

Kentucky revised statutes as they relate to cemeteries

(Revised Sept 2006)

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61.350 Cemetery companies and burying grounds, penalty for failure to enforce laws relating to.

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 twenty-five dollars (\$25) for each failure or refusal.

Effective: October 1, 1942

History: Recodified 1942 Ky. Acts ch. 208, § 1, effective October 1, 1942, from Ky. Stat. § 208.

67.680 County cemetery board.

(1) A county acting under authority of this section may by ordinance create a county cemetery board that may apply to the Department for Local Government for grants to restore and maintain nonprofit cemeteries that do not receive perpetual care funds pursuant to KRS 367.952.

(2) The county cemetery boards shall meet three (3) times annually in space provided by the fiscal court and shall have five (5) volunteer members with no more than three (3) representing the same political party. Members shall be appointed by the county judge/executive with approval of the fiscal court, shall have lived in the county for at least one (1) year prior to appointment, and shall have demonstrated an interest in cemetery preservation, genealogy, local history, or a related area.

Effective: July 15, 2002

History: Created 2002 Ky. Acts ch. 276, § 3, effective July 15, 2002.

Legislative Research Commission Note (7/15/2002). Under the authority of KRS 7.136, the Reviser of Statutes has corrected a clearly erroneous statutory reference in subsection (1) of this section as enacted in 2002 Ky. Acts ch. 276, § 3, by changing "KRS 367.962" to "KRS 367.952."

67.682 County cemetery fund -- Administrative regulations relating to county cemetery board.

(1) The Department for Local Government shall establish a county cemetery fund to receive appropriations, gifts, grants, federal funds, revolving funds, and any other funds from public and private sources.

(a) Moneys deposited in the fund shall be disbursed by the State Treasurer and any unallocated or unencumbered balances in the fund shall be invested as provided in KRS 42.500(9).

(b) Income earned from investment including unallotted or unencumbered balances in the fund shall not lapse, shall be returned to the Department for Local Government, and may be redistributed to other counties.

(2) The Department for Local Government shall promulgate administrative regulations related to responsibilities of the boards, grant appropriation amounts and eligible expenditures, application and reporting procedures, accountability criteria for grant recipients, and other issues of importance to the board's operation.

Effective: July 15, 2002

History: Created 2002 Ky. Acts ch. 276, § 4, effective July 15, 2002. **2004-2006 Budget**

Reference. See State/Executive Branch Budget, 2005 Ky. Acts ch. 173, pt. V, A.4., at 3151; and State/Executive Branch Budget Memorandum, 2005 Ky. Acts ch. 170, at 1578 (Final Budget Memorandum, at 7).

97.540 Third or fourth class cities -- Condemnation of property for parks or cemeteries.

Whenever, in the opinion of the legislative body of any city of the third or fourth class, land or other property located either within or without the boundaries of the city and within the county in which the city is located is needed for cemetery or park purposes and the legislative body is not able to contract with the owner of the property for its purchase, the legislative body may, by resolution reciting such need, order the condemnation of such property. The proceedings shall be conducted in the manner provided in the Eminent Domain Act of Kentucky.

Effective: July 15, 1988

History: Amended 1988 Ky. Acts ch. 343, § 1, effective July 15, 1988. – Amended 1976 Ky. Acts ch. 140, § 50. -- Recodified 1942 Ky. Acts ch. 208, § 1, effective October 1, 1942, from Ky. Stat. § 3240a-1, 3240a-2.

307.300 Improperly interred body or cremated remains.

(1) In any instance where the operator of any cemetery is informed or becomes aware that it has improperly interred or has allowed to be improperly interred a body or cremated remains, including but not limited to interment in the wrong space, the burial container shall be disinterred and properly reinterred.

(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 the agreed-upon date of the disinterment and proper reinterment.

(3) The expense of the disinterment and proper reinterment shall be paid by the cemetery in which the body or cremated remains were improperly interred.

Effective: July 15, 2002

History: Created 2002 Ky. Acts ch. 276, § 5, effective July 15, 2002.

KRS 381.690 Protection of burial grounds by cities

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.

History: KR 2741p-1

Penalty: KRS 381.8990(2)

381.697 Cemeteries maintained by legal owners.

(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.

Effective: July 15, 2002

History: Amended 2002 Ky. Acts ch. 276, § 2, effective July 15, 2002. – Created 1972 Ky. Acts ch. 284, § 2.

KRS 381.700

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.

History: KRS 2741p-2.

Penalty: KRS 381.990(2)

KRS 381.710 Evidence of dedication or use of land as burying ground.

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.

Effective: 1 October 1942

History: Recodified 1942 Ky Acts Ch. 208, § 1, effective October 1, 1942, from Ky Stat. § 2741 p.-3.

KRS 381.715 Burial Rights in cemetery lots; abandonment; resale by cemetery (amended 18 March 1994)

(1) As used in the section, “cemetery lot” is a lot containing one (1) or more grave spaces 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 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.

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 warned 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 burials 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 within the cemetery a statement in writing directing that certain grave spaces not be used.

Effective: July 15, 1994

History: Amended 1994 Ky. Acts ch. 70, § 1, effective July 15, 1994. – Created 1984 Ky. Acts ch. 267, § 1, effective July 13, 1984.

KRS 381.720 Abandoned cemetery in certain cities, proceedings to vest title in city

Whenever in the opinion of the legislative body of a city of the first, second, third, fourth or fifth class a cemetery located within the boundaries of such city has been abandoned and the land comprising the said cemetery is needed for a public purpose, an ordinance may be enacted declaring such cemetery, as described by metes and bounds, to be abandoned and authorizing 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 said cemetery abandoned and to vest title thereto in the said city, or any governmental agency created by it pursuant to or authority of the Kentucky Revised Statutes.

History: 1964 c 24, § 1. Eff. 3-10-64
1954 c 29, § 1

Cross References

Abandonment or discontinuance of cemeteries. 14 Am Jur 2d, Cemeteries § 21 to 24.

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

Within thirty days after the last advertisement, and party having a claim to the cemetery or any lot therein or to the mortal remains of a person interred therein, may file his claim in the said proceedings for damages as compensation for the value of his interest in the cemetery or lot to which he has claim. Upon the filing of the aforesaid claim the circuit court shall appoint as commissioners three impartial housekeepers who are owners of land. They shall be sworn to faithfully and impartially discharge their duties. The commissioners shall view the land involved and they may hear evidence or make any inquiry they desire touching the value thereof and award to claimant who are owners thereof the value of the property taken. They shall return a written report to the office of the clerk of the circuit court describing separately the property which is subject of each claim. Either the claimant or the complainant may file exceptions to this report and demand a jury trial. The commissioners shall be allowed a reasonable fee which shall be taxed as cost.

History: 1964 c 24, § 3, eff. 3-10-64
1954 c 29, § 3

Cross References

Property rights in lots or vaults; burial and incidental rights. 14 Am Jur 2d, Cemeteries § 25 et seq.

KRS 381.750 Judgment; removal of bodies and monuments

If no claim is made within thirty 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. Thereafter claimants shall have thirty days in which to remove the mortal remains and monuments from lots to which they have been adjudged to have claim, the reasonable cost thereof to be paid by the claimant. If, within thirty days after entry of judgment said remains have not been removed by the claimants thereto, it shall be the duty of such complainant, through its proper officers, to pay for the removal of the monument and the disinterment, removal, and the reinterment of such body, or bodies, in such other cemetery in the county in which said city is located as the protesting lot owner may designate, or if no designation be made, to another suitable cemetery in the county.

History: 1964 c 24, § 4, eff. 3-10-64
1954 c 29, § 4

Cross References

Property rights to vaults and gravestones. 14 Am Jur 2d, Cemeteries § 33
Changing place of interment. 22 Am Jur 2d, Dead bodies § 22 to 28

Removal and reinterment of remains, 21 ALR2d 472

KRS 381.755 Removal of grave or cemetery on application of land owner or county; procedure; expenses

(1) Upon application of the owner of property on which is located an abandoned grave or cemetery or whenever the fiscal court or 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 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 by county funds.

(4) Any grave or cemetery removed under the provisions of this section shall be relocated in 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 years preceding the date of the resolution for removal and relocation of the grave or cemetery.

History: Created 1966 Ky. Acts ch. 251, § 1 to 5.

OAG 83-265. Liability for desecration of graves may exist when land that has been previously been used as a cemetery is reused as a cemetery without first removing and reintering the remains of those previously buried there. There is no liability for desecration if the cemetery is abandoned so that nothing indicates there are graves in the ground, the person is without notice that graves exist, and the public no longer recognizes the land as a cemetery.

416.210 Right of burial association or corporation to condemn land for cemetery -- Governmental approval needed -- Procedure.

Any burial association or corporation may, with the approval of the appropriate city, county, urban-county, consolidated local government, or charter county legislative body, condemn land by first recording, in the county clerk's office of the county where the land lies, a resolution that it needs the land to furnish a burial site for the public. It may condemn a sufficient roadway to have access to the land, not wider than one hundred (100) feet. It may also condemn enough land, not exceeding five (5) acres, adjacent to any land used for a cemetery for a chapel site. If the building of any state highway requires a change in the entrance to any cemetery, the burial association or corporation may condemn any adjacent land, not wider than one hundred (100) feet for the new entrance. The condemnation procedure shall be in the Circuit Court of the county pursuant to the Eminent Domain Act of Kentucky. This section shall not permit condemnation of more than forty (40) acres at any one time.

Effective: July 12, 2006

History: Amended 2006 Ky. Acts ch. 44, § 1, effective July 12, 2006. -- Amended 1976 (1st Extra. Sess.) Ky. Acts ch. 14, § 419, effective January 2, 1978. -- Amended 1976 Ky. Acts ch. 140, § 125. -- Amended 1946 Ky. Acts ch. 141, § 3. -- Recodified 1942 Ky. Acts ch. 208, § 1, effective October 1, 1942, from Ky. Stat. § 199a-8, 199a-9.

Formerly codified as KRS 271.420, renumbered 1946 Ky. Acts ch. 141, § 3.

525.105 Desecration of venerated objects, first degree.

(1) A person is guilty of desecration of venerated objects in the first degree when, other than authorized by law, he intentionally excavates or disinters human remains for the purpose of commercial sale or exploitation of the remains themselves or of objects buried contemporaneously with the remains.

(2) Desecration of venerated objects in the first degree is a Class C felony.

Effective: July 15, 2002

History: Amended 2002 Ky. Acts ch. 276, § 6, effective July 15, 2002. – Created 1988 Ky. Acts ch. 119, § 1, effective March 30, 1988.

525.115 Violating graves.

(1) A person is guilty of violating graves when he intentionally:

(a) Mutilates the graves, monuments, fences, shrubbery, ornaments, grounds, or buildings in or enclosing any cemetery or place of sepulture; or

(b) Violates the grave of any person by destroying, removing, or damaging the headstone or footstone, or the tomb over the enclosure protecting any grave; or

(c) Digs into or plows over or removes any ornament, shrubbery, or flower placed upon any grave or lot.

(2) The provisions of subsection (1) of this section shall not apply to ordinary maintenance and care of a cemetery nor the removal and relocation of graves pursuant to procedures authorized by and in accordance with applicable statutes.

(3) Violating graves is a Class D felony.

(4) The court shall order the defendant to restore the cemetery to its pre-damage condition.

Effective: July 15, 2002

History: Amended 2002 Ky. Acts ch. 276, § 7, effective July 15, 2002. – Amended 2000 Ky. Acts ch. 123, § 1, effective July 14, 2000. -- Created 1992 Ky. Acts ch. 420, § 2, effective July 14, 1992.

525.120 Abuse of corpse.

(1) A person is guilty of abuse of a corpse when except as authorized by law he intentionally treats a corpse in a way that would outrage ordinary family sensibilities. A person shall also be guilty of abuse of a corpse if that person enters into a contract and accepts remuneration for the preparation of a corpse for burial or the burial or cremation of a corpse and then deliberately fails to prepare, bury, or cremate that corpse in accordance with that contract.

(2) Abuse of a corpse is a Class A misdemeanor, unless the act attempted or committed involved sexual intercourse or deviate sexual intercourse with the corpse or the deliberate failure to prepare, bury, or cremate a corpse after the acceptance of remuneration in accordance with any contract negotiated, in which case it is a Class D felony.

Effective: July 15, 2002

History: Amended 2002 Ky. Acts ch. 276, § 8, effective July 15, 2002. – Amended 2000 Ky. Acts ch. 490, § 1, effective July 14, 2000. -- Created 1974 Ky. Acts ch. 406, § 222, effective January 1, 1975.