

VIRGINIA ACTS OF ASSEMBLY -- 1997 SESSION

CHAPTER 74

An Act to amend the Code of Virginia by adding in Article 1 of Chapter 3 of Title 57 a section numbered 57-27.2 and by adding in Article 4 of Chapter 3 of Title 57 a section numbered 57-39.1:1, relating to cemeteries; interment.

[H 2000]

Approved March 2, 1997

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Article 1 of Chapter 3 of Title 57 a section numbered 57-27.2 and by adding in Article 4 of Chapter 3 of Title 57 a section numbered 57-39.1:1 as follows:

§ 57-27.2. Correction of interment errors.

A. In any instance where the operator of a cemetery is informed or becomes aware that it has interred or permitted the interment of a body or cremains in the wrong burial space, it shall disinter the burial container wrongfully interred, identify the burial container, and reinter it in the proper burial space. The cemetery shall give reasonable notice, in advance of the disinterment, to the nearest known next of kin of the deceased person and, if requested, the owner of such burial space. For the purposes of this section, "interment" means the same as such term is defined in § 57-35.11.

B. At the time specified for the disinterment and reinterment, the cemetery shall permit the nearest known next of kin and, if requested, the owner of such burial space to witness the disinterment and reinterment.

C. The cemetery shall bear all costs of the disinterment and reinterment.

§ 57-39.1:1. Recovery of abandoned interment rights; procedure; rights of owner of record.

A. When interment rights that have been granted by the owner of a cemetery are not used for a period of fifty years or more, they shall be deemed abandoned and revert to the owner of the cemetery, provided he has complied with the provisions of subsection B. For the purposes of this section, "interment" means the same as such term is defined in § 57-35.11.

B. The owner of the cemetery shall send notice by certified mail, return receipt requested, to the owner of the interment right, his heirs or assigns, and any next of kin known to the cemetery. The notice shall be sent to the last known address of the owner requesting the owner's current address, if different than the last known address, and the addresses of the owner's heirs or assigns. If a written response is received from the person to whom notice was sent by the cemetery, the interment rights shall not be deemed abandoned and such rights shall continue for an additional fifty years from the date the response was received by the cemetery. If notice is returned undeliverable or if no response is received by the cemetery within thirty days after notice was sent, the cemetery shall publish a general notice of its intent to declare the interment rights abandoned in a newspaper of general circulation (i) in the county or city where the cemetery is located and (ii) in the county or city of the last known address of the record owner of the interment rights. Such notice shall contain the name and business address of the cemetery and the name of the last record owner of the interment rights. If there is no response thereto by or on behalf of the record owner or his heirs or assigns within 120 days after publication of the notice, the interment rights shall be deemed abandoned and shall revert to the owner of the cemetery. If a written response is received by the cemetery, the interment rights shall not be deemed abandoned and such rights shall continue for an additional fifty years from the date the response was received by the cemetery.

C. If, within thirty years after the interment rights have been deemed abandoned, the record owner, or his heirs or assigns, can prove to the cemetery or a court of competent jurisdiction that he is entitled to the interment rights, the cemetery shall, at no cost, provide a right of interment similar to the one that was abandoned.