

Second Regular Session of the 121st General Assembly (2020)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2019 Regular Session of the General Assembly.

## HOUSE ENROLLED ACT No. 1090

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AN ACT to amend the Indiana Code concerning business and other associations.

*Be it enacted by the General Assembly of the State of Indiana:*

SECTION 1. IC 23-14-67-1, AS AMENDED BY P.L.42-2018, SECTION 27, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 1. (a) This chapter applies to a cemetery that:

- (1) is without funds or sources of funds for reasonable maintenance;
- (2) has suffered neglect and deterioration;
- (3) may be the burial grounds for an Indiana pioneer leader or veteran of an American war, including the Revolutionary War; and
- (4) either:
  - (A) was established before 1875; or
  - (B) is a burial ground for a veteran of the Civil War.

(b) A county cemetery commission shall determine if a cemetery is a burial ground for a veteran of the Civil War under subsection (a)(4)(B) based on evidence presented to the county cemetery commission from any of the following:

- (1) The Indiana historical bureau established by IC 4-23-7.2-2.
- (2) The Indiana historical society established under IC 23-6-3.
- (3) A historical society (as defined in IC 36-10-13-3).
- (4) ~~The~~ Indiana Landmarks.
- (5) The division of historic preservation and archeology of the

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department of natural resources.

(6) The Indiana archives and records administration under IC 5-15-5.1-5.

**(c) A county may also assume responsibility for the maintenance of a cemetery under IC 23-14-78.**

SECTION 2. IC 23-14-68-1, AS AMENDED BY P.L.14-2018, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 1. (a) Except as provided in ~~subsection (b)~~ **subsections (b) and (d)**, this chapter applies to each cemetery that:

- (1) is without funds for maintenance;
- (2) was in existence on February 28, 1939; and
- (3) is operated by a nonprofit organization or is not managed by any viable organization.

(b) Section 4.5 of this chapter applies to a cemetery that is operated by a nonprofit organization.

(c) **Except for a cemetery for which a township assumes responsibility under subsection (d)**, this chapter does not apply to a cemetery located on land on which property taxes are assessed and paid under IC 6-1.1-4.

**(d) A township may assume responsibility for the maintenance of a cemetery under IC 23-14-78.**

SECTION 3. IC 23-14-78 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]:

**Chapter 78. Assumption of Care of Certain Cemeteries**

**Sec. 1. This chapter applies to private cemeteries that are not owned or controlled by a cemetery corporation, church, association, or organization.**

**Sec. 2. As used in this chapter, "cemetery" means land in which human remains are interred, entombed, or inurned. The term does not include a cemetery that is subject to IC 23-14-33 through IC 23-14-76.**

**Sec. 3. As used in this chapter, "property owner" means the owner of record of a parcel of real property that contains a cemetery to which this chapter applies.**

**Sec. 4. (a) A county or a township may agree to maintain a cemetery to which this chapter applies. If a county or a township agrees to maintain a cemetery to which this chapter applies, it shall maintain the cemetery as described in IC 23-14-68-3. A county or a township that assumes the maintenance responsibilities for a cemetery under this section may seek reimbursement from the property owner for the costs of maintaining the cemetery.**



**(b) Prior to a county or township assuming the maintenance responsibilities for a cemetery under this section, a property owner must do the following:**

**(1) Employ a professional surveyor to conduct a survey of the property on which the cemetery is located.**

**(2) Convey to the county or township, without consideration, an easement or fee simple title to the portion of the property on which the cemetery is located.**

**(3) If the portion of the property on which the cemetery is located is not accessible by a public road, convey to the township or county, without consideration, an easement for access to the cemetery.**

**(c) A property owner who transfers the maintenance responsibilities for a cemetery under this section may not file an application for the property to receive the cemetery tax assessment rate under IC 6-1.1-6.8.**

**(d) A property owner must make a reasonable effort to maintain a cemetery on the property owner's property. For purposes of this subsection, a reasonable effort to maintain a cemetery means the maintenance responsibilities described in IC 23-14-68-3. However, a property owner is not required to construct a fence where there is not one unless the township or the county provides the supplies, labor, and other expenses for the construction.**

**(e) A property owner who fails to perform the maintenance responsibilities required under subsection (d) commits a Class C infraction if:**

**(1) the township or the county provides two (2) written notices to the property owner, at the property owner's address of record, stating that the property owner is not maintaining the cemetery as required and may be subject to a Class C infraction; and**

**(2) the property owner fails to maintain the cemetery as required by this chapter within thirty (30) days after the second notice provided under subdivision (1).**

**Sec. 5. Nothing in this chapter allows a property owner to sell or furnish plots (as defined in IC 23-14-33-25).**



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Speaker of the House of Representatives

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President of the Senate

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President Pro Tempore

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Governor of the State of Indiana

Date: \_\_\_\_\_ Time: \_\_\_\_\_

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