

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2228 Session of 2015

INTRODUCED BY GILLEN, HENNESSEY, BARRAR, BOBACK, R. BROWN, CALTAGIRONE, COX, DIAMOND, DIGIROLAMO, ELLIS, ENGLISH, FEE, FRANKEL, GABLER, HAHN, HARKINS, A. HARRIS, HICKERNELL, PHILLIPS-HILL, JOZWIAK, KNOWLES, MAJOR, MILLARD, B. MILLER, MURT, O'NEILL, D. PARKER, QUIGLEY, RADER, READSHAW, ROSS, SANTORA, SONNEY, TALLMAN, WARD, YOUNGBLOOD, ZIMMERMAN, ROEBUCK, STAATS, WATSON, LAWRENCE AND MOUL, JUNE 29, 2016

AS REPORTED FROM COMMITTEE ON LOCAL GOVERNMENT, HOUSE OF REPRESENTATIVES, AS AMENDED, OCTOBER 26, 2016

AN ACT

1 Amending ~~Title~~ TITLES 9 (Burial Grounds) AND 68 (REAL AND <--
2 PERSONAL PROPERTY) of the Pennsylvania Consolidated Statutes,
3 in general provisions, further providing for definitions and <--
4 ~~providing for declaration of policy and for reasonable access~~
5 ~~for visitation~~; PROVIDING FOR TRANSFER OF OWNERSHIP OF <--
6 CEMETERIES AND FOR REASONABLE ACCESS TO BURIAL GROUNDS; AND,
7 IN SELLER DISCLOSURES, FURTHER PROVIDING FOR DISCLOSURE FORM.

8 The General Assembly of the Commonwealth of Pennsylvania
9 hereby enacts as follows:

10 Section 1. Section 101 of Title 9 of the Pennsylvania
11 Consolidated Statutes is amended by adding a definition to read:

12 § 101. Definitions.

13 Subject to additional definitions contained in subsequent
14 provisions of this title which are applicable to specific
15 chapters or other provisions of this title, the following words
16 and phrases when used in this title shall have, unless the
17 context clearly indicates otherwise, the meanings given to them

1 in this section:

2 "BURIAL PLOT." A SMALL AREA OF LAND WHERE A PERSON'S BODY <--
3 WILL BE BURIED WHEN THE PERSON DIES. THE PLOT DOES NOT GRANT
4 OWNERSHIP OF THE LAND BUT DOES GUARANTEE THE RIGHT TO BE BURIED
5 AT THE LOCATION.

6 * * *

7 "Relative." An individual related to another individual by <--
8 consanguinity, affinity or adoption.

9 Section 2. Title 9 is amended by adding sections to read:

10 § 102. Declaration of policy.

11 The General Assembly finds and declares as follows:

12 (1) An individual has a right to reasonable access, for
13 visitation, to a plot in a cemetery where a relative of the
14 the individual is buried. This right applies to:

15 (i) a cemetery owned by a cemetery company;

16 (ii) a cemetery owned by a person other than a
17 cemetery company; and

18 (iii) a private family cemetery.

19 (2) The Commonwealth and a municipality have a
20 significant interest in protecting rights under paragraph
21 (1).

22 § 103. Reasonable access for visitation.

23 (a) Cemetery companies. A cemetery company shall grant an
24 individual reasonable access, for visitation, to the plot in its
25 cemetery where a relative of the individual is buried.

26 (b) Cemeteries not owned by cemetery companies. The owner
27 of a cemetery not owned by a cemetery company shall grant an
28 individual reasonable access, for visitation, to the plot in its
29 cemetery where a relative of the individual is buried.

30 (c) Private family cemeteries. The owner of the property

1 ~~where a private family cemetery is located shall grant an~~
2 ~~individual reasonable access, for visitation, to the plot in the~~
3 ~~private family cemetery where a relative of the individual is~~
4 ~~buried.~~

5 ~~(d) Penalty. A person that violates this section commits a~~
6 ~~misdemeanor of the third degree.~~

7 SECTION 2. TITLE 9 IS AMENDED BY ADDING CHAPTERS TO READ: <--

8 CHAPTER 5

9 TRANSFER OF OWNERSHIP OF CEMETERIES

10 SEC.

11 501. NOTIFICATION.

12 502. RESPONSIBILITIES.

13 § 501. NOTIFICATION.

14 PRIOR TO PURCHASING ANY PROPERTY, A POTENTIAL PURCHASER SHALL
15 BE NOTIFIED OF ANY CEMETERIES OR GRAVES ON THE PROPERTY IN
16 ACCORDANCE WITH THE FOLLOWING:

17 (1) NOTIFICATION FOR RESIDENTIAL REAL ESTATE IS TO BE IN
18 ACCORDANCE WITH 68 PA.C.S. § 7304(B)(18) (RELATING TO
19 DISCLOSURE FORM) FOR ANY GRAVE SITES ON THE PROPERTY.

20 (2) IF THE PROPERTY IS SUBJECT TO A COMMERCIAL REAL
21 ESTATE TRANSACTION, THE SELLER SHALL INFORM THE PURCHASER OF
22 ANY CEMETERIES OR BURIAL GROUNDS ON THE PROPERTY.

23 § 502. RESPONSIBILITIES.

24 ANY TIME THERE IS THE TRANSFER OF OWNERSHIP OF A PROPERTY
25 WHERE GRAVE SITES ARE LOCATED, THE NEW OWNER SHALL:

26 (1) HONOR ALL PURCHASES OF ANY BURIAL PLOTS ON THE
27 PROPERTY MADE BEFORE THE SALE.

28 (2) ALLOW FOR THE INTERMENT OF ANY INDIVIDUAL THAT CAN
29 PRODUCE PROOF OF THE PURCHASE OF A BURIAL PLOT PRIOR TO THE
30 TRANSFER OF OWNERSHIP IN ACCORDANCE WITH THE FOLLOWING:

1 INDIVIDUAL REASONABLE ACCESS FOR VISITATION TO A BURIAL PLOT IN
2 THE CEMETERY.

3 (B) CEMETERIES NOT OWNED BY CEMETERY COMPANIES.--THE OWNER
4 OF A CEMETERY NOT OWNED BY A CEMETERY COMPANY SHALL GRANT AN
5 INDIVIDUAL REASONABLE ACCESS FOR VISITATION TO A BURIAL PLOT IN
6 THE CEMETERY.

7 (C) PRIVATE FAMILY CEMETERIES.--THE OWNER OF THE PROPERTY
8 WHERE A PRIVATE FAMILY CEMETERY IS LOCATED SHALL GRANT AN
9 INDIVIDUAL REASONABLE ACCESS FOR VISITATION TO A BURIAL PLOT IN
10 THE PRIVATE FAMILY CEMETERY.

11 (D) RESIDENTIAL BUILDINGS.--FOR CEMETERIES WHERE THERE IS A
12 RESIDENTIAL BUILDING ON THE PROPERTY, THE PROPERTY OWNER MAY
13 DETERMINE THAT REASONABLE ACCESS CAN INCLUDE PREARRANGED TIMES
14 FOR VISITATION AND THE METHODS OF ACCESS TO THE BURIAL PLOT.

15 (E) PETITION.--AN INDIVIDUAL WHO FEELS THAT THE ABILITY TO
16 HAVE REASONABLE ACCESS IS UNREASONABLY RESTRICTED MAY PETITION
17 THE COURT OF COMMON PLEAS HAVING JURISDICTION WHERE THE CEMETERY
18 IS LOCATED FOR RELIEF.

19 (F) PENALTY.--A PERSON WHO VIOLATES THIS SECTION COMMITS A
20 MISDEMEANOR OF THE THIRD DEGREE.

21 SECTION 3. SECTION 7304(B) OF TITLE 68 IS AMENDED BY ADDING
22 A PARAGRAPH TO READ:

23 § 7304. DISCLOSURE FORM.

24 * * *

25 (B) CONTENTS OF PROPERTY DISCLOSURE STATEMENT.--THE FORM OF
26 PROPERTY DISCLOSURE STATEMENT PROMULGATED BY THE STATE REAL
27 ESTATE COMMISSION SHALL CALL FOR DISCLOSURES WITH RESPECT TO ALL
28 OF THE FOLLOWING SUBJECTS:

29 * * *

30 (18) CONDITION, IF KNOWN, AND LOCATION OF ANY BURIAL

1 SITES, FAMILY BURIAL SITES OR ANY OTHER GRAVE MARKERS ON THE
2 PROPERTY, THE RESPONSIBILITIES RELATED TO ACCESS AND
3 ADDITIONAL INTERMENTS AS UNDER 9 PA.C.S. CHS. 5 (RELATING TO
4 TRANSFER OF OWNERSHIP OF CEMETERIES) AND 7 (RELATING TO
5 REASONABLE ACCESS TO BURIAL GROUNDS).

6 * * *

7 Section ~~3~~ 4. This act shall apply regardless of the date of: <--

8 (1) burial; or

9 (2) acquisition of title to the cemetery or private
10 family cemetery.

11 Section ~~4~~ 5. This act shall take effect in 60 days. <--