

## CHAPTER 12. TITLE TO AND RIGHTS IN CEMETERY SPACES

### § 801. Recognized owner of title

The person or persons or entity in whose names the official title to a cemetery space appears in the official records of a cemetery authority shall be treated as the owner of the space by the cemetery authority.

*Acts 1974, No. 417, § 1. Amended by Acts 2022, No. 574, § 1.*

### § 802. Transfer of ownership rights

A. In order to insure that at all times the cemetery authority will have complete and accurate records, the sale or transfer of any right of interment or cemetery space, shall not be binding upon a cemetery authority until approved in writing by a duly authorized officer, agent or employee of the cemetery authority and duly recorded in the official records of the cemetery.

B. A cemetery authority may refuse to give its consent to a sale, use, or transfer of, or may refuse to issue a deed or other evidence of title to a cemetery space or the right of interment, if there is any indebtedness due on such right of interment or cemetery space.

C. The transfer of any right of interment or cemetery space, whether by conveyance, assignment of a purchase contract, or otherwise, shall be subject to all of the terms, provisions and conditions of the rules and regulations of the cemetery authority, as amended from time to time.

D. All transfers of rights of interment or cemetery space shall be subject to the payment of such reasonable fees and charges as may be established from time to time on a uniform basis by the cemetery authority, and such fees and charges shall be paid before any transfer is approved by and recorded in the records of the cemetery authority.

E. Whenever a cemetery authority makes an interment on the authority of a person who presents the official title to the cemetery space in which the interment is to be made, the right of the cemetery authority to make the interment shall be conclusively presumed, but it shall have the right to refuse to permit an interment if it receives a written protest from any person who, in the sole judgment of an officer of the cemetery authority, has a reasonable basis for objecting.

F. In dealing with an owner, a cemetery authority may rely upon, for all purposes, the last address of the owner that is on file in the office of the cemetery authority, and any notice forwarded to the owner of record at the address shall be conclusively considered as sufficient and proper legal notification for any and all purposes. If an owner wishes to change his official address, it shall be his duty to notify the cemetery authority, in writing, and when such a notice is received by the cemetery authority, the owner's address shall be promptly changed and, thereafter, the new address shall prevail for all purposes.

*Acts 1974, No. 417, § 1. Amended by Acts 2022, No. 574, § 1.*

### § 803. Descent of title to cemetery space

Except as otherwise provided in this Chapter, every right of interment and cemetery space shall be

subject to the laws of this state pertaining to community property, inheritance, including but not limited to the laws of intestacy, donations inter vivos and mortis causa, and successions.

*Acts 1974, No. 417, § 1. Amended by Acts 2022, No. 574, § 1.*

#### **§ 804. Affidavit as authorization**

In the absence of a formal judgment of possession in the succession of the record owner of a cemetery space or right of interment, an affidavit by a disinterested but informed person of the facts setting forth the fact of the death of the record owner and identifying the spouse and legal heirs of the decedent shall be complete and sufficient authorization for a cemetery authority to permit the use of any unoccupied portion of a cemetery space by the person or persons entitled to the use thereof.

*Acts 1974, No. 417, § 1.*

#### **§ 805. When right of interment or cemetery space is inalienable**

Subject to the approval of the cemetery authority, any cemetery space in any cemetery may be conveyed by the owner or owners, by proper instrument in a form approved by the cemetery authority, or such conveyance may be so provided in the last will and testament of the owner to the cemetery authority in perpetual trust for its preservation as a place of interment and shall thereafter remain forever inalienable by act of the parties. The right to use the cemetery space as a place of interment of the dead of the family of the owner and his descendants shall descend from generation to generation, unless the act of conveyance in trust provides that interments in the space shall be confined to the remains of specified persons, in which case the space shall be forever preserved for the remains of the persons so specified and shall never be used for any other purpose.

*Acts 1974, No. 417, § 1. Amended by Acts 2022, No. 574, § 1.*

#### **§ 806. Rights of co-owners**

When the record title to a cemetery space or right of interment is in the names of two or more persons, each shall be considered as having a vested right therein and no conveyance or other disposition of space or right shall be recognized without the written concurrence of each record owner, but each owner shall have the right of interment in any unoccupied portion of the cemetery space at the time of death.

*Acts 1974, No. 417, § 1. Amended by Acts 2022, No. 574, § 1.*

#### **§ 807. Co-owners; identification**

An affidavit by any informed but disinterested person having knowledge of the facts setting forth the fact of the death of one co-owner and establishing the identity of the surviving co-owner named in the deed to any cemetery space or right of interment, when filed with the cemetery authority, shall constitute complete and sufficient authorization to the cemetery authority to permit the use of one unoccupied portion of the space in accordance with the directions of the surviving co-owner.

*Acts 1974, No. 417, § 1. Amended by Acts 2022, No. 574, § 1.*

### **§ 808. Co-owners may designate representative**

When there are two or more owners of a cemetery space or right of interment, they may designate one or more persons, firms or corporations, trustees, or other entities to represent them and, upon filing written notice of designation with the cemetery authority, the cemetery authority in its discretion shall have the right to deal with such representative unless the cemetery authority receives written revocation of the designation executed by all of the co-owners or their heirs or legal representatives.

*Acts 1974, No. 417, § 1. Amended by Acts 2022, No. 574, § 1.*

### **§ 809. Waiver of right of interment**

Any surviving spouse, parent, child, or heir having a right of interment in an interment space may waive such right in favor of any other relative or spouse of a relative of the deceased record owner. Upon such waiver, the remains of the person in whose favor the waiver is made may be interred in the interment space.

*Acts 1974, No. 417, § 1. Amended by Acts 2022, No. 574, § 1.*

### **§ 810. Termination of vested right by waiver**

A vested right of interment may be waived and is terminated upon the interment elsewhere of the remains of the person in whom vested.

*Acts 1974, No. 417, § 1.*

### **§ 811. Limitations on vested rights**

No vested right of interment gives to any person the right to have his remains interred in any interment space in which the remains of any deceased person having a prior vested right of interment have been interred, nor does it give any person the right to have the remains of more than one deceased person interred in a single interment space in violation of the rules and regulations of the cemetery authority of the cemetery in which the interment space is located.

*Acts 1974, No. 417, § 1.*

### **§ 812. Conveyance of cemetery spaces; formality and recordation**

Cemetery authorities that own land destined as places for the interment of human remains may convey portions thereof, or cemetery spaces located therein, for interments. The acts of conveyance shall be passed under the form prescribed by the cemetery authority, and any acts so made shall be equally authentic and impart full proof as if passed before a notary and two witnesses. It shall not be necessary to record such instruments in any public office.

*Acts 1974, No. 417, § 1*

### **§ 813. Correction of errors**

A cemetery authority shall have the right to correct any and all errors that may occur in or in connection

with the operation of the cemetery, including without limitation those involving or in connection with the making of an interment, disinterment, or removal, or the description, transfer, granting the right of use, or conveyance of a cemetery space, and in this connection, the cemetery authority shall have the right to substitute, grant the right of use, or convey, in order to correct any such errors, other interment rights, approximately equal in value and location as far as feasible, as selected by the authority; or, in the sole discretion of the authority, the correction of an error may be accomplished by the refunding of the amount of money paid on account of the acquisition or use of a cemetery space. If an error involves an interment, the cemetery authority shall have the right to remove and transfer the remains that are involved.

*Acts 1974, No. 417, § 1. Amended by Acts 2022, No. 574, § 1.*

#### **§ 814. Exemption from inheritance tax**

*Acts 1974, No. 417, § 1. Repealed by Acts 2010, No. 175, § 6, effective August 15, 2010.*