

SUBSTITUTE FOR
HOUSE BILL NO. 4890

A bill to amend 1968 PA 251, entitled
"Cemetery regulation act,"
(MCL 456.521 to 456.543) by adding section 17.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 17. (1) A PERSON POSSESSING A RIGHT TO A SPACE WITHIN A
2 CEMETERY IS PRESUMED TO HAVE ABANDONED THE RIGHT TO THE SPACE IF
3 ALL OF THE FOLLOWING APPLY:

4 (A) DURING THE PAST 60 YEARS, THE PERSON POSSESSING THE RIGHT
5 TO THE SPACE OR THE PERSON'S AUTHORIZED REPRESENTATIVE HAS NOT
6 PROVIDED THE CEMETERY OWNER OR OPERATOR WITH AN UPDATED ADDRESS FOR
7 PURPOSES OF CONTACTING THE PERSON.

8 (B) DURING THE PAST 60 YEARS, THE PERSON POSSESSING THE RIGHT
9 TO THE SPACE OR THE PERSON'S AUTHORIZED REPRESENTATIVE HAS NOT
10 CONTACTED THE CEMETERY OWNER OR OPERATOR AND AFFIRMED POSSESSION OF

1 THE RIGHT TO THE SPACE IN ANY OF THE FOLLOWING WAYS:

2 (i) REQUESTING A BURIAL OR NOTIFYING THE CEMETERY OWNER OR
3 OPERATOR OF A BURIAL UNDER THE RIGHT TO THE SPACE.

4 (ii) REQUESTING AN INSTALLATION OF A MEMORIAL OR NOTIFYING THE
5 CEMETERY OWNER OR OPERATOR OF AN INSTALLATION OF A MEMORIAL UNDER
6 THE RIGHT TO THE SPACE.

7 (iii) INDICATING OR REQUESTING A TRANSFER OF THE RIGHT TO THE
8 SPACE TO ANOTHER PERSON.

9 (iv) MAKING A PAYMENT TO THE CEMETERY OWNER OR OPERATOR
10 RELATING TO THE RIGHT TO THE SPACE.

11 (v) AFFIRMING IN WRITING THE POSSESSION OF THE RIGHT TO THE
12 SPACE.

13 (C) A MEMORIAL HAS NOT BEEN INSTALLED AT THE CEMETERY UNDER
14 THE RIGHT TO THE SPACE.

15 (D) REMAINS HAVE NOT BEEN INTERRED AT THE CEMETERY UNDER THE
16 RIGHT TO THE SPACE.

17 (2) IF, AFTER A RIGHT TO A SPACE WITHIN A CEMETERY IS PRESUMED
18 TO BE ABANDONED UNDER SUBSECTION (1), ALL OF THE FOLLOWING
19 REQUIREMENTS ARE MET, THE CEMETERY OWNER OR OPERATOR MAY UNDER
20 SUBSECTION (4) CERTIFY THE RIGHT TO THE SPACE AS ABANDONED:

21 (A) THE CEMETERY OWNER OR OPERATOR POSTS ON THE SPACE WITHIN
22 THE CEMETERY FOR 120 CONSECUTIVE DAYS A WRITTEN NOTICE OF INTENT TO
23 CERTIFY THE RIGHT TO THE SPACE AS ABANDONED.

24 (B) IF THE CEMETERY OWNER OR OPERATOR HAS A MAILING ADDRESS
25 FOR THE PERSON POSSESSING THE RIGHT TO THE SPACE OR THE PERSON'S
26 AUTHORIZED REPRESENTATIVE, THE CEMETERY OWNER OR OPERATOR SENDS TO
27 THAT ADDRESS A WRITTEN NOTICE OF INTENT TO CERTIFY THE RIGHT TO THE

1 SPACE AS ABANDONED. THE NOTICE SHALL BE SENT BY CERTIFIED MAIL WITH
2 A RETURN RECEIPT REQUESTED.

3 (C) IF ANY OF THE FOLLOWING CONDITIONS APPLY, NOT LESS THAN 60
4 DAYS AFTER MAILING A NOTICE UNDER SUBDIVISION (B), THE CEMETERY
5 OWNER OR OPERATOR PUBLISHES FOR 2 CONSECUTIVE WEEKS A NOTICE OF
6 INTENT TO CERTIFY THE RIGHT TO THE SPACE AS ABANDONED IN A
7 NEWSPAPER IN THE COUNTY IN WHICH THE CEMETERY IS LOCATED:

8 (i) THE CEMETERY OWNER OR OPERATOR DOES NOT HAVE A MAILING
9 ADDRESS FOR THE PERSON POSSESSING THE RIGHT TO THE SPACE OR THE
10 PERSON'S AUTHORIZED REPRESENTATIVE.

11 (ii) WHETHER OR NOT A WRITTEN NOTICE MAILED UNDER SUBDIVISION
12 (B) IS RETURNED AS UNDELIVERABLE, THE PERSON POSSESSING THE RIGHT
13 TO THE SPACE OR THE PERSON'S AUTHORIZED REPRESENTATIVE HAS NOT
14 CONTACTED THE CEMETERY OWNER OR OPERATOR AND AFFIRMED THE PERSON'S
15 POSSESSION OF THE RIGHT TO THE SPACE WITHIN 60 DAYS AFTER THE
16 NOTICE WAS MAILED.

17 (D) IF PUBLICATION IS REQUIRED UNDER SUBDIVISION (C), 60 DAYS
18 HAVE ELAPSED SINCE THE CEMETERY OWNER OR OPERATOR PUBLISHED THE
19 SECOND NOTICE IN A NEWSPAPER AND THE PERSON POSSESSING THE RIGHT TO
20 A SPACE OR THE PERSON'S AUTHORIZED REPRESENTATIVE HAS NOT CONTACTED
21 THE CEMETERY OWNER OR OPERATOR AND AFFIRMED THE PERSON'S POSSESSION
22 OF THE RIGHTS TO A SPACE.

23 (3) A NOTICE REQUIRED UNDER SUBSECTION (2) SHALL STATE ALL OF
24 THE FOLLOWING:

25 (A) A DESCRIPTION OF THE RIGHT TO THE SPACE AFFECTED.

26 (B) IF KNOWN TO THE CEMETERY OWNER OR OPERATOR, THE NAMES OF
27 THE PERSON POSSESSING THE RIGHT TO THE SPACE AND THE AUTHORIZED

1 REPRESENTATIVE, IF ANY, OF THE PERSON.

2 (C) THE TIME FRAME WITHIN WHICH A PERSON POSSESSING THE RIGHT
3 TO A SPACE OR THE PERSON'S REPRESENTATIVE SHALL CONTACT THE
4 CEMETERY OWNER OR OPERATOR AND AFFIRM THE PERSON'S POSSESSION OF
5 THE RIGHT TO THE SPACE TO PREVENT THE RIGHT TO THE SPACE FROM BEING
6 CERTIFIED AS ABANDONED.

7 (D) THAT, IF THE RIGHT TO THE SPACE IS CERTIFIED AS ABANDONED,
8 A PERSON WHO POSSESSED THE RIGHT TO THE SPACE MAY BE ENTITLED TO
9 THE REMEDIES SET FORTH IN SECTION 17 OF THE CEMETERY REGULATION
10 ACT, 1968 PA 251, MCL 456.537.

11 (E) THE NAME, ADDRESS, ELECTRONIC MAIL ADDRESS, AND TELEPHONE
12 NUMBER OF THE CEMETERY OWNER OR OPERATOR.

13 (4) AFTER SATISFYING THE REQUIREMENTS OF SUBSECTIONS (2) AND
14 (3), TO CERTIFY THE RIGHT TO THE SPACE AS ABANDONED, THE CEMETERY
15 OWNER OR OPERATOR MAY CREATE, SIGN, AND MAINTAIN A RECORD THAT
16 STATES ALL OF THE FOLLOWING:

17 (A) A DESCRIPTION OF THE RIGHT TO THE SPACE AFFECTED.

18 (B) THE NAMES OF ANY PERSONS POSSESSING THE RIGHT TO THE
19 SPACE, IF KNOWN TO THE CEMETERY OWNER OR OPERATOR.

20 (C) THAT THE RIGHT TO THE SPACE IS PRESUMED TO BE ABANDONED
21 UNDER THE CRITERIA SET FORTH IN SUBSECTION (1).

22 (D) THAT THE CEMETERY OWNER OR OPERATOR PROVIDED NOTICE IN
23 COMPLIANCE WITH SUBSECTIONS (2) AND (3).

24 (E) THAT THE CEMETERY OWNER OR OPERATOR HAS NOT RECEIVED A
25 RESPONSE TO A NOTICE UNDER SUBSECTION (2) FROM A PERSON POSSESSING
26 THE RIGHT TO THE SPACE OR THE PERSON'S AUTHORIZED REPRESENTATIVE
27 AFFIRMING THE PERSON'S POSSESSION OF THE RIGHT TO THE SPACE.

1 (5) ALL OF THE FOLLOWING APPLY UPON THE SIGNING OF A RECORD
2 CREATED UNDER SUBSECTION (4):

3 (A) THE RIGHT TO THE SPACE IS CERTIFIED AS ABANDONED BY
4 PERSONS PREVIOUSLY POSSESSING THE RIGHT TO THE SPACE.

5 (B) A PERSON LATER ASSERTING ANY CONTRACTUAL RIGHTS TO THE
6 RIGHT TO THE SPACE IS LIMITED TO THE REMEDIES UNDER SUBSECTION (6).

7 (6) AFTER A CERTIFIED NOTICE IS FILED UNDER SUBSECTION (4), A
8 PERSON WITH A CONTRACTUAL RIGHT TO THE SPACE IS ENTITLED ONLY TO
9 THE FOLLOWING REMEDIES FOR ANY BREACH OF THE CONTRACTUAL RIGHT:

10 (A) REINSTATEMENT OF THE RIGHT TO A SPACE IF THE ORIGINAL
11 CONTRACTUAL RIGHT TO A SPACE HAS NOT BEEN RESOLD OR OTHERWISE
12 TRANSFERRED TO ANOTHER PERSON.

13 (B) IF THE ORIGINAL CONTRACTUAL RIGHT TO A SPACE HAS BEEN
14 RESOLD, AT THE OPTION OF THE PERSON WITH THE ORIGINAL CONTRACTUAL
15 RIGHT TO A SPACE, EITHER OF THE FOLLOWING:

16 (i) A DIFFERENT RIGHT TO A SPACE OF COMPARABLE VALUE WITHIN THE
17 CEMETERY.

18 (ii) COMPENSATION IN THE AMOUNT THE PERSON WITH THE ORIGINAL
19 CONTRACTUAL RIGHT TO A SPACE PAID FOR THE RIGHT OR AN AMOUNT EQUAL
20 TO 65% OF THE PRICE FOR WHICH THE RIGHT WAS RESOLD OR OTHERWISE
21 TRANSFERRED BY THE CEMETERY OWNER OR OPERATOR, WHICHEVER IS
22 GREATER.

23 (7) IF A PERSON POSSESSING A RIGHT TO A SPACE WITHIN A
24 CEMETERY OR THE PERSON'S AUTHORIZED REPRESENTATIVE IS NOTIFIED BY
25 THE CEMETERY OWNER OR OPERATOR UNDER SUBSECTION (2) AND THE PERSON
26 OR THE PERSON'S AUTHORIZED REPRESENTATIVE DOES NOT SEEK TO RETAIN
27 POSSESSION OF THE RIGHT TO THE SPACE, THE PERSON OR THE PERSON'S

1 AUTHORIZED REPRESENTATIVE MAY TRANSFER THE RIGHT TO THE SPACE BACK
2 TO THE CEMETERY OWNER OR OPERATOR FOR AN AMOUNT AS AGREED BY THE
3 PARTIES.

4 (8) A CONTRACT FOR THE SALE OF A RIGHT TO A SPACE ENTERED INTO
5 BY A CEMETERY OWNER OR OPERATOR AFTER THE EFFECTIVE DATE OF THIS
6 SECTION SHALL CONTAIN A WRITTEN NOTICE OF THE PRESUMPTION OF
7 ABANDONMENT OF A RIGHT TO A SPACE UNDER SUBSECTION (1) AND MAY
8 IMPOSE A LEGAL DUTY TO KEEP THE CEMETERY OWNER OR OPERATOR INFORMED
9 IN WRITING OF A CURRENT RESIDENCE ADDRESS OF THE PERSON POSSESSING
10 THE RIGHT TO THE SPACE UNDER THE CONTRACT OR OF THE PERSON'S
11 AUTHORIZED REPRESENTATIVE.

12 (9) A CEMETERY OWNER OR OPERATOR MAY PUBLISH ON 1 OR MORE
13 INTERNET WEBSITES A NOTICE OF INTENT TO CERTIFY A RIGHT TO A SPACE
14 AS ABANDONED UNDER SUBSECTION (2). A CEMETERY OWNER MAY USE AN
15 INTERNET SEARCH TO ATTEMPT TO IDENTIFY FOR USE UNDER SUBSECTION (2)
16 THE CURRENT MAILING ADDRESS OF A PERSON POSSESSING A RIGHT TO A
17 SPACE.

18 (10) THIS SECTION IS INTENDED TO ADVANCE THE SIGNIFICANT AND
19 LEGITIMATE PUBLIC PURPOSE OF ENSURING THE AVAILABILITY AND
20 PRODUCTIVE USE OF SPACE WITHIN CEMETERIES AND PROVIDING SECURITY IN
21 CONTRACTUAL RIGHTS CONSISTENT WITH THE HEALTH, SAFETY, AND WELFARE
22 OF THE PEOPLE OF THIS STATE.

23 (11) SUBSECTIONS (1) TO (10) DO NOT APPLY TO A RIGHT TO A
24 SPACE IF 1 OR MORE OF THE FOLLOWING APPLY:

25 (A) AN INSCRIBED MEMORIAL IS LOCATED ON THE SPACE TO WHICH THE
26 RIGHT TO A SPACE APPLIES.

27 (B) BOTH OF THE FOLLOWING APPLY TO THE SPACE TO WHICH A RIGHT

1 TO A SPACE APPLIES:

2 (i) THE SPACE IMMEDIATELY ADJOINS AN INSCRIBED MEMORIAL AND
3 THAT SIDE OF THE INSCRIBED MEMORIAL DISPLAYS A FAMILY SURNAME.

4 (ii) THE SPACE WAS PURCHASED WITH ANOTHER SPACE ON WHICH THE
5 INSCRIBED MEMORIAL THAT DISPLAYS THE FAMILY SURNAME IS LOCATED.

6 (C) BOTH OF THE FOLLOWING APPLY TO THE SPACE TO WHICH A RIGHT
7 TO A SPACE APPLIES:

8 (i) THE SPACE IMMEDIATELY ADJOINS AN INSCRIBED MEMORIAL.

9 (ii) THE SPACE IMMEDIATELY ADJOINS A SPACE THAT WAS PURCHASED
10 WITH THE RIGHT TO A SPACE AND INCLUDES INTERRED REMAINS.

11 (12) AS USED IN THIS SECTION:

12 (A) "INSCRIBED MEMORIAL" MEANS 1 OR BOTH OF THE FOLLOWING:

13 (i) A STONE OR OTHER STRUCTURE OR ITEM THAT IS USED FOR THE
14 PURPOSE OF MEMORIALIZING A DECEDENT ON A PLACE OF INTERMENT AND
15 THAT DISPLAYS THE NAME OF A DECEDENT.

16 (ii) A STONE OR OTHER STRUCTURE OR ITEM THAT IDENTIFIES AN AREA
17 OF A CEMETERY DEDICATED FOR THE INTERMENT OF MEMBERS OF A FAMILY
18 AND THAT DISPLAYS A FAMILY SURNAME.

19 (B) "RIGHT TO A SPACE" MEANS A BURIAL RIGHT, COLUMBARIUM
20 RIGHT, OR ENTOMBMENT RIGHT WITHIN A CEMETERY.

21 Enacting section 1. This amendatory act takes effect January
22 1, 2015.