

CEMETERY MANAGEMENT

566.1 Trustee appointed trust funds.

The owners of, or any party interested in, any cemetery may, by petition presented to the district court of the county where the cemetery is situated, have a trustee appointed with authority to receive any and all moneys or property that may be donated for and on account of said cemetery and to invest, manage, and control same under the direction of the court; but the trustee shall not be authorized to receive any gift, except with the understanding that the principal sum is to be a permanent fund, and only the net proceeds therefrom to be used in carrying out the purpose of the trust created, and all such funds shall be exempt from taxation.

[S13, § 254-a4; C24, 27, 31, 35, 39, § **10198**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 566.1]

566.2 Requisites of petition.

Such petition may state the amount proposed to be placed in such trust fund, the manner of investment thereof, the provisions made for the disposition of any surplus income not required for the care and upkeep of the property described in such petition.

[C24, 27, 31, 35, 39, § **10199**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 566.2]

566.3 Approval of court surplus fund.

Such provisions shall all be subject to the approval of the court and when so approved the trust fund and the trustee thereof shall, at all times, be subject to the orders and control of the court and such surplus arising from said fund shall not be used except for charitable, eleemosynary, or public purposes under the direction of the court.

[C24, 27, 31, 35, 39, § **10200**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 566.3]

566.4 Receipt cemetery record.

Every such trustee shall execute and deliver to the donor a receipt showing the amount of money or other property received, and the use to be made of the net proceeds from same, duly attested by the clerk of the court granting letters of trusteeship, and a copy thereof, signed by the trustee and so attested, shall be filed with and recorded by the clerk in a book to be known as the cemetery record, in which shall be recorded all reports and other papers, including orders made by the court relative to cemetery matters.

[S13, § 254-a5; C24, 27, 31, 35, 39, § **10201**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 566.4]

566.5 Investments.

Any such trustee shall have 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 been set aside in a perpetual care fund, in such authorized investments and in the manner prescribed in section 636.23 or as the same may be hereafter amended.

[S13, § 254-a6; C24, 27, 31, 35, 39, § **10202, 10203**; C46, 50, 54, 58, § 566.5, 566.6; C62, 66, 71, 73, 75, 77, 79, 81, § 566.5]

566.6 Repealed by 59 Acts, ch 343, § 1. See § 566.5.

566.7 Bond approval oath.

Every such trustee before entering upon the discharge of the trustee's duties or at any time thereafter when required by the court, must give bond in such penalty as may be required by the court, approved by the clerk, conditioned for the faithful discharge of the trustee's duties, and take and subscribe an oath the same in substance as the condition of the bond, which bond and oath must be filed with the clerk.

[S13, § 254-a7; C24, 27, 31, 35, 39, § **10204**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 566.7]

566.8 Clerk duty of.

It shall be the duty of the clerk at the time of filing each such receipt, to at once advise the court as to the amount of the principal fund in the hands of such trustee, the amount of bond filed, and whether it is good and sufficient for the amount given.

[S13, § 254-a8; C24, 27, 31, 35, 39, § **10205**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 566.8]

566.9 Compensation costs.

Such trustee shall serve without compensation, but may, out of the income received, pay all proper items of expense incurred in the performance of the trustee's duties, including cost of bond, if any.

[S13, § 254-a9; C24, 27, 31, 35, 39, § **10206**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 566.9]

566.10 Annual report.

Such trustee shall make full report of the trustee's doings in the month of January following appointment and in January of each successive year. In each of said reports the trustee shall apportion the net proceeds received from the sum total of the permanent fund and make proper credit to each of the separate funds assigned to the trustee in trust.

[S13, § 254-a10; C24, 27, 31, 35, 39, § **10207**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 566.10]

566.11 Removal vacancy filled.

Any such trustee may be removed by the court at any time for cause, and in the event of removal or death, the court must appoint a new trustee and require the new trustee's predecessor or the predecessor's personal representative to make full accounting.

[S13, § 254-a11; C24, 27, 31, 35, 39, § **10208**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 566.11]

566.12 County auditor as trustee.

In case no trustee is appointed, or if so appointed does not qualify, then such funds, or any funds donated by any person or estate to improvement of cemeteries, unless otherwise provided by law, shall be placed in the hands of the county auditor, who shall receipt for, loan, and make annual reports of such funds in such manner as provided in this chapter.

[SS15, § 254-a12; C24, 27, 31, 35, 39, § **10209**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 566.12]

566.13 Accounting.

The said auditor shall annually turn over the accrued interest in the auditor's hands to the cemetery

association or other person having control of the cemetery entitled thereto, who shall use the same in carrying out the provisions of said trust, and who shall file a written report annually with the county auditor.

[SS15, § 254-a12; C24, 27, 31, 35, 39, § **10210**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 566.13]

566.14 Political subdivisions as 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, are 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 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.

[S13, § 740; C24, 27, 31, 35, 39, § **10211**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 566.14]

91 Acts, ch 188, §3

566.15 Authority to invest funds current care charge payments.

The board of supervisors, mayor and council, or other elected governmental body, as the case may be, has the authority to receive and invest all moneys and property, donated or bequeathed, and that portion of cemetery lot sales and permanent charges made against cemetery lots which have been set aside in a perpetual care fund, in investments 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 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 the gift or donations or agreement for sale and purchase of a cemetery lot.

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.

[S13, § 740; C24, 27, 31, 35, 39, § **10212**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 566.15]

91 Acts, ch 188, §4, 5

566.16 Resolution of acceptance interest.

Before any part of the principal may be 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 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 the person 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.

If there is no cemetery association or person in charge of the cemetery, the income from 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 the donation or bequest, or the terms of the sale or purchase of a cemetery lot.

[S13, § 740; C24, 27, 31, 35, 39, § **10213**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, S81, § 566.16; 81 Acts, ch 117, § 1091]

83 Acts, ch 123, § 191, 209; 91 Acts, ch 188, §6

566.17 Delegates to conventions.

A township having a cemetery under its control may delegate not to exceed two officials from each cemetery controlled to attend meetings of cemetery officials, and certain expenses, including association dues, not to exceed twenty-five dollars, of the delegates may be paid out of the cemetery fund of the township.

[C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, S81, § 566.17; 81 Acts, ch 117, § 1092]

566.18 Subscribing to publications.

The cemetery officials of every township having a cemetery under its control may subscribe to one or more publications devoted exclusively to cemetery management, and the subscriptions may be paid out of the cemetery fund of the township.

[C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, S81, § 566.18; 81 Acts, ch 117, § 1093]

566.19 Settlement of estates maintenance fund.

The court in which the estate of a deceased person is administered, before final distribution, may allow and set apart from the estate, a sum sufficient to provide an income adequate to pay for the perpetual care and upkeep of the cemetery lot upon which the body of the deceased is buried, except where perpetual care has otherwise been provided for. The sum so allowed and set apart shall be paid to a trustee as provided by this chapter.

[C27, 31, 35, § 10213-a1; C39, § **10213.1**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 566.19]

89 Acts, ch 83, §77

566.20 Reversion.

The ownership or right in or to an unoccupied cemetery lot or portion thereof shall upon abandonment revert to the person or corporation having ownership and charge of the cemetery containing such lots.

[C31, 35, § 10213-d1; C39, § **10213.2**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 566.20]

566.21 Presumption of abandonment.

The continued failure by the owner to maintain or care for 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 the presumption that the 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.

[C31, 35, § 10213-d2; C39, § **10213.3**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 566.21]

91 Acts, ch 188, §7

566.22 Notice of abandonment.

Abandonment shall not be deemed complete unless after the ten-year or seventy-five year period, whichever is applicable, there 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 the recorded owner, notice declaring the lot to be abandoned.

[C31, 35, § 10213-d3; C39, § **10213.4**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 566.22]

91 Acts, ch 188, §8

566.23 Service of notice.

The notice may be served personally on the owner or the owner's heirs, or may be served by the mailing of the notice by certified mail to the owner, or the owner's heirs as the case may be, to their last known address. In the event that the address of the owner or the owner's heirs cannot be ascertained, then notice of such abandonment shall be by one publication in the official newspaper of the county, in which the cemetery is located.

[C31, 35, § 10213-d4; C39, § **10213.5**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 566.23]

566.24 Overcoming presumption of abandonment.

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

[C31, 35, § 10213-d5; C39, § **10213.6**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 566.24]

91 Acts, ch 188, §9

566.25 Reversioner's right to sell.

In case the abandonment has been complete as herein provided the reversionary owner of the abandoned lot or portion thereof may sell the same and convey title thereto.

[C31, 35, § 10213-d6; C39, § **10213.7**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 566.25]

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.

[C31, 35, § 10213-d7; C39, § **10213.8**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 566.26]

91 Acts, ch 188, §10

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.

[C31, 35, § 10213-d8; C39, § 10213.9; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 566.27]

91 Acts, ch 188, §11

566.28 to 566.30 Reserved.

566.31 Burial sites.

If a governmental subdivision or agency is notified of the existence of a marked burial site within its jurisdiction, and the burial site is not otherwise provided for under this chapter or chapter 263B or 566A, it shall as soon as practicable notify the owner of the land upon which the burial site is located of the site's existence and location. The notification shall include an explanation of the provisions contained within section 566.32.

86 Acts, ch 1030, § 1

566.32 Disturbance of burial sites penalty.

A person who knowingly and without authorization removes, destroys, or otherwise disturbs a burial site for which the person received notification under section 566.31 commits a simple misdemeanor.

86 Acts, ch 1030, § 2

566.33 Protection and preservation of burial sites.

A governmental subdivision or agency having a burial site within its jurisdiction, for which protection or preservation is not otherwise provided, shall preserve and protect the burial site as necessary to restore or maintain its physical integrity as a burial site. The governmental subdivision or agency may enter into an agreement with a public or private organization interested in historical preservation to delegate to the organization the responsibility for the protection and preservation of the burial site.

86 Acts, ch 1030, § 3

566.34 Confiscation and return of memorials.

A law enforcement officer having reason to believe that a grave memorial or burial memorial is in the possession of a person without authorization or right to possess the memorial may take possession of the memorial from that person and turn it over to the officer's agency.

If a law enforcement agency determines that a memorial it has taken possession of rightfully belongs on a grave or burial site, the agency shall return the memorial to the site, or make arrangements with the agency having jurisdiction over the grave or burial site for the return of the memorial.

86 Acts, ch 1030, § 4

566.35 Burial sites located on private property.

If a person notifies a governmental subdivision or agency of the existence within the jurisdiction of the

governmental subdivision or agency of a burial site of the person's ancestor on property owned by another person, the owner of the property shall permit the person reasonable ingress and egress for the purposes of visiting the burial site, and the governmental subdivision or agency shall notify the owner of this obligation.

99 Acts, ch 140, §2; 2001 Acts, ch 44, §28