owner, notice declaring the lot to be abandoned.

Sec. 9. Section 566.24, Code 1991, is amended to read as follows:

566.24 NOTICE OF NONABANDONMENT — EFFECT OVERCOMING PRESUMPTION OF ABANDONMENT.

If within one year from the time of serving such the notice, the recorded owner or the owner's heirs shall pay the past due annual care charges against the lot, then shall the presumption of abandonment shall no longer exist and the recorded owner may be required to make full payment for future perpetual care.

Sec. 10. Section 566.26, Code 1991, is amended by striking the section and inserting in lieu thereof the following:

566.26 USE OF FUNDS.

Any funds realized from the sale of all or a part of an unoccupied lot not under perpetual care which has reverted shall be allocated to the perpetual care fund and to the fund paying the costs of cemetery operation.

Sec. 11. Section 566.27, Code 1991, is amended by striking the section and inserting in lieu thereof the following:

566.27 ABANDONMENT IF PERPETUAL CARE PROVIDED BY WILL, COURT ORDER, OR CONTRACT.

After the seventy-five year period, sections 566.20 through 566.26 are applicable to an unoccupied lot or space for which perpetual care has been provided by will, court order, contract, or as provided by law. However, the reversionary owner shall not acquire the absolute right to sell the unoccupied lot or space until three years after the date notice was served on the recorded owner or the recorded owner's heirs.

Sec. 12. Section 566A.1, Code 1991, is amended to read as follows:

566A.1 APPLICABILITY OF CHAPTER.

1. ~~Any A corporation or other form of organization organized or engaging in the business under the laws of the state of Iowa, or wheresoever organized and engaging in the business in the state of Iowa,~~ of the ownership, maintenance, or operation of a cemetery, providing which provides lots or other interment space therein for the remains of human bodies, except such organizations which are churches or religious or established fraternal societies, or incorporated cities or other political subdivisions of the state of Iowa owning, maintaining or operating cemeteries, shall be is subject to the provisions of this chapter. However, a church, religious organization, or established fraternal society is subject only to subsection 2 of this section. Political subdivisions of the state are exempt from this chapter.

Sec. 13. Section 566A.1, Code 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 2. An organization which establishes a fund for the perpetual care of a cemetery shall establish the fund as an irrevocable trust to provide for the care and maintenance of the cemetery for which it was established, and shall provide for the appointment of a trustee, with perpetual succession, in case the organization is dissolved or ceases to be responsible for the cemetery's care and maintenance.

Approved May 21, 1991

CHAPTER 189**ELECTION OF MULTICOUNTY SHERIFF**

H.F. 510

AN ACT relating to the election of a county sheriff to serve more than one county.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. NEW SECTION. 331.661 MULTICOUNTY OFFICE.

1. Two or more county boards of supervisors may adopt resolutions proposing to share the services of a county sheriff. The resolutions shall also propose that the question of establishing the office of multicounty sheriff be submitted to the electorate of the counties proposing to share the services of a county sheriff. The proposal is adopted in those counties where a majority of the electors voting approves the proposal.

2. The county sheriff shall be elected by a majority of the votes cast for the office of county sheriff in all of the counties which the county sheriff will serve. The election shall be conducted in accordance with section 47.2, subsection 2.