

The 2013 Florida Statutes

Title XXXIII
REGULATION OF TRADE, COMMERCE,
INVESTMENTS, AND SOLICITATIONS

Chapter 497
FUNERAL, CEMETERY, AND
CONSUMER SERVICES

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Chapter**

497.286 Owners to provide addresses; presumption of abandonment; abandonment procedures; sale of abandoned unused burial rights.—

(1) For purposes of this section, all owners of burial rights in any cemetery licensed under the provisions of this chapter shall have the legal duty to keep the cemetery companies informed in writing of their residence addresses. Cemetery companies shall notify their present burial rights owners by letter at the owner's last known address and notify all future burial rights owners, in the contract for sale and the certificate of ownership, of the requirement to keep the cemetery company informed in writing of their current residence address.

(2) There is hereby created a presumption that burial rights in any cemetery licensed under this chapter have been abandoned when an owner of unused burial rights has failed to provide the cemetery with a current residence address for a period of 50 consecutive years and the cemetery is unable to communicate by certified letter with said owner of unused burial rights for lack of address. No such presumption of abandonment shall exist for burial rights held in common ownership which are adjoining, whether in a grave space, plot, mausoleum, columbarium, or other place of interment, if any such burial rights have been used within such common ownership.

(3) Upon the occurrence of a presumption of abandonment as set forth in subsection (2), a cemetery may file with the department a certified notice attesting to the abandonment of the burial rights. The notice shall do the following:

- (a) Describe the burial rights certified to have been abandoned;
- (b) Set forth the name of the owner or owners of the burial rights, or if the owner is known to the cemetery to be deceased, then the names, if known to the cemetery, of such claimants as are heirs at law, next of kin, or specific devisees under the will of the owner;
- (c) Detail the facts with respect to the failure of the owner or survivors as outlined in this section to keep the cemetery informed of the owner's address for a period of 50 consecutive years or more; and
- (d) Certify that no burial right has been exercised which is held in common ownership with any

abandoned burial rights as set forth in subsection (2).

(4) Irrespective of diversity of ownership of the burial rights, a cemetery may include in its certification burial rights in as many owners as are certified to have been abandoned.

(5) The department shall notice and publish the approved abandoned burial rights in the manner provided by s. 717.118.

(6) Within 120 days from the final notice and publication as provided in subsection (5), the department shall notify the cemetery if there has been no claim filed for the burial rights, and the cemetery shall have the right to sell such burial rights at a public sale subject to the approval of the sale price by the department.

(7) Notice of the time and place of any sale held pursuant to the provisions of this section shall be published by the cemetery once in a newspaper of general circulation in the county in which the cemetery is located, such publication to be not less than 30 days prior to the date of sale.

(8) The proceeds derived from any sale shall be disbursed in the following manner: an amount specified in s. 497.268 shall be deposited to the cemetery care and maintenance trust fund; an amount equal to the cemetery company's actual and necessary costs incurred pursuant to this section but not to exceed 10 percent of the selling price of the abandoned burial right shall be deposited to the cemetery company's operating account; and the balance of the proceeds shall be deposited with the department within 20 days after receipt of said funds. The department shall deposit all funds received pursuant to this subsection in accordance with the provisions of s. 717.123.

(9) Persons or their heirs who were owners of burial rights which were sold under this section shall have the right at any time to obtain equivalent burial rights in the cemetery without further charge. If no burial rights are desired, such persons or their heirs may obtain the amount paid to the department in accordance with the provisions of s. 717.124.

(10) The cemetery shall set aside equivalent burial rights equal to 10 percent of the abandoned burial rights sold under this section for the exclusive use of persons or their heirs who were owners of burial rights which were sold under this section, who have the right at any time to obtain equivalent burial rights in the cemetery under this section.

(11) Persons who purchase burial rights at a sale pursuant to this section shall have the right to sell, alienate, or otherwise transfer said burial rights subject to and in accordance with the rules and regulations of the cemetery and payment of a reasonable transfer fee.

History.—ss. 2, 4, ch. 87-39; s. 1, ch. 89-8; ss. 86, 122, ch. 93-399; s. 43, ch. 2000-154; s. 7, ch. 2001-120; s. 67, ch. 2004-301.

Note.—Former s. 497.091; s. 497.353.