

AN ACT relating to cemeteries and making an appropriation therefor.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 2 IS CREATED TO READ AS FOLLOWS:

(1) The Governor may annually issue a proclamation recognizing the week prior to Memorial Day of each year as Kentucky Cemetery Cleanup Week to encourage the statewide cleanup of cemeteries in the Commonwealth and to call upon all citizens of the Commonwealth to participate in the occasion to honor our ancestral legacy.

(2) This week shall provide an opportunity for Kentucky communities, individual citizens, and volunteer groups to participate with local, regional, and state entities, to restore, renew, and protect cemeteries as places of dignity, respect, and pride.

(3) Local governments and private businesses shall be encouraged to participate in Kentucky Cemetery Cleanup Week through developing, organizing, and implementing activities that highlight the historical and cultural heritage of their communities. They are encouraged to work in partnership with civic and volunteer organizations as well as corporate sponsors.

➔SECTION 2. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO READ AS FOLLOWS:

The General Assembly declares that it is the public policy of the Commonwealth of Kentucky to recognize and preserve the cultural, historical, and genealogical heritage of the state's cemeteries for present and future generations. This section and Section 3 of this Act provide a means by which the preservation of eligible Kentucky cemeteries may be financed in part through a voluntary check-off designation on state income tax return forms.

➔SECTION 3. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO

READ AS FOLLOWS:

- (1) Effective for taxable years beginning January 1, 2017, each taxpayer required to file a return pursuant to KRS 141.180 who is entitled to an income tax refund and who desires to contribute to the Historic Cemetery Preservation Program fund created in Section 6 of this Act may designate an amount, not to exceed the amount of the refund, to be paid to this fund. In the case of a joint return, each spouse may also designate that a portion of the refund shall be paid to this fund. This designation shall not increase or decrease the income tax liability of any taxpayer, but it shall reduce the income tax refund of the taxpayer or spouse by the amount or amounts designated.
- (2) The instructions accompanying the individual income tax return shall include a description of the fund and the purposes for which the income tax checkoff may be used.
- (3) The commissioner shall by July 1, 2018, and by July 1 of each year thereafter, transfer the funds designated by taxpayers under this section to the fund created in Section 6 of this Act.

➔SECTION 4. A NEW SECTION OF KRS CHAPTER 307 IS CREATED TO

READ AS FOLLOWS:

As used in Sections 4 to 9 of this Act, unless the context otherwise requires:

- (1) "Board" means the Kentucky Historic Cemetery Preservation Program Board;
- (2) "Historic cemetery" means any location in this Commonwealth where a human being was buried more than one hundred (100) years prior to the current date, but does not include a cemetery operated for profit; and
- (3) "Program" means the Kentucky Historic Cemetery Preservation Program.

➔SECTION 5. A NEW SECTION OF KRS CHAPTER 307 IS CREATED TO

READ AS FOLLOWS:

- (1) The Kentucky Historic Cemetery Preservation Program is created to provide

financial and technical assistance in the restoration, preservation, and maintenance of historic cemeteries.

(2) The program shall be administered by the Kentucky Historic Cemetery Preservation Program Board created in Section 7 of this Act.

(3) The headquarters of the program shall be located at the Kentucky Historical Society.

(4) Staff and administrative assistance shall be provided by the Kentucky Historical Society and the Heritage Council. The program may seek and receive assistance from any state or local government agency, institution of public higher education, institution of private higher education, federal agency, or other person or agency, public or private.

(5) The program, in addition to any appropriation by the General Assembly and funding received by the income tax checkoff provided for in Sections 2 and 3 of this Act, may seek and receive grants and other funding from any agency or organization, public or private, and from private business entities and private persons.

➔SECTION 6. A NEW SECTION OF KRS CHAPTER 307 IS CREATED TO READ AS FOLLOWS:

(1) The Historic Cemetery Preservation Program fund is hereby created as a separate trust and agency account in the State Treasury. The Historic Cemetery Preservation Program fund shall consist of checkoff amounts received from moneys collected from the income tax checkoff created under Section 3 of this Act, appropriations, and any other proceeds from gifts, grants, federal funds, or any other funds, both public and private, made available for the purposes of Section 8 of this Act and this section. All funds received by the program shall be placed in the Historic Cemetery Preservation Program fund.

(2) The Historic Cemetery Preservation Program fund shall be administered by the

board.

- (3) Funds in the Historic Cemetery Preservation Program Fund shall be expended by the board only for the purposes authorized in Sections 4 to 9 of this Act.
- (4) Notwithstanding KRS 45.229, Historic Cemetery Preservation Program fund amounts not expended at the close of the fiscal year shall not lapse but shall be carried forward into the next fiscal year.
- (5) Any interest earnings of the Historic Cemetery Preservation Program fund shall become a part of the Historic Cemetery Preservation Program fund and shall not lapse.
- (6) Moneys deposited in the fund are hereby appropriated for the purposes set forth in Sections 4 to 9 of this Act and shall not be appropriated or transferred by the General Assembly for any other purposes.
- (7) The board may authorize not more than ten percent (10%) of the funds received by the Historic Cemetery Preservation Program Fund in each fiscal year to be expended for the purpose of carrying out the administrative tasks associated with the administration of the program.

➔SECTION 7. A NEW SECTION OF KRS CHAPTER 307 IS CREATED TO READ AS FOLLOWS:

- (1) The Kentucky Historic Cemetery Preservation Program Board is hereby created.
- (2) The board shall consist of eleven (11) members chosen as follows:

  - (a) The executive director of the Heritage Council or the executive director's designee appointed in writing;
  - (b) The director of the Kentucky Historical Society or the director's designee appointed in writing;
  - (c) The state librarian or the librarian's designee appointed in writing;
  - (d) The director of the Division of Historic Properties or the director's designee appointed in writing;

- (e) One (1) person appointed by the Governor from a list of three (3) names submitted by the African American Heritage Commission;
- (f) One (1) person appointed by the Governor from a list of three (3) names submitted by the Native American Heritage Commission;
- (g) One (1) person appointed by the Governor from a list of three (3) names submitted by the Kentucky Cemetery Association;
- (h) One (1) archaeologist with a background in cemetery preservation appointed by the Governor from a list of three (3) names submitted by the Kentucky Heritage Council; and
- (i) Three (3) persons appointed by the Governor who have a demonstrated interest or expertise in the protection of historic cemeteries, one (1) each from the appropriate department within each of the following institutions:
1. The University of Kentucky;
  2. Kentucky State University; and
  3. The University of Louisville.
- (3) A person appointed to represent the executive director of the Heritage Commission, the director of the Historical Society, or the state librarian shall be deemed a member of the board serving in lieu of the director or executive director of the agency which he or she represents, unless removed in writing by the appointing authority or until the person who is the appointing authority changes, in which case a new appointment may be made.
- (4) Each person appointed by the Governor shall serve a term of three (3) years and may be reappointed one (1) time.
- (5) At the first meeting of each year, the board shall elect a chair of the board from among the members of the board and set a schedule of not less than four (4) regular meetings during that calendar year. The board may, in accordance with the open meetings law, schedule special or emergency meetings upon the call of

the chair of the board.

(6) Any member of the board appointed under paragraphs (e) to (i) of subsection (2) of this section who misses more than two (2) regular meetings of the board in any one (1) calendar year shall be deemed to have resigned from the board, that position shall be considered as vacant, and the Governor or other appointing authority shall appoint another person from that class of persons to fill the remainder of the term of the person who was deemed to have resigned.

(7) No member of the board shall receive a salary for service on the board. A member of the board shall be reimbursed for reasonable and necessary expenses incurred in carrying out the provisions of Sections 4 to 9 of this Act at the same rate and in the same manner as reimbursement allowed to a state employee.

(8) By October 1 of each year, the board shall make an annual report of its activities for the preceding fiscal year to the Office of the State Budget Director and to the Interim Joint Committee on Appropriations and Revenue. Each respective report shall set forth a complete operating and financial statement covering its operations during the year and a summary of the progress of the board in terms of the results of its financial and technical assistance in the restoration, preservation, and maintenance of historic cemeteries.

➔SECTION 8. A NEW SECTION OF KRS CHAPTER 307 IS CREATED TO READ AS FOLLOWS:

(1) The board shall:

(a) Administer the program and set duties for the administrative support staff for the program;

(b) Apply for grants and other funding to operate the program;

(c) Administer funds received by the program from any source, make grants, authorize technical assistance, and carry out any other function authorized for the program by statute; and

(d) Promulgate administrative regulations pursuant to KRS Chapter 13A as necessary for the proper administration and operation of the program.

(2) The administrative staff of the program shall:

(a) Carry out the directives of the board;

(b) Receive applications for funding of historic cemetery preservation grants and make recommendations to the board with regard to each application for funding;

(c) Receive applications for technical assistance for the preservation and maintenance of historic cemeteries, make recommendations to the board with regard to each application, and carry out or arrange for the provision of any assistance authorized by the board;

(d) Provide educational programs authorized by the board with regard to the preservation and maintenance of historic cemeteries; and

(e) Carry out or arrange for the provision of any other activity authorized by the board in compliance with Sections 4 to 9 of this Act.

➔SECTION 9. A NEW SECTION OF KRS CHAPTER 307 IS CREATED TO READ AS FOLLOWS:

(1) An application for funding or for technical assistance may be made to the board for the purpose of preservation of any historic cemetery.

(2) An application for funding may be made by:

(a) An agency of the Commonwealth;

(b) A city, county, urban-county, charter county, consolidated local government, or unified local government;

(c) A nonprofit cemetery;

(d) A nonprofit historic or genealogical organization; or

(e) A nonprofit local, community, or civic group.

(3) Grants may be made by the board for:

- (a) Equipment;
  - (b) Technical consulting;
  - (c) Repair of tombstones;
  - (d) Monuments and other similar objects;
  - (e) Fencing;
  - (f) Purchase and placement of markers or signage or other embellishments denoting the historical significance of the cemetery; and
  - (g) Wages for nonrecurring and nonroutine maintenance of a cemetery.
- (4) No grant funds shall be used for wages for routine maintenance.
- (5) (a) Grant funds authorized by the board shall be expended only for the purposes authorized in writing by the board.
- (b) The board shall require proper receipts and accounting.
- (c) Any funds allotted shall be expended prior to the expiration of two (2) years from the date of their award, and funds remaining unexpended two (2) years from the date of their award shall be returned to the board.
- (6) Grant funds provided by the board shall not be utilized for the preservation or maintenance or any other purpose at a cemetery operated for profit. No grant funds shall be utilized for a religious purpose.
- (7) No grant of funds provided by the board shall obligate the board to continue the funding beyond any one (1) grant period.
- (8) The board shall require the recipient of grant funds to match grant funds allocated by the board on a dollar-for-dollar basis.
- (9) The board shall require the property owner of a cemetery which is to receive grant funding by the board to execute a written easement with the board prior to the receipt of those grant funds. The written easement shall permit reasonable access to the cemetery to relatives of the deceased, bona fide genealogists, bona fide archaeologists, and representatives of the board for a period of not less than



five (5) years from the date of the receipt of the grant funds. Failure of the cemetery or its owner or operator to comply with the access requirements of this subsection shall result in withdrawal of unexpended funds and a bar from future funding for a period of ten (10) years.

(10) A person who is granted access pursuant to an easement executed under this section and is denied access by a grant recipient or a property owner may apply to the Circuit Court in the county in which the cemetery is located for an injunction or other court order granting reasonable access to the cemetery.

(11) Prior to the receipt of grant funds, the board may require execution of a contract by the cemetery or its owner or operator that covers any other action required by the board for the receipt of grant funding or assistance that the board deems necessary.

(12) No organization which is not a cemetery or its owner or operator shall provide board grant funds, board-funded maintenance, or other services for a cemetery which has not executed any easement or contract required by this section prior to the provision of the maintenance, funding, or other services.

➔SECTION 10. A NEW SECTION OF KRS CHAPTER 307 IS CREATED TO READ AS FOLLOWS:

(1) The Kentucky Historical Society, with assistance from the Office of the Attorney General and the Department for Local Government, shall develop and may conduct educational training and technical assistance programs and workshops for local officials and interested citizens on cemetery preservation topics, including legal issues.

(2) The Kentucky Historical Society may work with the Local Government Training Advisory Council pursuant to KRS 65.327 to prepare and present the training programs in local communities.

➔SECTION 11. A NEW SECTION OF KRS CHAPTER 307 IS CREATED TO

READ AS FOLLOWS:

(1) Descendants and family members of deceased persons buried in cemeteries or graves located on privately owned lands in the Commonwealth shall have a right of ingress to and egress from the location of the burial. This right is conditioned upon the following:

(a) Reasonable notice given by the descendants and family members to the owner and the occupant, if different, of their intention to access the land where the deceased person is buried;

(b) In the case of unmarked graves or burial sites, descendants or family members shall provide, if requested by the owner or occupant, reasonable proof of the existence of these graves or burial sites;

(c) The access shall be limited to the purposes of visiting the grave, maintaining the grave, and conducting genealogical research;

(d) The access route shall be designated by the landowner or by an obvious access route that is visible from outside the property;

(e) The time and manner of access shall be reasonable and designated in writing, signed by the descendants or family members and the landowner;  
and

(f) Descendants and family members of the deceased person shall conduct themselves in a manner that does not damage the private lands, the cemetery, or grave sites, and they shall be liable to the owner of the private lands for any damage caused as a result of their access.

(2) The right of ingress to and egress from the location of the burial of descendants' and family members' ancestors and relatives on privately owned lands in the Commonwealth as designated by subsection (1) of this section is not intended to alter the recognized common law right of a person to visit the grave site of a deceased relative, nor shall it alter any easements, licenses, privileges, or other

dedications which grant the right to visit the grave sites of deceased relatives and are in existence as of the effective date of this Act.

- (3) Any person denied reasonable access under the provisions of subsection (1) of this section may bring an action in the Circuit Court of the county in which the cemetery or grave site is located to enjoin the owner of the private lands on which the cemetery or grave site is located, or the owner's agent, from denying the person reasonable ingress to and egress from the cemetery or grave site for the purposes set forth in subsection (1) of this section. When granting this relief, the court may set the frequency of access, hours, and duration of the access.

➔SECTION 12. A NEW SECTION OF KRS CHAPTER 307 IS CREATED TO READ AS FOLLOWS:

- (1) If the operator of any cemetery is informed or becomes aware that it has improperly interred or allowed to be improperly interred a body or cremated remains, including but not limited to interment in the wrong space or at the wrong depth, the burial container shall be disinterred, identified as the correct burial container, and properly reinterred under the supervision of a licensed funeral director.
- (2) Prior to disinterment and proper reinterment of the body or cremated remains, the cemetery shall give reasonable notice to the next of kin of the deceased and, if requested, the owner of the burial space, informing them of the improper interment and when the disinterment and proper reinterment will take place.
- (3) At the time specified for the disinterment and reinterment, the cemetery operator shall permit the next of kin and, if requested, the owner of the burial space to witness the disinterment and reinterment.
- (4) The expense of the disinterment and proper reinterment shall be paid by the cemetery in which the body or cremated remains were improperly interred.

➔SECTION 13. A NEW SECTION OF KRS CHAPTER 307 IS CREATED TO

READ AS FOLLOWS:

(1) The secretary of the Finance and Administration Cabinet shall perform an inventory listing the number, location, and tribal affiliation, if known, of all Native American remains that are held by state funded agencies, institutions, or universities. This list shall be reported to the General Assembly on or before January 15, 2017.

(2) The secretary of the Finance and Administration Cabinet shall perform an inventory listing of state-owned real estate, including but not limited to cemeteries that would be suitable for reinterment of Native American remains. This inventory shall be reported to the General Assembly on or before January 15, 2017.

➔SECTION 14. A NEW SECTION OF KRS CHAPTER 307 IS CREATED TO

READ AS FOLLOWS:

(1) Every cemetery shall keep sufficient records of the specific location of every burial or interment in the cemetery occurring after the effective date of this Act. These records shall be kept at the cemetery's principal place of business and made available to the family of the deceased and other persons as each cemetery may determine.

(2) The records maintained shall be specific enough for an individual, after reviewing these records, to locate the specific grave, vault, tomb, crypt, or niche of an individual interred in that cemetery.

(3) Any cemetery or cemetery owner who violates subsection (1) of this section shall be fined not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500) for each offense.

➔SECTION 15. A NEW SECTION OF KRS CHAPTER 307 IS CREATED TO

READ AS FOLLOWS:

(1) Whenever in the opinion of the legislative body of a city a cemetery located within

the boundaries of the city has been abandoned and the land comprising that cemetery is needed for a public purpose, an ordinance may be enacted declaring the cemetery, as described by metes and bounds, to be abandoned. The ordinance may authorize the city attorney to institute suit for the city or other governmental agency created by the city in the Circuit Court of the county in which the city is located against the property comprising the cemetery to declare the cemetery abandoned. The suit may ask the court to vest title to the cemetery to the city or vest title in any governmental agency created by it pursuant to or by authority of the Kentucky Revised Statutes.

(2) (a) Upon the filing of the complaint, the city or other governmental agency created by the city shall give notice of the complaint by publication pursuant to KRS Chapter 424.

(b) Within thirty (30) days after the last advertisement, any party having a claim to the cemetery, any lot in the cemetery, or the mortal remains of a person interred in the cemetery, may file his or her claim in a proceeding for damages as compensation for the value of his or her interest in the cemetery or lot to which the party has a claim.

(c) Upon the filing of a claim under paragraph (b) of this subsection, the Circuit Court shall appoint as commissioners three (3) impartial landowners who are residents of the city. The commissioners may hear evidence or make any inquiry they desire touching the value of the land and award to the claimants who are owners of the land the value of the taken property. The commissioners shall:

1. Be sworn to faithfully and impartially discharge their duties;
2. View the land involved; and
3. Return a written report to the office of the clerk of the Circuit Court describing separately the property that is the subject of each claim.

- (d) Either the claimant or the complainant may file exceptions to this report and demand a jury trial.
- (e) The commissioners shall be allowed a reasonable fee that shall be taxed as costs.
- (3) (a) If no claim is made within thirty (30) days after the last advertisement, or if claims have been made and compensation duly paid either to the claimants or into court, the court shall declare the cemetery to be abandoned and enter judgment accordingly, vesting fee simple title in the complainant.
- (b) Claimants shall have thirty (30) days after the court's declaration in which to remove the mortal remains and monuments from lots to which they have been adjudged to have a claim. The reasonable cost of the removal shall be paid by the claimant.
- (c) If, within thirty (30) days after entry of judgment the remains have not been removed by their claimants, it shall be the duty of the complainant, through its proper officers, to pay for the removal of the monument and the disinterment, removal, and the reinterment of any body, or bodies, in another cemetery in the county in which the city is located as the protesting lot owner may designate, or if no designation is made, to another suitable cemetery in the county.

➔SECTION 16. A NEW SECTION OF KRS CHAPTER 307 IS CREATED TO READ AS FOLLOWS:

- (1) Any person who violates any of the provisions of Sections 18, 20, or 21 of this Act shall be fined not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500) for each offense.
- (2) Any person or corporation who violates Section 19 of this Act shall be subject to a fine of not less than twenty-five dollars (\$25) nor more than two hundred fifty dollars (\$250) for each offense.

➔Section 17. KRS 61.350 is repealed, reenacted as a new section of KRS Chapter 307, and amended to read as follows:

Any civil or judicial officer in this state who fails or refuses to enforce any statute bearing upon cemetery companies or burying grounds shall be fined *no less than five hundred dollars (\$500) and no more than one thousand dollars (\$1,000)*~~twenty five dollars (\$25)~~ for each failure or refusal.

➔Section 18. KRS 381.690 is repealed and reenacted as a new section of KRS Chapter 307 to read as follows:

Whenever any burial grounds lie within the corporate limits of a city the governing authorities of the city shall protect the burial grounds from being used for dumping grounds, building sites, playgrounds, places of entertainment and amusement, public parks, athletic fields or parking grounds.

➔Section 19. KRS 381.697 is repealed and reenacted as a new section of KRS Chapter 307 to read as follows:

- (1) Every cemetery in Kentucky except private family cemeteries shall be maintained by its legal owner or owners, without respect to the individual owners of burial plots in the cemetery, in such a manner so as to keep the burial grounds or cemetery free of growth of weeds, free from accumulated debris, displaced tombstones, or other signs and indication of vandalism or gross neglect.
- (2) The owner or owners of public or private burial grounds, regardless of size or number of graves, shall protect the burial grounds from desecration or destruction as stipulated in KRS 525.115(1)(a), (b), or (c) or from being used for dumping grounds, building sites, or any other use which may result in the burial grounds being damaged or destroyed. The provisions of this subsection shall not apply to the owner or owners of public or private burial grounds when the public or private burial grounds have been desecrated, damaged, or destroyed as the result of a crime by another as defined by KRS 500.080.

- (3) The owner or owners of private burial grounds shall be required to construct cemetery protection structures only if the burial ground is located in a county with a county cemetery board and if the board provides compensation to the private burial ground owner for supplies, labor, and other expenses associated with such construction.

➔Section 20. KRS 381.700 is repealed and reenacted as a new section of KRS Chapter 307 to read as follows:

The governing authorities of any city within whose corporate limits any burying grounds lie may require the owner or those having claims to the grounds to properly care for them.

➔Section 21. KRS 381.710 is repealed and reenacted as a new section of KRS Chapter 307 to read as follows:

The fact that any tract of land has been set apart for burial purposes and that a part or all of the grounds has been used for burial purposes shall be evidence that such grounds were set aside and used for burial purposes. The fact that graves are not visible on any part of the grounds shall not be construed as evidence that such grounds were not set aside and used for burial purposes.

➔Section 22. KRS 381.715 is repealed and reenacted as a new section of KRS Chapter 307 to read as follows:

- (1) As used in this section, "cemetery lot" is a lot containing one (1) or more grave spaces and located within a cemetery registered pursuant to KRS 367.946 in a county containing an urban-county government or in a city.
- (2) An officer of the cemetery may cause to be filed, on behalf of the cemetery, an action in the Circuit Court of the county where the cemetery is located requesting that the burial rights in the unused portion of the lots in question be deemed abandoned and that the cemetery be authorized to sell the rights upon entry of the court's judgment. The defendants in the action shall be the unknown heirs of the original owner of the burial rights in the lots in question.



- (3) The petition shall include the following:
- (a) The name of the original owner of the burial rights in the lots in question.
  - (b) The name of all persons buried in the lots and the date of burial, if known.
  - (c) The name, address, and telephone number of the cemetery office.
  - (d) An affidavit by the petitioner that:
    1. No person has been buried in the cemetery lots in question for a period of at least one hundred (100) years; and
    2. The identity of any owner of the burial rights in the lot in question or any heir of the owner is unknown to any officer or employee of the cemetery and not discoverable after a good faith attempt by an officer or employee to identify the owner or heir.
- (4) Service of process shall be by warning order attorney, appointed by the court pursuant to CR 4.07.
- (5) If the court finds the allegations set forth in paragraph (d) of subsection (3) of this section to be true, the court shall enter judgment deeming the burial rights in the lots in question abandoned and authorizing the cemetery to sell the rights.
- (6) No judgment shall be entered declaring burial rights abandoned if an owner or heir of a cemetery lot has filed with the cemetery a statement in writing directing that certain grave spaces not be used.

➔Section 23. KRS 381.755 is repealed and reenacted as a new section of KRS Chapter 307 to read as follows:

- (1) Upon application of the owner of property upon which is located an abandoned grave or cemetery or whenever the fiscal court of any county deems it to be in the best interest of the county to remove and relocate any such grave or cemetery the court may issue an order or resolution authorizing such removal or relocation.
- (2) The order or resolution for the removal and relocation of the grave or cemetery pursuant to subsection (1) shall specify and declare that at any time after the

expiration of sixty (60) days after the first publication of notice of such intended action pursuant to KRS Chapter 424, the court shall direct the removal and relocation of the grave or cemetery.

- (3) Expenses for removal and relocation of any grave or cemetery under the provisions of this section shall be paid by the individual requesting such removal or if the removal is made in the best interest of the county the expenses shall be paid from county funds.
- (4) Any grave or cemetery removed under the provisions of this section shall be relocated in a suitable place at the expense of the person or county requesting such removal and relocation.
- (5) For the purposes of this section a grave or cemetery shall be considered abandoned when left untended for a period of ten (10) years preceding the date of the resolution for removal and relocation of the grave or cemetery.

➔Section 24. KRS 381.760 is repealed and reenacted as a new section of KRS Chapter 307 to read as follows:

The cost of the proceeding shall be borne by the complainant, and the burden of proof shall be upon the claimant to establish his interest and to establish that it has not been abandoned.

➔SECTION 25. KRS 381.765 IS REPEALED AND REENACTED AS A NEW SECTION OF KRS CHAPTER 307 TO READ AS FOLLOWS:

**(1) If disinterment, removal, and reinterment of graves is initiated by:**

**(a) The Commonwealth of Kentucky or any of its agencies, public institutions, or political subdivisions;**

**(b) The United States of America or any its agencies; or**

**(c) Any public utility;**

**the disinterment, removal, and reinterment shall be performed by a funeral director licensed under KRS Chapter 316.**

**(2) A person holding a valid funeral director's license of another state may perform disinterment, removal, and reinterment under this section if the person has been authorized to practice in Kentucky through KRS 316.140.**

→Section 26. KRS 381.767 is repealed, reenacted as a new section of KRS Chapter 307, and amended to read as follows:

The provisions of **Section 25 of this Act**~~[KRS 381.765]~~ shall not affect grave removals for which contracts have been entered into prior to June 17, 1978.

→Section 27. KRS 382.110 is amended to read as follows:

- (1) All deeds, mortgages, and other instruments required by law to be recorded to be effectual against purchasers without notice, or creditors, shall be recorded in the county clerk's office of the county in which the property conveyed, or the **majority of the property**~~[greater part thereof]~~, is located.
- (2) No county clerk or deputy county clerk shall admit to record any deed of conveyance of any interest in real property equal to or greater than a life estate, unless the deed plainly specifies and refers to the next immediate source from which the grantor derived **interest or** title to the property~~[or the interest conveyed therein]~~.
- (3) An authentic photocopy of any original record may be certified, as a true, complete, unaltered copy of the original record on file by the official public custodian of the record. A certified copy of a document certified by the official public custodian of that document may be submitted for filing in any other filing officer's jurisdiction as though it were the original record. However, no county clerk or deputy county clerk shall accept for filing any original document or certified copy of any document unless the original document and its certified copy conforms to all statutory requirements for filing the document under KRS Chapter 382. The provisions of this subsection shall apply only to a record generated and filed in Kentucky, and only if the certified copy **of the record**~~[thereof]~~ is to be utilized in Kentucky. If the record is a foreign record or a Kentucky record to be filed or utilized in a foreign

jurisdiction, then this subsection shall not apply and applicable federal, Kentucky, or foreign law shall apply.

- (4) If the source of title is a deed or other recorded writing, the deed offered for record shall refer to the former deed or writing, and give the office, book, and page where recorded, and the date recorded~~[thereof]~~. If the property or interest in the property~~[therein]~~ is obtained by inheritance or in any other way than by recorded instrument of writing, the deed offered for record shall state clearly and accurately how and from whom the title or interest in the property~~[thereto]~~ was obtained by the grantor.
- (5) If the title to the property or interest conveyed is obtained from two (2) or more sources, the deed offered for record shall plainly specify and refer to each of the sources in the manner provided in subsections (2) and (4), and shall show which part of the property, or interest in the property~~[therein]~~, was obtained from each of the sources.
- (6) *If the property to be conveyed contains a cemetery and this fact is known to the grantor, then that fact shall be noted on the deed or other instrument offered for record. If the location of the cemetery is known to the grantor, then the location of the cemetery shall also be noted on the deed or other instrument offered for record.*
- (7) No grantor shall lodge for record, and no county clerk or deputy shall receive and permit to be lodged for record, any deed that does not comply with the provisions of this section.
- (8)~~(7)~~ No clerk or deputy clerk shall be liable to the fine imposed by subsection (1) of KRS 382.990 because of any erroneous or false references in any~~[such]~~ deed, nor because of the omission of a reference required by law where it does not appear on the face of the~~[such]~~ deed that the title to the property or interest conveyed was obtained from more than one (1) source.

~~(9)~~~~(8)~~ This section does not apply to deeds made by any court commissioner, sheriff, or by any officer of *the* court in pursuance of his *or her* duty as ~~an~~~~such~~ officer, nor to any deed or instrument made and acknowledged before March 20, 1928. No deed shall be invalid because it is lodged contrary to the provisions of this section.

~~(10)~~~~(9)~~ A mortgage holder shall file a deed in lieu of foreclosure in the county clerk's office of the county in which the property conveyed, or the *majority of the property*~~greater part thereof,~~ is located, no later than forty-five (45) days after the date the deed in lieu of foreclosure is executed.

➔Section 28. KRS 213.076 is amended to read as follows:

- (1) (a) A certificate of death or a provisional certificate of death for each death which occurs in the Commonwealth shall be filed with the cabinet or as otherwise directed by the state registrar prior to final disposition, and it shall be registered if it has been completed and filed in accordance with this section. The funeral director, or person acting as such, who first takes custody of a dead body shall be responsible for filing the certificate of death. The funeral director, or person acting as such, shall obtain the required personal and statistical particulars from the person best qualified to supply them over the signature and address of the informant. Effective January 1, 2015, all certificates of death shall be filed with the cabinet using the Kentucky Electronic Death Registration System in a manner directed by the state registrar.
- (b) At the time of obtaining the required personal and statistical particulars from the informant referred to in paragraph (a) of this subsection, the funeral director, or person acting as such, shall ask the informant if the deceased ever served in the military. If the informant answers in the affirmative, then the funeral director, or person acting as such, shall provide the informant with a fact sheet stating military burial rights supplied by the Kentucky Department

of Veterans' Affairs.

- (c) The funeral director, or person acting as such, shall within five (5) days of the death, present the certificate to the attending physician, if any, or to the health officer or coroner as directed by the state registrar, for the medical certificate of the cause of death and other particulars necessary to complete the record as required by this chapter.
- (d) It shall be unlawful for an institution to release a dead human body until the funeral director, or person acting as such, has completed and filed with the local registrar or person in charge of the institution, a provisional certificate of death. If death occurs outside an institution, the provisional certificate shall be filed with the local registrar by the funeral director, or person acting as such, prior to final disposition of the dead body. A copy of the provisional certificate of death signed by the person with whom it was filed, shall constitute authority for the possession, transportation, and, except for cremation, final disposition of the body.
- (e) All persons having in their possession a completed provisional certificate of death shall file the certificate at not more than weekly intervals with the local registrar.
- (f) If the place of death is unknown but the dead body is found in the Commonwealth, the certificate of death shall be completed and filed in accordance with this section. The place where the body is found shall be shown as the place of death. If the date of death is unknown, it shall be determined by approximation subject to amendment upon completion of any postmortem examination required to be performed.
- (g) If death occurs in a moving conveyance in the United States and the body is first removed from the conveyance in the Commonwealth, the death shall be registered in Kentucky, and the place where it is first removed shall be

considered the place of death. If a death occurs on a moving conveyance while in international waters or air space or in a foreign country or its air space, and the body is first removed from the conveyance in the Commonwealth, the death shall be registered in Kentucky, but the certificate shall show the actual place of death insofar as can be determined.

**(h) Effective January 1, 2017, in the case of a death in which the body or cremated remains are to be placed in a grave, vault, tomb, crypt, or niche, the specific location of the grave, vault, tomb, crypt, or niche within a cemetery shall be listed in the appropriate location on the death certificate by the individual responsible for filing the certificate of death.**

- (2) If any certificate of death is incomplete or unsatisfactory, the state registrar shall call attention to the defects in the certificate and require the person responsible for the entry to complete or correct. The state registrar may also require additional information about the circumstances and medical conditions surrounding a death in order to properly code and classify the underlying cause. A funeral director shall not be held responsible for the failure of a physician, dentist, chiropractor, or coroner to complete or correct the entry for which he or she is responsible.
- (3) The medical certification shall be completed, signed, and returned to the funeral director within five (5) working days after presentation to the physician, dentist, or chiropractor in charge of the patient's care for the illness or condition which resulted in death, except when inquiry is required by KRS 72.400 to 72.475. In such cases, or if the cause of death is unknown or under investigation, the cause of death shall be shown as such on the certificate. A supplemental report providing the medical information omitted from the original certificate shall be filed by the certifier with the state registrar within five (5) days after receiving results of the inquiry as required by KRS 72.400 to 72.475. The supplemental report shall be made a part of the existing death certificate. This report shall be considered an amendment, and the

death certificate shall be marked "Amended." In the absence of the physician, dentist, or chiropractor, or with such person's approval, the certificate may be completed and signed by his associate physician, dentist, or chiropractor, or the chief medical officer of the institution in which death occurred, or the physician who performed an autopsy upon the decedent, or a physician employed by the local health department, if the individual has access to the medical history of the case and death is due to natural causes.

- (4) If death occurs more than thirty-six (36) hours after the decedent was last treated or attended by a physician, dentist, or chiropractor, the case shall be referred to the coroner for investigation to determine and certify the cause of death. In the event that a coroner is not available to sign the certificate and there is no duly appointed deputy, the county judge/executive shall appoint a competent person to investigate the death and certify to its cause.
- (5)
  - (a) The physician, dentist, chiropractor, or coroner who certifies to the cause of death shall return the certificate to the funeral director, or person acting as such, who, in turn, shall file the certificate directly with the Vital Statistics Branch. Any certified copies of the record requested at the time of filing shall be issued in not more than two (2) working days.
  - (b) In the case of a death in which diabetes was known to be an underlying cause or contributing condition, diabetes shall be listed in the appropriate location on the death certificate by the physician, dentist, chiropractor, or coroner who certifies to the cause of death.
- (6) The Vital Statistics Branch shall provide self-addressed, color-coded envelopes for the funeral homes in the Commonwealth of Kentucky.
- (7) Three (3) free verification-of-death statements shall be provided to the funeral director by the Vital Statistics Branch for every death in the Commonwealth of Kentucky.



- (8) The body of any person whose death occurs in Kentucky shall not be interred, deposited in a vault or tomb, cremated, or otherwise disposed of, or removed from or into any registration district, until a provisional certificate of death has been filed with the local registrar of the registration district in which the death occurs. If the death occurred from a disease declared by the Cabinet for Health and Family Services to be infectious, contagious, or communicable and dangerous to the public health, no permit for the removal or other disposition of the body shall be granted by the registrar except under conditions prescribed by the Cabinet for Health and Family Services and the local health department. The Cabinet for Health and Family Services shall identify by administrative regulation those communicable diseases which require blood and body fluid precautions. If a person who has been diagnosed as being infected with a communicable disease for which blood and body fluid precautions are required, dies within a health facility as defined in KRS 216B.015, the facility shall notify any embalmer or funeral director to whom the body will be transported of the need for such precautions. The notice shall be provided by including the statement "Blood and Body Fluid Precautions" on the provisional report-of-death form as prescribed by the Cabinet for Health and Family Services. Lack of this notice shall not relieve any embalmer or funeral director from taking universal blood and body fluid precautions as are recommended by the United States Department of Health and Human Services, Centers for Disease Control for Morticians' Services. No embalmer or funeral director shall charge more for embalming the remains of a person with a communicable disease which requires blood and body fluid precautions than the price for embalming services listed on the price list funeral providers are required to maintain and provide to consumers pursuant to 16 C.F.R. Sec. 453.2 (1988).
- (9) A burial-transit permit for the final disposition issued under the law of another state which accompanies a dead body or fetus brought into the Commonwealth shall be

the authority for final disposition of the body or fetus in the Commonwealth and may be accepted in lieu of a certificate of death. There shall be noted on the face of the record made for return to the local registrar that the body was shipped to Kentucky for interment and the actual place of death.

- (10) Nothing in this section shall be construed to delay, beyond a reasonable time, the interment or other disposition of a body unless the services of the coroner or the health officer are required or the Department for Public Health deems it necessary for the protection of the public health. If compliance with this section would result in unreasonable delay in the disposition of the body the funeral director, or person acting as such, shall file with the local registrar or deputy registrar prior to interment a provisional certificate of death which shall contain the name, date, and place of death of the deceased, the name of the medical certifier, and an agreement to furnish within ten (10) days a complete and satisfactory certificate of death.
- (11) No sexton or other person in charge of any place in which interment or other disposition of dead bodies is made shall inter or allow interment or other disposition of a dead body or fetus unless it is accompanied by a copy of the provisional certificate of death. The sexton, or if there is no sexton, the funeral director, or person acting as such, shall enter on the provisional certificate over his or her signature, the date, place, and manner of final disposition and file the certificate within five (5) days with the local registrar.
- (12) Authorization for disinterment, transportation, and reinterment or other disposition shall be required prior to disinterment of any human remains. The authorization shall be issued by the state registrar upon proper application. The provisions of this subsection shall apply to all manners of disposition except cremation and without regard for the time and place of death. The provisions of Section 25 of this Act ~~[KRS 381.765]~~ shall not apply to remains removed for scientific study and the advancement of knowledge.

(13) After a death certificate has been on file for five (5) years, it may not be changed in any manner except upon order of a court. Prior to that time, requests for corrections, amendments, or additions shall be accompanied by prima facie evidence which supports the requested change.

➔Section 29. KRS 381.990 is amended to read as follows:

(1) Any officer who certifies an abstract in violation of KRS 381.240 or 381.250 shall be fined not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500) for each offense. In addition to ~~this[such]~~ fine, the officer shall be liable personally and on his or her official bond to the person in possession of the lands, and to any ~~and all~~ other persons aggrieved by the certificate~~thereby~~, to an action for damages sustained by these~~such~~ persons by reason of the~~such~~ certificate.

~~(2) Any person who violates any of the provisions of KRS 381.690 to 381.710 shall be fined not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500) for each offense.~~

~~(3) Any person who fails to comply with the provisions of KRS 381.780 shall be guilty of a misdemeanor and shall be fined twenty-five dollars (\$25) for each offense. Each day that the violation continues shall constitute a separate offense.~~

~~(3)(4) Any person or corporation who violates KRS 381.697 shall be subject to a fine of not less than twenty-five dollars (\$25) nor more than two hundred fifty dollars (\$250).~~

~~(5) Any person who fails to comply with any of the provisions of KRS 381.860 may be fined not more than one hundred dollars (\$100) per day for each offense, and the county attorney and the Attorney General may prosecute the violator. In addition to the fine, the violator may be liable personally to any and all persons aggrieved by the violation and subject to an action for damages, plus court costs and plaintiffs' attorneys' fees.~~

➔Section 30. KRS 382.990 is amended to read as follows:

- (1) Any grantor of a deed or any holder of a note who lodges for record a deed, instrument, or deed assigning a note or a deed of release or an instrument **containing**~~[wherein there is]~~ a release, and any county clerk or deputy county clerk who receives and permits to be lodged for record any~~[such]~~ instrument or deed contrary to the provisions of KRS 382.110, 382.120, 382.290, or 382.360, shall be guilty of a violation; the clerk or deputy who actually receives and files the instrument for record shall incur the penalty, but no clerk or deputy shall be fined because of any false or erroneous statement in the instrument filed.
- (2) Any person who willfully and fraudulently makes affidavit to any statement mentioned in KRS 382.120, which is false, knowing the statement to be false, shall be guilty of a Class A misdemeanor, and in addition shall be liable to any person who may be injured by the making, filing, recording, or use of the affidavit.
- (3) Any person who causes to be recorded in a county clerk's office a deed, deed of trust, or mortgage in violation of KRS 382.330, or fails to file the statement required by KRS 382.380, shall be guilty of a Class A misdemeanor.
- (4) Any county clerk who records a deed or mortgage in violation of KRS 382.330 shall be guilty of a violation.
- (5) Any county clerk who, **alone or through a**~~[by himself or]~~ deputy, fails to perform any duty enjoined upon **a county clerk**~~[him]~~ by any of the provisions of KRS 382.110, 382.160, 382.180 to 382.200, 382.210, 382.250, 382.300 to 382.320, 382.360, or 382.370 shall be guilty of a violation.
- (6) Any person who knowingly and intentionally gives a false name or address in any instrument or assignment mentioned in KRS 382.430, shall be guilty of a Class A misdemeanor.
- (7) Any county clerk who fails to perform his **or her** duties under KRS 382.430, shall be guilty of a violation.
- (8) Any person who willfully and fraudulently gives a false statement as to the full

actual consideration of property or the full estimated value under KRS 382.135, shall be guilty of a Class D felony.

- (9) Any mortgage holder that fails to file a deed in lieu of foreclosure pursuant to subsection (10) of Section 27 of this Act~~[KRS 382.110(9)]~~ shall be guilty of a violation.

➔Section 31. The following KRS sections are repealed:

381.720 Abandoned cemetery in cities -- Proceedings to vest title in city.

381.730 Notice of suit.

381.740 Assertion of claim to compensation for value of interest in cemetery or lot.

381.750 Judgment -- Removal of bodies and monuments.