

SENATE BILL No. 493

June 28, 2017, Introduced by Senator O'BRIEN and referred to the Committee on Local Government.

A bill to amend 1903 PA 81, entitled "An act to provide for the care and preservation of cemetery lots," by amending sections 2, 3, 5, and 6 (MCL 128.82, 128.83, 128.85, and 128.86) and by adding sections 1a, 9, and 10; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 **SEC. 1A. NO MONEY MAY BE DEPOSITED WITH A COUNTY TREASURER**
2 **UNDER SECTION 1 AFTER JUNE 30, 2017.**

3 Sec. 2. ~~The A county in which any such money shall have been~~
4 ~~so deposited shall have the first privilege of borrowing said~~
5 ~~money, or any part of it, and afterward any person, firm or~~
6 ~~corporation, in the discretion of the county treasurer, by paying~~
7 ~~interest at the rate of not less than 3 per cent per annum. The~~

1 ~~county treasurer may consolidate such funds for investment, with~~
2 ~~the approval of the finance committee of the board of~~
3 ~~supervisors.~~ **TREASURER MAY INVEST MONEY DEPOSITED WITH THE COUNTY**
4 **UNDER SECTION 1 IN THE SAME MANNER AS COUNTY MONEY UNDER 1943 PA**
5 **20, MCL 129.91 TO 129.97A.**

6 Sec. 3. ~~The~~ **EACH YEAR, A** county treasurer ~~loaning such money~~
7 ~~shall pay the interest received by him on such loan to the sexton,~~
8 ~~or whoever may be in charge~~ **SHALL TRANSFER ANY EARNINGS ON**
9 **INVESTMENTS UNDER SECTION 2 TO THE CEMETERY OWNER OR OTHER OPERATOR**
10 ~~of the cemetery in which the lot or lots to be benefited are~~
11 ~~located, upon his order stating the amount of labor performed on~~
12 ~~the lot or lots properly described, said labor to be charged at a~~
13 ~~reasonable compensation therefor, said order to be certified to by~~
14 ~~the supervisor of the township or supervisor district in which said~~
15 ~~cemetery may be located, as having been performed and that the same~~
16 ~~is a reasonable compensation therefor.~~ **DESIGNATED UNDER SECTION 1 IS**
17 **LOCATED FOR THE PURPOSE OF CARING FOR THE LOT.**

18 Sec. 5. ~~The~~ **A** bond ~~of the~~ **COVERING A** county treasurer
19 ~~prescribed in sections 2361 and 2362 of the Compiled Laws of 1915~~
20 ~~shall~~ **AS REQUIRED BY SECTIONS 35 AND 36 OF 1846 RS 14, MCL 48.35**
21 **AND 48.36, MUST** be **FOR THE FAITHFUL AND PROPER DISCHARGE OF DUTIES**
22 **UNDER THIS ACT, INCLUDING THE** holding ~~for all funds~~ **OF MONEY**
23 ~~deposited under this act. Such~~ **THE** bond ~~shall~~ **MUST** be increased
24 ~~from time to time as said funds increase, at the discretion of the~~
25 ~~board of supervisors.~~ **OR DECREASED TO REFLECT THE AMOUNT OF MONEY**
26 **HELD BY THE COUNTY TREASURER UNDER THIS ACT, AS DETERMINED BY THE**
27 **COUNTY BOARD OF COMMISSIONERS.**

1 ~~Sec. 6. Every county treasurer having such funds shall make an~~
2 ~~annual report to the board of supervisors at its January session of~~
3 ~~the total amount of money so deposited, how invested, and the~~
4 ~~amount of interest received therefrom.~~ IF A COUNTY TREASURER HOLDS
5 MONEY UNDER THIS ACT, BY JANUARY 31 OF EACH YEAR, THE COUNTY
6 TREASURER SHALL REPORT TO THE COUNTY BOARD OF COMMISSIONERS ON
7 MONEY DEPOSITED, INVESTED, AND PAID UNDER THIS ACT.

8 SEC. 9. (1) AFTER JUNE 30, 2017, A COUNTY TREASURER MAY
9 TRANSFER MONEY HELD FOR A LOT UNDER SECTION 1 TO ANY OF THE
10 FOLLOWING TO BE HELD, INVESTED, AND EXPENDED FOR THE CARE OF THE
11 LOT OR THE CEMETERY IN WHICH THE LOT IS LOCATED:

12 (A) THE CEMETERY OWNER OR OPERATOR OF THE CEMETERY IN WHICH
13 THE LOT IS LOCATED.

14 (B) AN IRREVOCABLE ENDOWMENT AND PERPETUAL CARE TRUST FUND OR
15 OTHER TRUST FUND UNDER THE CEMETERY REGULATION ACT, 1968 PA 251,
16 MCL 456.521 TO 456.543, AUTHORIZED TO CARE FOR THE LOT OR THE
17 CEMETERY IN WHICH THE LOT IS LOCATED.

18 (C) A TRUST FUND UNDER 1909 PA 95, MCL 128.71 TO 128.74,
19 AUTHORIZED TO CARE FOR THE LOT OR THE CEMETERY IN WHICH THE LOT IS
20 LOCATED.

21 (D) A PERPETUAL CARE AND MAINTENANCE FUND UNDER 1937 PA 215,
22 MCL 128.1 TO 128.4, AUTHORIZED TO CARE FOR THE LOT OR THE CEMETERY
23 IN WHICH THE LOT IS LOCATED.

24 (E) AN IRREVOCABLE ENDOWMENT AND PERPETUAL CARE FUND
25 ESTABLISHED UNDER SECTION 4 OF 1937 PA 215, MCL 128.4, AUTHORIZED
26 TO CARE FOR THE LOT OR THE CEMETERY IN WHICH THE LOT IS LOCATED.

27 (2) AFTER JUNE 30, 2017, IF A COUNTY TREASURER IS UNABLE TO

1 IDENTIFY THE LOCATION OF A CEMETERY OR A CEMETERY LOT FOR WHICH
2 MONEY WAS DEPOSITED UNDER SECTION 1, AND THE COUNTY TREASURER
3 CERTIFIES AS ABANDONED THE LEGAL INTERESTS OR RIGHTS IN MONEY
4 DEPOSITED UNDER SECTION 1 OR IN THE USE OF MONEY DEPOSITED FOR THE
5 PURPOSE OF CARING FOR THE CEMETERY LOT UNDER THIS ACT UNDER
6 SUBSECTIONS (3) TO (5), THE COUNTY TREASURER MAY TRANSFER THE MONEY
7 DEPOSITED AND ANY EARNINGS FROM THE INVESTMENT OF THE MONEY TO THE
8 COUNTY GENERAL FUND.

9 (3) A PERSON OR AN ESTATE POSSESSING A LEGAL INTEREST OR RIGHT
10 IN MONEY DEPOSITED UNDER SECTION 1 OR IN THE USE OF MONEY DEPOSITED
11 FOR THE PURPOSE OF CARING FOR A CEMETERY LOT UNDER THIS ACT, OR
12 BOTH, IS PRESUMED TO HAVE ABANDONED THE LEGAL INTEREST OR RIGHT IF
13 1 OR MORE OF THE FOLLOWING APPLY:

14 (A) THE CEMETERY DESCRIBED AT THE TIME MONEY WAS DEPOSITED
15 UNDER SECTION 1 DOES NOT EXIST OR CANNOT BE LOCATED BY THE COUNTY
16 TREASURER BASED ON THE INFORMATION PROVIDED UNDER SECTION 1, OR
17 BOTH.

18 (B) THE LOT DESCRIBED AT THE TIME MONEY WAS DEPOSITED UNDER
19 SECTION 1 DOES NOT EXIST OR CANNOT BE LOCATED BY THE COUNTY
20 TREASURER BASED ON THE DESCRIPTION OF THE LOT PROVIDED UNDER
21 SECTION 1, OR BOTH.

22 (C) THE DESCRIPTION OF THE CEMETERY LOT FOR WHICH MONEY WAS
23 DEPOSITED UNDER SECTION 1 WAS INACCURATE AND AS A RESULT THE
24 CEMETERY LOT CANNOT BE LOCATED BY THE COUNTY TREASURER.

25 (D) THE NUMBER OF A CEMETERY LOT FOR WHICH MONEY WAS DEPOSITED
26 UNDER SECTION 1 DOES NOT EXIST OR THE LOCATION OF THE CEMETERY LOT
27 CANNOT BE IDENTIFIED BY THE COUNTY TREASURER BASED ON THE NUMBER

1 PROVIDED UNDER SECTION 1, OR BOTH.

2 (E) MONEY WAS DEPOSITED UNDER SECTION 1 FOR THE PURPOSE OF
3 CARING FOR A CEMETERY LOT IN AN UNPLATTED CEMETERY CONTAINING THE
4 REMAINS OF AN INDIVIDUAL WHOSE NAME WAS DESIGNATED UNDER SECTION 1
5 AND THE CEMETERY DOES NOT CONTAIN THE REMAINS OF AN INDIVIDUAL WITH
6 THE NAME PROVIDED UNDER SECTION 1 OR THE LOCATION OF THE REMAINS OF
7 THE NAMED INDIVIDUAL CANNOT BE LOCATED WITHIN THE CEMETERY
8 IDENTIFIED, OR BOTH.

9 (4) IF A LEGAL INTEREST OR RIGHT IS PRESUMED TO BE ABANDONED
10 UNDER SUBSECTION (3), AND THE COUNTY TREASURER SEEKS TO CERTIFY THE
11 LEGAL INTEREST OR RIGHT AS ABANDONED UNDER SUBSECTION (5), THE
12 COUNTY TREASURER SHALL FIRST SATISFY ALL OF THE FOLLOWING
13 REQUIREMENTS:

14 (A) THE COUNTY TREASURER SHALL PUBLISH A NOTICE OF INTENT TO
15 CERTIFY AS ABANDONED THE LEGAL INTERESTS OR RIGHTS IN MONEY
16 DEPOSITED UNDER SECTION 1 OR IN THE USE OF MONEY DEPOSITED FOR THE
17 PURPOSE OF CARING FOR A CEMETERY LOT UNDER THIS ACT. THE NOTICE
18 UNDER THIS SUBDIVISION MUST BE PUBLISHED FOR 2 CONSECUTIVE WEEKS IN
19 A NEWSPAPER OF GENERAL CIRCULATION IN THE COUNTY IN WHICH THE MONEY
20 WAS DEPOSITED, AND, IF THE MONEY WAS DEPOSITED FOR A CEMETERY LOT
21 LOCATED IN ANOTHER COUNTY, IN A NEWSPAPER OF GENERAL CIRCULATION IN
22 THAT COUNTY. A NOTICE UNDER THIS SUBDIVISION MUST INCLUDE ALL OF
23 THE FOLLOWING:

24 (i) THE INFORMATION RELATING TO THE CEMETERY LOT PROVIDED TO
25 THE COUNTY TREASURER AT THE TIME MONEY WAS DEPOSITED.

26 (ii) A STATEMENT INDICATING THAT THE CEMETERY LOT CANNOT BE
27 LOCATED.

1 (iii) CONTACT INFORMATION FOR THE OFFICE OF THE COUNTY
2 TREASURER.

3 (iv) A REQUEST THAT PERSONS POSSESSING A LEGAL INTEREST OR
4 RIGHT DESCRIBED IN THIS SUBDIVISION OR POSSESSING INFORMATION
5 REGARDING THE LOCATION OF THE CEMETERY LOT CONTACT THE OFFICE OF
6 THE COUNTY TREASURER.

7 (v) A STATEMENT INDICATING THAT THE MONEY DEPOSITED WITH THE
8 COUNTY TREASURER WILL BE TRANSFERRED TO THE GENERAL FUND OF THE
9 COUNTY IF THE CEMETERY LOT CANNOT BE LOCATED AND THE LEGAL
10 INTERESTS AND RIGHTS DESCRIBED IN THIS SUBDIVISION ARE CERTIFIED AS
11 ABANDONED UNDER THIS SECTION.

12 (B) THE COUNTY TREASURER SHALL POST A COPY OF A NOTICE
13 PUBLISHED UNDER SUBDIVISION (A) ON THE INTERNET WEBSITE OF THE
14 COUNTY TREASURER FOR AT LEAST 90 CONSECUTIVE DAYS.

15 (C) IF THE COUNTY TREASURER WAS ABLE TO IDENTIFY THE LOCATION
16 OF A CEMETERY DESIGNATED UNDER SECTION 1, THE COUNTY TREASURER
17 SHALL SEND A WRITTEN NOTICE BY FIRST-CLASS MAIL TO THE OWNER OR
18 OPERATOR OF THE CEMETERY NOTIFYING THE CEMETERY OWNER OR OPERATOR
19 OF THE LEGAL INTEREST OR RIGHT PRESUMED TO BE ABANDONED UNDER
20 SUBSECTION (3), PROVIDING ANY INFORMATION ABOUT THE CEMETERY LOT
21 PROVIDED TO THE COUNTY TREASURER AT THE TIME MONEY WAS DEPOSITED
22 WITH THE COUNTY TREASURER UNDER SECTION 1, AND REQUESTING THAT THE
23 CEMETERY OWNER OR OPERATOR NOTIFY THE COUNTY TREASURER WITHIN 90
24 DAYS AFTER RECEIPT OF THE NOTICE IF THE CEMETERY OWNER OR OPERATOR
25 CAN IDENTIFY THE LOCATION OF THE CEMETERY LOT. THE CEMETERY OWNER
26 OR OPERATOR SHALL ATTEMPT TO IDENTIFY THE LOCATION OF THE CEMETERY
27 LOT WITHIN THE CEMETERY. IF THE CEMETERY OWNER OR OPERATOR

1 IDENTIFIES THE LOCATION OF THE CEMETERY LOT WITHIN THE CEMETERY,
2 THE CEMETERY OWNER OR OPERATOR SHALL NOTIFY THE COUNTY TREASURER
3 WITHIN 90 DAYS AFTER THE RECEIPT OF THE NOTICE UNDER THIS
4 SUBDIVISION. IF A COUNTY TREASURER IS NOTIFIED OF THE LOCATION OF A
5 CEMETERY LOT UNDER THIS SUBDIVISION, THE COUNTY TREASURER MAY NOT
6 CERTIFY A LEGAL RIGHT OR INTEREST AS ABANDONED UNDER SUBSECTION
7 (5).

8 (5) IF 120 DAYS HAVE ELAPSED AFTER THE PROVISION OF NOTICE
9 UNDER SUBSECTION (4) AND THE COUNTY TREASURER IS STILL UNABLE TO
10 IDENTIFY THE LOCATION OF THE CEMETERY LOT BASED ON ANY INFORMATION
11 PROVIDED IN RESPONSE TO NOTICE UNDER SUBSECTION (4), THE COUNTY
12 TREASURER MAY CERTIFY AS ABANDONED THE LEGAL INTERESTS AND RIGHTS
13 IN MONEY DEPOSITED UNDER SECTION 1 OR IN THE USE OF MONEY DEPOSITED
14 FOR THE PURPOSE OF CARING FOR THE CEMETERY LOT UNDER THIS ACT. THE
15 COUNTY TREASURER SHALL RETAIN A RECORD OF THE CERTIFICATION UNDER
16 THIS SUBSECTION IN THE OFFICE OF THE COUNTY TREASURER.

17 SEC. 10. AS USED IN THIS ACT, "CEMETERY", "CEMETERY OWNER",
18 AND "OPERATOR" MEAN THOSE TERMS AS DEFINED IN SECTION 2 OF THE
19 CEMETERY REGULATION ACT, 1968 PA 251, MCL 456.522.

20 Enacting section 1. Section 4 of 1903 PA 81, MCL 128.84, is
21 repealed effective June 30, 2017.

22 Enacting section 2. Section 9 of 1903 PA 81, as added by this
23 amendatory act, is intended by the legislature to advance the
24 significant and legitimate public purpose of ensuring the
25 availability and productive use of money deposited with a county
26 treasurer for the purpose of maintaining cemetery lots and
27 providing security in rights consistent with the health, safety,

1 and welfare of the people of this state.