CARE AND PRESERVATION OF CEMETERY LOTS

Act 81 of 1903

AN ACT to provide for the care and preservation of cemetery lots.

History: 1903, Act 81, Eff. Sept. 17, 1903

The People of the State of Michigan enact:

128.81 Cemetery lots; deposit for care with county treasurer.

Sec. 1.

Any person residing in the state of Michigan, or elsewhere, may, during his lifetime, by will, or otherwise, deposit any sum of money with any county treasurer in the state of Michigan, which sum shall not be less than 50 dollars, for the care of any 1 lot, the interest only of which is to be used for the purpose of caring for such cemetery lot or lots in any cemetery within the state of Michigan, an accurate description of said lots, where and in what cemetery located, to be deposited by the person so depositing said money, giving the name of the county and township, village or city in which said cemetery is located, giving the number of the lot or lots, if said cemetery is platted, if not platted, then by giving the name of some person whose name shall be cut on a stone or monument on the lot or lots in the cemetery which he may wish to designate: Provided, This section shall not affect any municipality or association that has at this time provision for such deposit of money and laws governing the maintenance of cemetery lots.

History: 1903, Act 81, Eff. Sept. 17, 1903 ;-- CL 1915, 2397 ;-- CL 1929, 1278 ;-- CL 1948, 128.81

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128.81a Deposit of money after June 30, 2018.

Sec. 1a.

No money may be deposited with a county treasurer under section 1 after June 30, 2018.

History: Add. 2018, Act 8, Eff. Apr. 26, 2018

128.82 Investment of money deposited under MCL 128.81.

Sec. 2.

A county treasurer may invest money deposited with the county under section 1 in the same manner as county money under 1943 PA 20, MCL 129.91 to 129.97a.

History: 1903, Act 81, Eff. Sept. 17, 1903 ;-- CL 1915, 2398 ;-- Am. 1925, Act 208, Eff. Aug. 27, 1925 ;-- CL 1929, 1279 ;-- CL 1948, 128.82 ;-- Am. 2018, Act 8, Eff. Apr. 26, 2018

128.83 Transfer of earnings on investment; purpose.

Sec. 3.

Each year, a county treasurer shall transfer any earnings on investments under section 2 to the cemetery owner or other operator of the cemetery in which the lot designated under section 1 is located for the purpose of caring for the lot.

History: 1903, Act 81, Eff. Sept. 17, 1903 ;-- CL 1915, 2399 ;-- Am. 1917, Act 324, Eff. Aug. 10, 1917 ;-- CL 1929, 1280 ;-- CL 1948, 128.83 ;-- Am. 2018, Act 8, Eff. Apr. 26, 2018

128.84 Repealed. 2018, Act 8, Eff. June 30, 2018.

Compiler's Notes: The repealed section pertained to delivery of receipt by county treasurer.

128.85 Treasurer's bond; increase.

Sec. 5.

A bond covering a county treasurer as required by sections 35 and 36 of 1846 RS 14, MCL 48.35 and 48.36, must be for the faithful and proper discharge of duties under this act, including the holding of money deposited under this act. The bond must be increased or decreased to reflect the amount of money held by the county treasurer under this act, as determined by the county board of commissioners.

History: 1903, Act 81, Eff. Sept. 17, 1903 ;-- CL 1915, 2401 ;-- Am. 1917, Act 324, Eff. Aug. 10, 1917 ;-- CL 1929, 1282 ;-- CL 1948, 128.85 ;-- Am. 2018, Act 8, Eff. Apr. 26, 2018

128.86 Annual report on money deposited, invested, and expended.

Sec. 6.

If a county treasurer holds money under this act, by January 31 of each year, the county treasurer shall report to the county board of commissioners on money deposited, invested, and paid under this act.

History: 1903, Act 81, Eff. Sept. 17, 1903 ;-- CL 1915, 2402 ;-- Am. 1925, Act 208, Eff. Aug. 27, 1925 ;-- CL 1929, 1283 ;-- CL 1948, 128.86 ;-- Am. 2018, Act 8, Eff. Apr. 26, 2018

128.87 Cemetery deposits; county liability.

Sec. 7.

Every county in this state having any such cemetery fund, shall always be held accountable and liable for any and all such cemetery money in an action brought by any person having deposited such fund, or his heirs, or by any cemetery board, or township board, wherever the cemetery is located within the state of Michigan.

History: 1903, Act 81, Eff. Sept. 17, 1903 ;-- CL 1915, 2403 ;-- CL 1929, 1284 ;-- CL 1948, 128.87

128.88 Cemetery deposits; tax exempt.

Sec. 8.

All moneys set apart for the purposes specified in this act shall be exempt from taxation.

History: 1903, Act 81, Eff. Sept. 17, 1903 ;-- CL 1915, 2404 ;-- CL 1929, 1285 ;-- CL 1948, 128.88

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128.89 Transfer of money after June 30, 2018; inability to identify location of cemetery or cemetery lot; certification of abandoned legal interests or rights; presumption; requirements; record of certification.

Sec. 9.

(1) After June 30, 2018, a county treasurer may transfer money held for a lot under section 1 to any of the following to be held, invested, and expended for the care of the lot or the cemetery in which the lot is located:

(a) The cemetery owner or operator of the cemetery in which the lot is located.

(b) An irrevocable endowment and perpetual care trust fund or other trust fund under the cemetery regulation act, 1968 PA 251, MCL 456.521 to 456.543, authorized to care for the lot or the cemetery in which the lot is located.

(c) A trust fund under 1909 PA 95, MCL 128.71 to 128.74, authorized to care for the lot or the cemetery in which the lot is located.

(d) A perpetual care and maintenance fund under 1937 PA 215, MCL 128.1 to 128.4, authorized to care for the lot or the cemetery in which the lot is located.

(e) An irrevocable endowment and perpetual care fund established under section 4 of 1937 PA 215, MCL 128.4, authorized to care for the lot or the cemetery in which the lot is located.

(2) After June 30, 2018, if a county treasurer is unable to identify the location of a cemetery or a cemetery lot for which money was deposited under section 1, and the county treasurer certifies as abandoned the legal interests or rights in money deposited under section 1 or in the use of money deposited for the purpose of caring for the cemetery lot under this act under subsections (3) to (5), the county treasurer may transfer the money deposited and any earnings from the investment of the money to the county general fund.

(3) A person or an estate possessing a legal interest or right in money deposited under section 1 or in the use of money deposited for the purpose of caring for a cemetery lot under this act, or both, is presumed to have abandoned the legal interest or right if 1 or more of the following apply:

(a) The cemetery described at the time money was deposited under section 1 does not exist or cannot be located by the county treasurer based on the information provided under section 1, or both.

(b) The lot described at the time money was deposited under section 1 does not exist or cannot be located by the county treasurer based on the description of the lot provided under section 1, or both.

(c) The description of the cemetery lot for which money was deposited under section 1 was inaccurate and as a result the cemetery lot cannot be located by the county treasurer.

(d) The number of a cemetery lot for which money was deposited under section 1 does not exist or the location of the cemetery lot cannot be identified by the county treasurer based on the number provided under section 1, or both.

(e) Money was deposited under section 1 for the purpose of caring for a cemetery lot in an unplatted cemetery containing the remains of an individual whose name was designated under section 1 and the cemetery does not contain the remains of an individual with the name provided under section 1 or the location of the remains of the named individual cannot be located within the cemetery identified, or both.

(4) If a legal interest or right is presumed to be abandoned under subsection (3), and the county treasurer seeks to certify the legal interest or right as abandoned under subsection (5), the county treasurer shall first satisfy all of the following requirements:

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(a) The county treasurer shall publish a notice of intent to certify as abandoned the legal interests or rights in money deposited under section 1 or in the use of money deposited for the purpose of caring for a cemetery lot under this act. The notice under this subdivision must be published for 2 consecutive weeks in a newspaper of general circulation in the county in which the money was deposited, and, if the money was deposited for a cemetery lot located in another county, in a newspaper of general circulation in that county. A notice under this subdivision must include all of the following:

(i) The information relating to the cemetery lot provided to the county treasurer at the time money was deposited.

(ii) A statement indicating that the cemetery lot cannot be located.

(iii) Contact information for the office of the county treasurer.

(iv) A request that persons possessing a legal interest or right described in this subdivision or possessing information regarding the location of the cemetery lot contact the office of the county treasurer.

(v) A statement indicating that the money deposited with the county treasurer will be transferred to the general fund of the county if the cemetery lot cannot be located and the legal interests and rights described in this subdivision are certified as abandoned under this section.

(b) The county treasurer shall post a copy of a notice published under subdivision (a) on the internet website of the county treasurer for at least 90 consecutive days.

(c) If the county treasurer was able to identify the location of a cemetery designated under section 1, the county treasurer shall send a written notice by first-class mail to the owner or operator of the cemetery notifying the cemetery owner or operator of the legal interest or right presumed to be abandoned under subsection (3), providing any information about the cemetery lot provided to the county treasurer at the time money was deposited with the county treasurer under section 1, and requesting that the cemetery owner or operator notify the county treasurer within 90 days after receipt of the notice if the cemetery owner or operator can identify the location of the cemetery lot. The cemetery owner or operator shall attempt to identify the location of the cemetery lot within the cemetery. If the cemetery owner or operator identifies the location of the cemetery lot within the cemetery, the cemetery owner or operator shall notify the county treasurer within 90 days after the receipt of the notice under this subdivision. If a county treasurer is notified of the location of a cemetery lot under this subdivision, the county treasurer may not certify a legal right or interest as abandoned under subsection (5).

(5) If 120 days have elapsed after the provision of notice under subsection (4) and the county treasurer is still unable to identify the location of the cemetery lot based on any information provided in response to notice under subsection (4), the county treasurer may certify as abandoned the legal interests and rights in money deposited under section 1 or in the use of money deposited for the purpose of caring for the cemetery lot under this act. The county treasurer shall retain a record of the certification under this subsection in the office of the county treasurer.

History: Add. 2018, Act 8, Eff. Apr. 26, 2018

Compiler's Notes: Enacting section 3 of Act 8 of 2018 provides:"Enacting section 3. Section 9 of 1903 PA 81, as added by this amendatory act, is intended by the legislature to advance the significant and legitimate public purpose of ensuring the availability and productive use of money deposited with a county treasurer for the purpose of maintaining cemetery lots and providing security in rights consistent with the health, safety, and welfare of the people of this state."

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128.90 Definitions.

Sec. 10.

As used in this act, "cemetery", "cemetery owner", and "operator" mean those terms as defined in section 2 of the cemetery regulation act, 1968 PA 251, MCL 456.522.

History: Add. 2018, Act 8, Eff. Apr. 26, 2018

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