

## CHAPTER 128

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**PROPERTY**

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**HOUSE BILL 06-1268**

BY REPRESENTATIVE(S) Riesberg, Knoedler, and Todd;  
also SENATOR(S) Bacon, and Kester.

**AN ACT****CONCERNING THE RIGHT OF CEMETERIES TO RECLAIM ABANDONED INTERMENT SITES.**

*Be it enacted by the General Assembly of the State of Colorado:*

**SECTION 1.** Article 47 of title 7, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

**7-47-109. Abandoned graves - right to reclaim.** (1) IF THERE IS A LOT, GRAVE SPACE, NICHE, OR CRYPT IN A CEMETERY IN WHICH NO REMAINS HAVE BEEN INTERRED, NO BURIAL MEMORIAL HAS BEEN PLACED, AND NO OTHER IMPROVEMENT HAS BEEN MADE FOR A CONTINUOUS PERIOD OF NO LESS THAN SEVENTY-FIVE YEARS, THE CORPORATION THAT ESTABLISHED OR MAINTAINS THE CEMETERY, REFERRED TO IN THIS SECTION AS THE "CORPORATION", MAY INITIATE THE PROCESS OF RECLAIMING TITLE TO THE LOT, GRAVE SPACE, NICHE, OR CRYPT IN ACCORDANCE WITH THIS SECTION.

(2) A CORPORATION SEEKING TO RECLAIM A LOT, GRAVE SPACE, NICHE, OR CRYPT SHALL:

(a) SEND WRITTEN NOTICE OF THE CORPORATION'S INTENT TO RECLAIM TITLE TO THE LOT, GRAVE SPACE, NICHE, OR CRYPT TO THE OWNER'S LAST-KNOWN ADDRESS BY FIRST-CLASS MAIL; AND

(b) PUBLISH A NOTICE OF THE CORPORATION'S INTENT TO RECLAIM TITLE TO THE LOT, GRAVE SPACE, NICHE, OR CRYPT IN A NEWSPAPER OF GENERAL CIRCULATION IN THE AREA IN WHICH THE CEMETERY IS LOCATED ONCE PER WEEK FOR FOUR WEEKS.

(3) THE NOTICE REQUIRED BY SUBSECTION (2) OF THIS SECTION SHALL CLEARLY

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*Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.*

INDICATE THAT THE CORPORATION INTENDS TO TERMINATE THE OWNER'S RIGHTS AND TITLE TO THE LOT, GRAVE SPACE, NICHE, OR CRYPT AND INCLUDE A RECITATION OF THE OWNER'S RIGHT TO NOTIFY THE CORPORATION OF THE OWNER'S INTENT TO RETAIN OWNERSHIP OF THE LOT, GRAVE SPACE, NICHE, OR CRYPT.

(4) IF THE CORPORATION DOES NOT RECEIVE FROM THE OWNER OF THE LOT, GRAVE SPACE, NICHE, OR CRYPT A LETTER OF INTENT TO RETAIN OWNERSHIP OF THE LOT, GRAVE SPACE, NICHE, OR CRYPT WITHIN SIXTY DAYS AFTER THE LAST PUBLICATION OF THE NOTICE REQUIRED BY PARAGRAPH (b) OF SUBSECTION (2) OF THIS SECTION, ALL RIGHTS AND TITLE TO THE LOT, GRAVE SPACE, NICHE, OR CRYPT SHALL TRANSFER TO THE CORPORATION. THE CORPORATION MAY THEN SELL, TRANSFER, OR OTHERWISE DISPOSE OF THE LOT, GRAVE SPACE, NICHE, OR CRYPT WITHOUT RISK OF LIABILITY TO THE PRIOR OWNER OF THE LOT, GRAVE SPACE, NICHE, OR CRYPT.

(5) A CORPORATION THAT RECLAIMS TITLE TO A LOT, GRAVE SPACE, NICHE, OR CRYPT IN ACCORDANCE WITH THIS SECTION SHALL RETAIN IN ITS RECORDS FOR NO LESS THAN ONE YEAR A COPY OF THE NOTICE SENT PURSUANT TO PARAGRAPH (a) OF SUBSECTION (2) OF THIS SECTION AND A COPY OF THE NOTICE PUBLISHED PURSUANT TO PARAGRAPH (b) OF SUBSECTION (2) OF THIS SECTION.

(6) IF A PERSON SUBMITS TO A CORPORATION A LEGITIMATE CLAIM TO A LOT, GRAVE SPACE, NICHE, OR CRYPT THAT THE CORPORATION HAS RECLAIMED PURSUANT TO THIS SECTION, THE CORPORATION SHALL TRANSFER TO THE PERSON AT NO CHARGE A LOT, GRAVE SPACE, NICHE, OR CRYPT THAT, TO THE EXTENT POSSIBLE, IS EQUIVALENT TO THE RECLAIMED LOT, GRAVE SPACE, NICHE, OR CRYPT.

(7) NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, ON AND AFTER THE EFFECTIVE DATE OF THIS SECTION, A CORPORATION SHALL NOT CONVEY TITLE TO THE REAL PROPERTY SURVEYED AS A LOT IN A CEMETERY FOR USE AS A BURIAL SPACE. A CORPORATION MAY GRANT INTERMENT RIGHTS TO A LOT, GRAVE SPACE, NICHE, OR CRYPT IN A CEMETERY.

**SECTION 2.** Article 12 of title 12, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

**12-12-116. Abandoned graves - right to reclaim.** (1) IF THERE IS A LOT, GRAVE SPACE, NICHE, OR CRYPT IN A CEMETERY IN WHICH NO REMAINS HAVE BEEN INTERRED, NO BURIAL MEMORIAL HAS BEEN PLACED, AND NO OTHER IMPROVEMENT HAS BEEN MADE FOR A CONTINUOUS PERIOD OF NO LESS THAN SEVENTY-FIVE YEARS, A CEMETERY AUTHORITY MAY INITIATE THE PROCESS OF RECLAIMING TITLE TO THE LOT, GRAVE SPACE, NICHE, OR CRYPT IN ACCORDANCE WITH THIS SECTION.

(2) A CEMETERY AUTHORITY SEEKING TO RECLAIM A LOT, GRAVE SPACE, NICHE, OR CRYPT SHALL:

(a) SEND WRITTEN NOTICE OF THE CEMETERY AUTHORITY'S INTENT TO RECLAIM TITLE TO THE LOT, GRAVE SPACE, NICHE, OR CRYPT TO THE OWNER'S LAST-KNOWN ADDRESS BY FIRST-CLASS MAIL; AND

(b) PUBLISH A NOTICE OF THE CEMETERY AUTHORITY'S INTENT TO RECLAIM TITLE

TO THE LOT, GRAVE SPACE, NICHE, OR CRYPT IN A NEWSPAPER OF GENERAL CIRCULATION IN THE AREA IN WHICH THE CEMETERY IS LOCATED ONCE PER WEEK FOR FOUR WEEKS.

(3) THE NOTICE REQUIRED BY SUBSECTION (2) OF THIS SECTION SHALL CLEARLY INDICATE THAT THE CEMETERY AUTHORITY INTENDS TO TERMINATE THE OWNER'S RIGHTS AND TITLE TO THE LOT, GRAVE SPACE, NICHE, OR CRYPT AND INCLUDE A RECITATION OF THE OWNER'S RIGHT TO NOTIFY THE CEMETERY AUTHORITY OF THE OWNER'S INTENT TO RETAIN OWNERSHIP OF THE LOT, GRAVE SPACE, NICHE, OR CRYPT.

(4) IF THE CEMETERY AUTHORITY DOES NOT RECEIVE FROM THE OWNER OF THE LOT, GRAVE SPACE, NICHE, OR CRYPT A LETTER OF INTENT TO RETAIN OWNERSHIP OF THE LOT, GRAVE SPACE, NICHE, OR CRYPT WITHIN SIXTY DAYS AFTER THE LAST PUBLICATION OF THE NOTICE REQUIRED BY PARAGRAPH (b) OF SUBSECTION (2) OF THIS SECTION, ALL RIGHTS AND TITLE TO THE LOT, GRAVE SPACE, NICHE, OR CRYPT SHALL TRANSFER TO THE CEMETERY AUTHORITY. THE CEMETERY AUTHORITY MAY THEN SELL, TRANSFER, OR OTHERWISE DISPOSE OF THE LOT, GRAVE SPACE, NICHE, OR CRYPT WITHOUT RISK OF LIABILITY TO THE PRIOR OWNER OF THE LOT, GRAVE SPACE, NICHE, OR CRYPT.

(5) A CEMETERY AUTHORITY THAT RECLAIMS TITLE TO A LOT, GRAVE SPACE, NICHE, OR CRYPT IN ACCORDANCE WITH THIS SECTION SHALL RETAIN IN ITS RECORDS FOR NO LESS THAN ONE YEAR A COPY OF THE NOTICE SENT PURSUANT TO PARAGRAPH (a) OF SUBSECTION (2) OF THIS SECTION AND A COPY OF THE NOTICE PUBLISHED PURSUANT TO PARAGRAPH (b) OF SUBSECTION (2) OF THIS SECTION.

(6) IF A PERSON SUBMITS TO A CEMETERY AUTHORITY A LEGITIMATE CLAIM TO A LOT, GRAVE SPACE, NICHE, OR CRYPT THAT THE CEMETERY AUTHORITY HAS RECLAIMED PURSUANT TO THIS SECTION, THE CEMETERY AUTHORITY SHALL TRANSFER TO THE PERSON AT NO CHARGE A LOT, GRAVE SPACE, NICHE, OR CRYPT THAT, TO THE EXTENT POSSIBLE, IS EQUIVALENT TO THE RECLAIMED LOT, GRAVE SPACE, NICHE, OR CRYPT.

(7) NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, ON AND AFTER THE EFFECTIVE DATE OF THIS SECTION, A CEMETERY AUTHORITY SHALL NOT CONVEY TITLE TO THE REAL PROPERTY SURVEYED AS A LOT IN A CEMETERY FOR USE AS A BURIAL SPACE. A CEMETERY AUTHORITY MAY GRANT INTERMENT RIGHTS TO A LOT, GRAVE SPACE, NICHE, OR CRYPT IN A CEMETERY.

**SECTION 3.** Part 8 of article 20 of title 30, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

**30-20-808. Abandoned graves - right to reclaim.** (1) IF THERE IS A LOT, GRAVE SPACE, NICHE, OR CRYPT IN A CEMETERY IN WHICH NO REMAINS HAVE BEEN INTERRED, NO BURIAL MEMORIAL HAS BEEN PLACED, AND NO OTHER IMPROVEMENT HAS BEEN MADE FOR A CONTINUOUS PERIOD OF NO LESS THAN SEVENTY-FIVE YEARS, A CEMETERY DISTRICT MAY INITIATE THE PROCESS OF RECLAIMING TITLE TO THE LOT, GRAVE SPACE, NICHE, OR CRYPT IN ACCORDANCE WITH THIS SECTION.

(2) A CEMETERY DISTRICT SEEKING TO RECLAIM A LOT, GRAVE SPACE, NICHE, OR

CRYPT SHALL:

(a) SEND WRITTEN NOTICE OF THE CEMETERY DISTRICT'S INTENT TO RECLAIM TITLE TO THE LOT, GRAVE SPACE, NICHE, OR CRYPT TO THE OWNER'S LAST-KNOWN ADDRESS BY FIRST-CLASS MAIL; AND

(b) PUBLISH A NOTICE OF THE CEMETERY DISTRICT'S INTENT TO RECLAIM TITLE TO THE LOT, GRAVE SPACE, NICHE, OR CRYPT IN A NEWSPAPER OF GENERAL CIRCULATION IN THE AREA IN WHICH THE CEMETERY IS LOCATED ONCE PER WEEK FOR FOUR WEEKS.

(3) THE NOTICE REQUIRED BY SUBSECTION (2) OF THIS SECTION SHALL CLEARLY INDICATE THAT THE CEMETERY DISTRICT INTENDS TO TERMINATE THE OWNER'S RIGHTS AND TITLE TO THE LOT, GRAVE SPACE, NICHE, OR CRYPT AND INCLUDE A RECITATION OF THE OWNER'S RIGHT TO NOTIFY THE CEMETERY DISTRICT OF THE OWNER'S INTENT TO RETAIN OWNERSHIP OF THE LOT, GRAVE SPACE, NICHE, OR CRYPT.

(4) IF THE CEMETERY DISTRICT DOES NOT RECEIVE FROM THE OWNER OF THE LOT, GRAVE SPACE, NICHE, OR CRYPT A LETTER OF INTENT TO RETAIN OWNERSHIP OF THE LOT, GRAVE SPACE, NICHE, OR CRYPT WITHIN SIXTY DAYS AFTER THE LAST PUBLICATION OF THE NOTICE REQUIRED BY PARAGRAPH (b) OF SUBSECTION (2) OF THIS SECTION, ALL RIGHTS AND TITLE TO THE LOT, GRAVE SPACE, NICHE, OR CRYPT SHALL TRANSFER TO THE CEMETERY DISTRICT. THE CEMETERY DISTRICT MAY THEN SELL, TRANSFER, OR OTHERWISE DISPOSE OF THE LOT, GRAVE SPACE, NICHE, OR CRYPT WITHOUT RISK OF LIABILITY TO THE PRIOR OWNER OF THE LOT, GRAVE SPACE, NICHE, OR CRYPT.

(5) A CEMETERY DISTRICT THAT RECLAIMS TITLE TO A LOT, GRAVE SPACE, NICHE, OR CRYPT IN ACCORDANCE WITH THIS SECTION SHALL RETAIN IN ITS RECORDS FOR NO LESS THAN ONE YEAR A COPY OF THE NOTICE SENT PURSUANT TO PARAGRAPH (a) OF SUBSECTION (2) OF THIS SECTION AND A COPY OF THE NOTICE PUBLISHED PURSUANT TO PARAGRAPH (b) OF SUBSECTION (2) OF THIS SECTION.

(6) IF A PERSON SUBMITS TO A CEMETERY DISTRICT A LEGITIMATE CLAIM TO A LOT, GRAVE SPACE, NICHE, OR CRYPT THAT THE CEMETERY DISTRICT HAS RECLAIMED PURSUANT TO THIS SECTION, THE CEMETERY DISTRICT SHALL TRANSFER TO THE PERSON AT NO CHARGE A LOT, GRAVE SPACE, NICHE, OR CRYPT THAT, TO THE EXTENT POSSIBLE, IS EQUIVALENT TO THE RECLAIMED LOT, GRAVE SPACE, NICHE, OR CRYPT.

(7) NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, ON AND AFTER THE EFFECTIVE DATE OF THIS SECTION, A CEMETERY DISTRICT SHALL NOT CONVEY TITLE TO THE REAL PROPERTY SURVEYED AS A LOT IN A CEMETERY FOR USE AS A BURIAL SPACE. A CEMETERY DISTRICT MAY GRANT INTERMENT RIGHTS TO A LOT, GRAVE SPACE, NICHE, OR CRYPT IN A CEMETERY.

**SECTION 4.** Part 7 of article 25 of title 31, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

**31-25-708. Abandoned burial sites - right to reclaim.** (1) IF THERE IS A BURIAL SPACE IN A CEMETERY IN WHICH NO REMAINS HAVE BEEN INTERRED, NO

BURIAL MEMORIAL HAS BEEN PLACED, AND NO OTHER IMPROVEMENT HAS BEEN MADE FOR A CONTINUOUS PERIOD OF NO LESS THAN SEVENTY-FIVE YEARS, THE GOVERNING BODY OF THE MUNICIPALITY MAY INITIATE THE PROCESS OF RECLAIMING TITLE TO THE BURIAL SPACE IN ACCORDANCE WITH THIS SECTION.

(2) THE GOVERNING BODY OF A MUNICIPALITY SEEKING TO RECLAIM A BURIAL SPACE SHALL:

(a) SEND WRITTEN NOTICE OF THE MUNICIPALITY'S INTENT TO RECLAIM TITLE TO THE BURIAL SPACE TO THE OWNER'S LAST-KNOWN ADDRESS BY FIRST-CLASS MAIL; AND

(b) PUBLISH A NOTICE OF THE MUNICIPALITY'S INTENT TO RECLAIM TITLE TO THE BURIAL SPACE IN A NEWSPAPER OF GENERAL CIRCULATION IN THE AREA IN WHICH THE CEMETERY IS LOCATED ONCE PER WEEK FOR FOUR WEEKS.

(3) THE NOTICE REQUIRED BY SUBSECTION (2) OF THIS SECTION SHALL CLEARLY INDICATE THAT THE MUNICIPALITY INTENDS TO TERMINATE THE OWNER'S RIGHTS AND TITLE TO THE BURIAL SPACE AND INCLUDE A RECITATION OF THE OWNER'S RIGHT TO NOTIFY THE MUNICIPALITY OF THE OWNER'S INTENT TO RETAIN OWNERSHIP OF THE BURIAL SPACE.

(4) IF THE GOVERNING BODY OF THE MUNICIPALITY DOES NOT RECEIVE FROM THE OWNER OF THE BURIAL SPACE A LETTER OF INTENT TO RETAIN OWNERSHIP OF THE BURIAL SPACE WITHIN SIXTY DAYS AFTER THE LAST PUBLICATION OF THE NOTICE REQUIRED BY PARAGRAPH (b) OF SUBSECTION (2) OF THIS SECTION, ALL RIGHTS AND TITLE TO THE BURIAL SPACE SHALL TRANSFER TO THE MUNICIPALITY. THE MUNICIPALITY MAY THEN SELL, TRANSFER, OR OTHERWISE DISPOSE OF THE BURIAL SPACE WITHOUT RISK OF LIABILITY TO THE PRIOR OWNER OF THE BURIAL SPACE.

(5) A MUNICIPALITY THAT RECLAIMS TITLE TO A BURIAL SPACE IN ACCORDANCE WITH THIS SECTION SHALL RETAIN IN ITS RECORDS FOR NO LESS THAN ONE YEAR A COPY OF THE NOTICE SENT PURSUANT TO PARAGRAPH (a) OF SUBSECTION (2) OF THIS SECTION AND A COPY OF THE NOTICE PUBLISHED PURSUANT TO PARAGRAPH (b) OF SUBSECTION (2) OF THIS SECTION.

(6) IF A PERSON SUBMITS TO THE GOVERNING BODY OF A MUNICIPALITY A LEGITIMATE CLAIM TO A BURIAL SPACE THAT THE GOVERNING BODY HAS RECLAIMED PURSUANT TO THIS SECTION, THE GOVERNING BODY SHALL TRANSFER TO THE PERSON AT NO CHARGE A BURIAL SPACE THAT, TO THE EXTENT POSSIBLE, IS EQUIVALENT TO THE RECLAIMED BURIAL SPACE.

(7) NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, ON AND AFTER THE EFFECTIVE DATE OF THIS SECTION, THE GOVERNING BODY OF A MUNICIPALITY SHALL NOT CONVEY TITLE TO THE REAL PROPERTY SURVEYED AS A LOT IN A CEMETERY FOR USE AS A BURIAL SPACE. THE GOVERNING BODY OF A MUNICIPALITY MAY GRANT INTERMENT RIGHTS TO A BURIAL SPACE IN A CEMETERY.

**SECTION 5. Effective date - applicability.** (1) This act shall take effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly that is allowed for submitting a referendum

petition pursuant to article V, section 1 (3) of the state constitution (August 9, 2006, if adjournment sine die is on May 10, 2006); except that, if a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

(2) The provisions of this act shall apply to cemetery lots, grave spaces, niches, and crypts purchased before, on, or after the applicable effective date of this act.

Approved: April 13, 2006