



94TH GENERAL ASSEMBLY
State of Illinois
2005 and 2006
HB3749

Introduced 2/25/2005, by Rep. Angelo Saviano

SYNOPSIS AS INTRODUCED:

765 ILCS 835/16

Amends the Cemetery Protection Act. Allows a living heir with vested rights to a cemetery plot or mausoleum crypt to give or convey his or her inherited plot or crypt to the spouse, child, or legal dependent of another living heir without the agreement or consent of the other listed heirs.

LRB094 07674 LCB 40803 b

1 AN ACT concerning civil law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Cemetery Protection Act is amended by
5 changing Section 16 as follows:

6 (765 ILCS 835/16)

7 Sec. 16. When a multiple interment right owner becomes
8 deceased, the ownership of any unused rights of interment shall
9 pass in accordance with the specific bequest in the decedent's
10 will. If there is no will or specific bequest then the
11 ownership and use of the unused rights of interment shall be
12 determined by a cemetery authority in accordance with the
13 information set out on a standard affidavit for cemetery
14 interment rights use form if such a form has been prepared. The
15 unused right of interment shall be used for the interment of
16 the first deceased heir listed on the standard affidavit and
17 continue in sequence until all listed heirs are deceased. In
18 the event that an interment right is not used, the interment
19 right shall pass to the heirs of the heirs of the deceased
20 interment right owner in perpetuity. Except as otherwise
21 provided in this Section, this ~~This~~ shall not preclude the
22 ability of the heirs to sell said interment rights, in the
23 event that all listed living heirs are in agreement. A living
24 heir with vested rights to a cemetery plot or mausoleum crypt
25 may give or convey his or her inherited plot or crypt to the
26 spouse, child, or legal dependent of another living heir
27 without the agreement or consent of the other listed heirs. If
28 the standard affidavit for cemetery interment rights use,
29 showing heirship of decedent interment right owner's living
30 heirs is provided to and followed by a cemetery authority, the
31 cemetery authority shall be released of any liability in
32 relying on that affidavit.

1 The following is the form of the standard affidavit:

2 STATE OF ILLINOIS)
3) SS
4 COUNTY OF)

5 AFFIDAVIT FOR CEMETERY INTERMENT RIGHTS USE

6 I,, being first duly sworn on oath depose and
7 say that:

8 1. A. My place of residence is

9 B. My post office address is

10 C. I understand that I am providing the information
11 contained in this affidavit to the
12 ("Cemetery") and the Cemetery shall, in the absence of
13 directions to the contrary in my will, rely on this
14 information to allow the listed individuals to be interred
15 in any unused interment rights in the order of their death.

16 D. I understand that, if I am an out-of-state resident,
17 I submit myself to the jurisdiction of Illinois courts for
18 all matters related to the preparation and use of this
19 affidavit. My agent for service of process in Illinois is:

20 Name Address

21 City Telephone

22 Items 2 through 6 must be completed by the executor of the
23 decedent's estate, a personal representative, owner's
24 surviving spouse, or surviving heir.

25 2. The decedent's name is

26 3. The date of decedent's death was

27 4. The decedent's place of residence immediately before his
28 or her death was

29 5. My relationship to the decedent is
30 and I am authorized to sign and file this affidavit.

31 6. At the time of death, the decedent (had no) (had a)
32 surviving spouse. The name of the surviving spouse, if any, is
33, and he or she (has) (has not) remarried.

1 7. The following is a list of the cemetery interment rights
2 that may be used by the heirs if the owner is deceased:

3
4

5 8. The following persons have an ownership interest in and
6 the right to use the cemetery interment rights in the order of
7 their death:

8 Address
9 Address
10 Address
11 Address
12 Address
13 Address
14 Address

15 9. This affidavit is made for the purpose of obtaining the
16 consent of the undersigned to transfer the right of interment
17 at the above mentioned cemetery property to the listed heirs.
18 Affiants agree that they will save, hold harmless, and
19 indemnify Cemetery, its heirs, successors, employees, and
20 assigns, from all claims, loss, or damage whatsoever that may
21 result from relying on this affidavit to record said transfer
22 in its records and allow interments on the basis of the
23 information contained in this affidavit.

24 WHEREFORE affiant requests Cemetery to recognize the above
25 named heirs-at-law as those rightfully entitled to the
26 ownership of and use of said interment (spaces) (space).

27 THE FOREGOING STATEMENT IS MADE UNDER THE PENALTIES OF PERJURY.
28 (A FRAUDULENT STATEMENT MADE UNDER THE PENALTIES OF PERJURY IS
29 PERJURY AS DEFINED IN THE CRIMINAL CODE OF 1961.)

30 Dated this day of,

31 (Seal) (To be signed by the owner or
32 the individual who completes items 2 through 6 above.)

33 Subscribed and sworn to before me, a Notary Public in and for

1 the County and State of aforesaid this
2 day of,

3 Notary Public.

4 (Source: P.A. 92-419, eff. 1-1-02; 93-772, eff. 1-1-05.)

5 Section 99. Effective date. This Act takes effect upon
6 becoming law.