

1 AMENDMENT TO HOUSE BILL 2283

2 AMENDMENT NO. _____. Amend House Bill 2283 on page 49, by
3 inserting the following immediately after line 4:

4 "If an abandoned or neglected cemetery has been dedicated
5 as an Illinois nature preserve under the Illinois Natural
6 Areas Preservation Act, any action to cause the clean up of
7 the cemetery under the provisions of this Section shall be
8 consistent with the rules and master plan governing the
9 dedicated nature preserve."; and

10 on page 49, line 6, by replacing "Section 1" with "Sections
11 1, 9, 10, 12, 13, and 14 and adding Section 16"; and

12 on page 52 by inserting the following immediately after line
13 3:

14 "(765 ILCS 835/9) (from Ch. 21, par. 21.2)

15 Sec. 9. When there is no memorial, monument, or marker
16 installed on a cemetery lot; no interment in a cemetery lot;
17 no transfer or assignment of a cemetery lot on the cemetery
18 authority records; no contact by an owner recorded in the
19 cemetery authority records; publication has been made in a
20 local newspaper and no response was received; and 60 years
21 have passed since the cemetery lot was sold, there is a
22 presumption that the cemetery lot has been abandoned.

1 Alternatively, where there is an obligation to pay a cemetery
2 authority, annually or periodically, maintenance or care
3 charges on a cemetery lot, or part thereof, and the owner of
4 or claimant to a right or easement for burial in such
5 cemetery lot, or part thereof, has failed to pay the required
6 annual or periodic maintenance or care charges for a period
7 of 30 years or more, such continuous failure to do so creates
8 and establishes a presumption that the cemetery lot, or part
9 thereof, has been abandoned.

10 Upon a court's determination of abandonment, the
11 ownership of a right or easement for burial in a cemetery
12 lot, or part thereof, shall be subject to sale in the manner
13 hereinafter provided.

14 (Source: Laws 1961, p. 2908.)

15 (765 ILCS 835/10) (from Ch. 21, par. 21.3)

16 Sec. 10. A cemetery authority may file in the office of
17 the clerk of the circuit court of the county in which the
18 cemetery is located a verified petition praying for the entry
19 of an order adjudging a cemetery lot, or part thereof, to
20 have been abandoned. The petition shall describe the
21 cemetery lot, or part thereof, alleged to have been
22 abandoned, shall allege ownership by the petitioner of the
23 cemetery, and, if known, the name of the owner of the right
24 or easement for burial in such cemetery lot, or part thereof,
25 as is alleged to have been abandoned, or, if the owner
26 thereof is known to the petitioner to be deceased, then the
27 names, if known to petitioner, of such claimants thereto as
28 are the heirs-at-law and next-of-kin or the specific legatees
29 under the will of the owner of the right or easement for
30 burial in such lot, or part thereof, and such other facts as
31 the petitioner may have with respect to ownership of the
32 right or easement for burial in such cemetery lot, or part
33 thereof.

1 The petition shall also allege the facts with respect to
2 the abandonment of the cemetery lot or facts about the
3 obligation of the owner to pay annual or periodic maintenance
4 or care charges on such cemetery lot, or part thereof, the
5 amount of such charges as are due and unpaid, and shall also
6 allege the continuous failure by the owner or claimant to pay
7 such charges for a period of 30 consecutive years or more.

8 Irrespective of diversity of ownership of the right or
9 easement for burial therein, a cemetery authority may include
10 in one petition as many cemetery lots, or parts thereof, as
11 are alleged to have been abandoned.

12 (Source: P.A. 84-549.)

13 (765 ILCS 835/12) (from Ch. 21, par. 21.5)

14 Sec. 12. In the event the owner, the claimant, or the
15 heirs-at-law and next-of-kin or the specific legatees under
16 the will of either the owner or claimant submits proof of
17 ownership to the court or, appears and answers the petition,
18 the presumption of abandonment shall no longer exist and the
19 court shall set the matter for hearing upon the petition and
20 such answers thereto as may be filed.

21 In the event the defendant or defendants fails to appear
22 and answer the petition, or in the event that upon the
23 hearing the court determines from the evidence presented that
24 there has been an abandonment of the cemetery lot for 60
25 years or a continuous failure to pay the annual or periodic
26 maintenance or care charges on such lot, or part thereof, for
27 a period of 30 years or more preceding the filing of the
28 petition, then, in either such event, an order shall be
29 entered adjudicating such lot, or part thereof, to have been
30 abandoned and adjudging the right or easement for burial
31 therein to be subject to sale by the cemetery authority at
32 the expiration of one year from the date of the entry of such
33 order. Upon entry of an order adjudicating abandonment of a

1 cemetery lot, or part thereof, the court shall fix such sum
2 as is deemed a reasonable fee for the services of
3 petitioner's attorney.

4 (Source: P.A. 84-549.)

5 (765 ILCS 835/13) (from Ch. 21, par. 21.6)

6 Sec. 13. In the event that, at any time within one year
7 after adjudication of abandonment, the owner or claimant of a
8 lot, or part thereof, which has been adjudged abandoned,
9 shall contact the court or the cemetery authority and pay all
10 maintenance or care charges that are due and unpaid, shall
11 reimburse the cemetery authority for the costs of suit and
12 necessary expenses incurred in the proceeding with respect to
13 such lot, or part thereof, and shall contract for its future
14 care and maintenance, then such lot, or part thereof, shall
15 not be sold as herein provided and, upon petition of the
16 owner or claimant, the order or judgment adjudging the same
17 to have been abandoned shall be vacated as to such lot, or
18 part thereof.

19 (Source: P.A. 79-1365.)

20 (765 ILCS 835/14) (from Ch. 21, par. 21.7)

21 Sec. 14. After the expiration of one year from the date
22 of entry of an order adjudging a lot, or part thereof, to
23 have been abandoned, a cemetery authority shall have the
24 right to do so and may sell such lot, or part thereof, at
25 public sale and grant an easement therein for burial purposes
26 to the purchaser at such sale, subject to the interment of
27 any human remains theretofore placed therein and the right to
28 maintain memorials placed thereon. A cemetery authority may
29 bid at and purchase such lot, or part thereof, at such sale.

30 Notice of the time and place of any sale held pursuant to
31 an order adjudicating abandonment of a cemetery, or part
32 thereof, shall be published once in a newspaper of general

1 circulation in the county in which the cemetery is located,
2 such publication to be not less than 30 days prior to the
3 date of sale.

4 The proceeds derived from any sale shall be used to
5 reimburse the petitioner for the costs of suit and necessary
6 expenses, including attorney's fees, incurred by petitioner
7 in the proceeding, and the balance, if any, shall be
8 deposited into the cemetery authority's care fund or, if
9 there is no care fund, used by the cemetery authority for the
10 care of its cemetery and for no other purpose.

11 (Source: P.A. 79-1365.)

12 (765 ILCS 835/16 new)

13 Sec. 16. When a multiple interment right owner becomes
14 deceased, the ownership of any unused rights of interment
15 shall pass in accordance with the specific bequest in the
16 decedent's will. If there is no will or specific bequest
17 then the use of the unused rights of interment shall be
18 determined by a cemetery authority in accordance with the
19 information set out on a standard affidavit for cemetery
20 interment rights use form if such a form has been prepared.
21 The unused right of interment shall be used for the interment
22 of the first deceased heir listed on the standard affidavit
23 and continue in sequence until all listed heirs are deceased.
24 In the event that an interment right is not used, the
25 interment right shall pass to the heirs of the heirs of the
26 deceased interment right owner in perpetuity. This shall not
27 preclude the ability of the heirs to sell said interment
28 rights, in the event that all listed living heirs are in
29 agreement. If the standard affidavit for cemetery interment
30 rights use, showing heirship of decedent interment right
31 owner's living heirs is provided to and followed by a
32 cemetery authority, the cemetery authority shall be released
33 of any liability in relying on that affidavit.

1 The following is the form of the standard affidavit:

2 STATE OF ILLINOIS _____)

3 _____) SS

4 COUNTY OF)

5 AFFIDAVIT FOR CEMETERY INTERMENT RIGHTS USE

6 I,, being first duly sworn on oath depose and
7 say that:

8 1. A. My place of residence is

9 B. My post office address is

10 C. I understand that I am providing the information
11 contained in this affidavit to the
12 ("Cemetery") and the Cemetery shall, in the absence of
13 directions to the contrary in my will, rely on this
14 information to allow the listed individuals to be
15 interred in any unused interment rights in the order of
16 their death.

17 D. I understand that, if I am an out-of-state
18 resident, I submit myself to the jurisdiction of Illinois
19 courts for all matters related to the preparation and use
20 of this affidavit. My agent for service of process in
21 Illinois is:

22 Name Address

23 City Telephone

24 Items 2 through 6 must be completed by the executor of
25 the decedent's estate, a personal representative, owner's
26 surviving spouse, or surviving heir.

27 2. The decedent's name is

28 3. The date of decedent's death was

29 4. The decedent's place of residence immediately before
30 his or her death was

31 5. My relationship to the decedent is

32 6. At the time of death, the decedent (had no) (had a)
33 surviving spouse. The name of the surviving spouse, if any,

1 is, and he or she (has) (has not)
2 remarried.

3 7. The following is a list of the cemetery interment
4 rights that may be used by the heirs if the owner is
5 deceased:

6
7

8 8. The following persons have a right to use the
9 cemetery interment rights in the order of their death:

10 Address
11 Address
12 Address
13 Address
14 Address
15 Address
16 Address

17 9. This affidavit is made for the purpose of obtaining
18 the consent of the undersigned to transfer the right of
19 interment at the above mentioned cemetery property to the
20 listed heirs. Affiants agree that they will save, hold
21 harmless, and indemnify Cemetery, its heirs, successors,
22 employees, and assigns, from all claims, loss, or damage
23 whatsoever that may result from relying on this affidavit to
24 record said transfer in its records and allow interments on
25 the basis of the information contained in this affidavit.

26 WHEREFORE affiant requests Cemetery to recognize the
27 above named heirs-at-law as those rightfully entitled to the
28 use of said interment (spaces) (space).

29 THE FOREGOING STATEMENT IS MADE UNDER THE PENALTIES OF
30 PERJURY. (A FRAUDULENT STATEMENT MADE UNDER THE PENALTIES OF
31 PERJURY IS PERJURY AS DEFINED IN THE CRIMINAL CODE OF 1961.)

32 Dated this day of,

33 (Seal) (To be signed by the owner or

1 the individual who completes items 2 through 6 above.)
2 Subscribed and sworn to before me, a Notary Public in and for
3 the County and State of aforesaid this
4 day of,
5 Notary Public.".