

FIRST REGULAR SESSION

[PERFECTED]

HOUSE BILL NO. 408

91ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE KELLEY (47).

Read 1st time January 17, 2001, and 1000 copies ordered printed.

Read 2nd time January 18, 2001, and referred to the Committee on Local Government and Related Matters, February 8, 2001.

Reported from the Committee on Local Government and Related Matters, March 15, 2001, with recommendation that the bill Do Pass by Consent.

Perfectured by Consent March 29, 2001.

TED WEDEL, Chief Clerk

1086L.01P

AN ACT

To repeal section 214.030, RSMo 2000, relating to grave lot conveyances and to enact in lieu thereof two new sections relating to the same subject.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Section 214.030, RSMo 2000, is repealed and two new sections enacted in lieu thereof, to be known as sections 214.030 and 214.035, to read as follows:

214.030. The cemetery lots owned by such **county**, city, town or village shall be conveyed by deed signed by the mayor **or presiding commissioner** of said **county**, city, town or village, duly attested by the [city] clerk **of such county, city, town or village, or other officer performing the duties of clerk**, and shall vest in the purchaser, his or her heirs and assigns, a right in fee simple to such lot for the sole purpose of interment [under] **pursuant to the regulations of the council or commission, except that such fee simple right may be revested in the county, city, town or village pursuant to section 214.035.**

214.035. 1. For purposes of this section, the term "lot owner" means the purchaser of the cemetery lot or such purchaser's heirs, administrators, trustees, legatees, devisees, or assigns.

2. Whenever a county, city, town or village has acquired real estate for the purpose of maintaining a cemetery or has acquired a cemetery from a cemetery association, and

EXPLANATION — Matter enclosed in bold faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

6 such county, city, town or village or its predecessor in title has conveyed any platted lot or
7 designated piece of ground within the area of such cemetery, and the governing body of
8 such county, city, town or village is the governing body of such cemetery pursuant to
9 section 214.010, the title to any conveyed platted lots or designated pieces of ground, other
10 than ground in which dead human remains are actually buried and all ground within two
11 feet thereof, may be revested in the county, city, town or village in the following manner
12 and subject to the following conditions:

13 (1) No interment shall have been made in the lot and the title to such lot shall have
14 been vested in the present owner for a period of at least fifty years prior to the
15 commencement of any proceedings pursuant to this section;

16 (2) If the lot owner of any cemetery lot is a resident of the county where the
17 cemetery is located, the governing body shall cause to be served upon such lot owner a
18 notice that proceedings have been initiated to revest the title of such lot in the county, city,
19 town or village and that such lot owner may within the time provided by the notice file with
20 the clerk or other officer performing the duties of clerk of such county, city, town or
21 village, as applicable, a statement in writing explaining how rights in the cemetery lot were
22 acquired and such person's desire to claim such rights in the lot. The notice shall be served
23 in the manner provided for service of summons in a civil case and shall provide a period
24 of not less than thirty days in which the statement can be filed. If the governing body
25 ascertains that the statement filed by the lot owner is correct and the statement contains
26 a claim asserting the rights of the lot owner in the lot, all proceedings by the governing
27 body to revest title of the lot in the county, city, town or village shall be null and void and
28 such proceedings shall be summarily terminated by the governing body as to the lots
29 identified in the statement;

30 (3) If it is determined by the return of the sheriff of the county in which the
31 cemetery is located that the lot owner is not a resident of the county and cannot be found
32 in the county, the governing body may cause the notice required by subdivision (2) of this
33 subsection to be published once each week for two consecutive weeks in a newspaper of
34 general circulation within the county, city, town or village. Such notice shall contain a
35 general description of the title revestment proceedings to be undertaken by the governing
36 body pursuant to this section, lot numbers and descriptions and lot owners' names. In
37 addition, the notice shall notify the lot owner that such lot owner may, within the time
38 provided, file with the clerk or other officer performing the duties of a clerk a statement
39 setting forth how such lot owner acquired rights in the cemetery lot and that such lot
40 owner desires to assert such rights. If the governing body ascertains that the statement
41 filed by the lot owner is correct and the statement contains a claim asserting the rights of

42 the lot owner in the lot, all proceedings by the governing body to re-vest title to the lot in the
43 county, city, town or village shall be null and void and such proceedings shall be summarily
44 terminated by the governing body as to the lots identified in the statement;

45 (4) All notices, with proofs of service, mailing and publication of such notices, and
46 all ordinances or other resolutions adopted by the governing body relative to these
47 re-vestment proceedings shall be made a part of the records of such governing body;

48 (5) Upon expiration of the period of time allowed for the filing of statements by lot
49 owners as contained in the notice served personally, by mail or published, all parties who
50 fail to file with the clerk, or other officer performing the duties of clerk in such county, city,
51 town or village, their statement asserting their rights in the cemetery lots shall be deemed
52 to have abandoned their rights and claims in the lot, and the governing body may bring an
53 action in the circuit court of the county in which the cemetery is located against all lot
54 owners in default, joining as many parties so in default as it may desire in one action, to
55 have the rights of the parties in such lots or parcels terminated and the property restored
56 to the governing body of such cemetery free of any right, title or interest of all such
57 defaulting parties or their heirs, administrators, trustees, legatees, devisees or assigns.
58 Such action in all other respects shall be brought and determined in the same manner as
59 ordinary actions to determine title to real estate;

60 (6) In all such cases the fact that the grantee, holder or lot owner has not, for a term
61 of more than fifty successive years, had occasion to make an interment in the cemetery lot
62 and the fact that such grantee, holder or lot owner did not upon notification assert a claim
63 in such lot, pursuant to this section, shall be prima facie evidence that the party has
64 abandoned any rights such party may have had in such lot;

65 (7) A certified copy of the judgments in such actions quieting title may be filed in
66 the office of the recorder of deeds in and for the county in which the cemetery is situated;

67 (8) All notices and all proceedings pursuant to this section shall distinctly describe
68 the portion of such cemetery lot unused for burial purposes and the county, city, town or
69 village shall leave sufficient ingress to, and egress from, any grave upon the lot, either by
70 duly dedicated streets or alleys in the cemetery, or by leaving sufficient amounts of the
71 unused portions of the cemetery for such purposes;

72 (9) This section shall not apply to any lot in any cemetery where a perpetual care
73 contract has been entered into between such cemetery, the county, city, town or village and
74 the owner of such lot;

75 (10) Compliance with the terms of this section shall as fully re-vest the county, city,
76 town or village with, and divest the lot owner of record of, the title to such portions of such
77 cemetery lot unused for burial purposes as though the lot had never been conveyed to any

78 **person, and such county, city, town or village, shall have, hold and enjoy such unclaimed**
79 **portions of such lots for its own uses and purposes, subject to the laws of this state, and to**
80 **the charter, ordinances and rules of such cemetery and the county, city, town or village.**