

Enrolled
Senate Bill 1537

Sponsored by Senators MONROE, THOMSEN; Senators JOHNSON, NELSON (Presession filed.)

CHAPTER

AN ACT

Relating to abandoned burial spaces; and declaring an emergency.

Be It Enacted by the People of the State of Oregon:

SECTION 1. Section 2 of this 2012 Act is added to and made a part of ORS 97.510 to 97.730.

SECTION 2. (1) As used in this section, “unclaimed burial space” means a burial space in a cemetery:

(a) That has not been used for purposes of interment for at least 75 years by the record owner of the burial space or by a party claiming through the record owner of the burial space; and

(b) For which the cemetery authority has no record of any verbal or written contact for a period of at least 75 years with the record owner of the burial space or with a party claiming through the record owner of the burial space.

(2) Notwithstanding ORS 97.630 or 97.810 to 97.920, a cemetery authority may dispose of unclaimed burial spaces as described in subsections (3) to (7) of this section.

(3) The cemetery authority shall prepare an inventory describing the unclaimed burial spaces, including the purchase date and record owner of each unclaimed burial space as shown in the records of the cemetery.

(4) The governing body of the cemetery authority shall adopt a predisposition resolution approving the inventory prepared under subsection (3) of this section and directing the officers of the cemetery authority to dispose of the unclaimed burial spaces as provided in this section.

(5) The cemetery authority shall:

(a) Send, by certified mail, return receipt requested, a notice containing a description of the unclaimed burial space and the address and telephone number of the cemetery authority, in substantially the form set forth in subsection (10) of this section, to the last-known address of the record owner of each unclaimed burial space described in the inventory and to the last-known address of any other person who the cemetery authority has reason to believe has an ownership or security interest in any of the unclaimed burial spaces described in the inventory.

(b) Post the notice for at least four weeks at the cemetery containing the unclaimed burial spaces in a place reasonably likely to provide notice to owners of the burial spaces.

(c) Publish the notice in a newspaper of general circulation in the area of the cemetery authority for at least four successive weeks.

(d) Provide notice by telephone and electronic mail, if telephone or electronic mail contact information is available, to the record owner of each unclaimed burial space and to any other person who the cemetery authority has reason to believe has an ownership or security interest in any of the unclaimed burial spaces.

(6) If, within 120 days after the date of the notice described in subsection (5) of this section, a person makes a claim with the cemetery presenting documentation that the person is the lawful owner or holds a security interest in an unclaimed burial space described in the inventory, the cemetery authority shall, during the 30 days following the expiration of the 120-day period described in this subsection:

(a) Approve the claim and execute an instrument transferring the right of interment in the burial space to the claimant; or

(b) Notify the claimant that the cemetery authority denies the claim.

(7) If a cemetery authority denies a claim under subsection (6) of this section, the claimant may, within 30 days after the date of the denial, file a petition seeking return of the unclaimed burial space in the circuit court for the county in which the cemetery authority is located. If a petition is filed, the cemetery authority shall hold the unclaimed burial space until the court issues an order directing disposition of the unclaimed burial space. If the court grants the petition, the cemetery authority shall execute an instrument transferring the right of interment in the burial space to the claimant.

(8) If, 120 days after the date of the notice described in subsection (5) of this section, no person has made a claim with the cemetery authority with regard to an unclaimed burial space described in the notice, or if the court denies with prejudice a petition filed under subsection (7) of this section, the governing body of the cemetery authority may adopt a resolution declaring the unclaimed burial space to be abandoned. Upon adoption of the resolution, title to an abandoned burial space passes to the cemetery authority free of any right, title, estate, lien or ownership interest held by any other person. The cemetery authority may transfer good and sufficient title to any subsequent purchaser or transferee, and the title shall be recognized by all courts and governmental agencies. Any department, agency or officer of this state or any political subdivision of this state whose official functions include the issuance of certificates or other evidence of title is immune from civil or criminal liability when such issuance is pursuant to a bill of sale issued by the cemetery authority under this section.

(9) If, within one year after adoption of a resolution under subsection (8) of this section, a person files a claim with the cemetery authority that presents proof satisfactory to the cemetery authority that the person's ownership of or security interest in an abandoned burial space was extinguished by the resolution, the cemetery authority shall provide the claimant with a reasonably comparable burial space within 30 days after the claimant makes the claim.

(10) The notice required by subsection (5) of this section must be in substantially the following form:

_____ (DATE)

_____ (name of cemetery authority) has identified the following unclaimed burial spaces in _____ (name of cemetery):

(Description of unclaimed burial spaces, including purchase date and record owner)

If you have any right, title, estate, lien or ownership interest in any of the unclaimed burial spaces described above, you must file a claim with (name of cemetery authority) within 120 days of the date of this notice or you will lose your interest in the unclaimed burial spaces described above.

SECTION 3. This 2012 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2012 Act takes effect on its passage.

Passed by Senate February 10, 2012

Received by Governor:

Repassed by Senate February 24, 2012

.....M.,....., 2012

Approved:

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Robert Taylor, Secretary of Senate

.....M.,....., 2012

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Peter Courtney, President of Senate

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John Kitzhaber, Governor

Passed by House February 22, 2012

Filed in Office of Secretary of State:

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Bruce Hanna, Speaker of House

.....M.,....., 2012

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Arnie Roblan, Speaker of House

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Kate Brown, Secretary of State