

12-1440. Revestment of title to lots; procedure. (a) For the purposes of this act, the term "lot owner" means the purchaser of the cemetery lot or such purchaser's heirs, administrators, trustees, legatees, devisees, or assigns.

(b) Whenever a city or a township has acquired real estate for the purpose of maintaining a cemetery or has acquired a cemetery from a cemetery association, and such city or township or its predecessor in title has conveyed any platted lot or designated piece of ground within the area of such cemetery, and the governing body of such city or township is the governing body of such cemetery as provided by K.S.A. 12-1402, the title to any conveyed platted lots or designated pieces of ground, other than ground actually used for burial purposes and all ground within two feet thereof, may be revested in such city or township in the following manner and subject to the following conditions:

(1) No interment shall have been made in the lot and the title to such lot shall have been vested in the present owner for a period of at least 50 years prior to the commencement of any proceedings under this section.

(2) If the lot owner of any cemetery lot is a resident of the county where the cemetery is located, the governing body shall cause to be served upon such lot owner a notice that proceedings have been initiated to revest the title of such lot in the city or township and that such lot owner may within the time provided by the notice file with the clerk of such city or township, as applicable, a statement in writing explaining how rights in the cemetery lot were acquired and such person's desire to claim such rights in the lot. The notice shall be served in the manner provided for service of summons in a civil case and shall provide a period of not less than 30 days in which the statement can be filed. If the governing body ascertains that the statement filed by the lot owner is correct and the statement contains a claim asserting the rights of the lot owner in the lot, all proceedings by the governing body to revest title of the lot in the city or township shall be null and void and such proceedings shall be summarily terminated by the governing body as to the lots identified in the statement.

(3) If it is determined by the return of the sheriff of the county in which the cemetery is located that the lot owner is not a resident of the county and cannot be found therein, the governing body may cause the notice required by subsection (a) to be published once each week for two consecutive weeks in the official city newspaper of the city or, in the case of a township, a newspaper of general circulation within the county. Such notice shall contain a general description of the title revestment proceedings to be undertaken by the governing body pursuant to this act, lot numbers and descriptions and lot owners' names. In addition, the notice shall notify the lot owner that such lot owner may within the time provided file with the city or township clerk a statement setting forth how such lot owner acquired rights in the cemetery lot and that such lot owner desires to assert such rights. If the governing body ascertains that the statement filed by the lot owner is correct and the statement contains a claim asserting the rights of the lot owner in the lot, all proceedings by the governing body to revest title to the lot in said city or township shall be null and void and such proceedings shall be summarily terminated by the governing body as to the lots identified in the statement.

(4) All notices, with proofs of service, mailing and publication thereof, and all resolutions adopted by the governing body relative to these revestment proceedings shall be made a part of the records of such governing body.

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

(6) In all such cases the fact that grantee, holder or lot owner has not, for a term of more than 50 successive years, had occasion to make an interment in the cemetery lot and the fact that such grantee, holder or lot owner did not upon notification assert a claim in such lot, as hereinbefore provided, shall be prima facie evidence that the party has abandoned any rights such party may have had in such lot.

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

(8) All notices and all proceedings pursuant to this act shall distinctly describe the portion of such cemetery lot unused for burial purposes and the city or township shall leave sufficient ingress to, and egress from, any grave upon the lot, either by duly dedicated streets or alleys in the cemetery, or by leaving sufficient amounts of the unused portions of the cemetery for such purposes.

(9) This act shall not apply to any lot in any cemetery where a perpetual care contract has been entered into between such cemetery, city or township and the owner of such lot.

(10) Compliance with the terms of this act shall as fully revest the city or township with, and divest the lot owner of record of the title to such portions of such cemetery lot unused for burial purposes as though the lot had never been conveyed to any person, and such city or township shall have, hold and enjoy such unclaimed portions of such lots for its own uses and purposes, subject to the laws of this state, and to the charter, bylaws, ordinances, rules and regulations of such cemetery and city or township.

History: L. 1971, ch. 48, § 1; L. 1975, ch. 63, § 1; L. 1976, ch. 78, § 1; L. 1981, ch. 173, § 21; L. 1982, ch. 72, § 13; July 1.