

TEXAS HEALTH AND SAFETY CODE

Title 8: Death & Disposition of the Body

Subtitle C: Cemeteries and Creamatories Miscellaneous Provisions

<https://codes.findlaw.com/tx/health-and-safety-code/health-safety-sect-714-003.html>

Sec. 714.003. ABANDONED PLOTS IN PRIVATE CEMETERIES. (a) The ownership or right of sepulture in an unoccupied plot for which adequate perpetual care has not been provided in a private cemetery operated by a nonprofit organization reverts to the cemetery on a finding by a court that the plot is abandoned. A cemetery may convey title to any plot that has reverted to the cemetery.

(b) A plot is presumed to be abandoned if for 10 consecutive years an owner or an owner's successor in interest does not:

(1) maintain the plot in a condition consistent with other plots in the cemetery;

or

(2) pay any assessments for maintenance charged by the cemetery.

(c) An owner or an owner's successors in interest may rebut the presumption of abandonment by:

(1) delivering to the governing body or by filing with the court written notice claiming ownership of or right of sepulture in the plot; and

(2) paying the cemetery for any past due maintenance charges on the plot plus interest at the maximum legal rate.

(d) A notice for rebuttal of a presumption must be given by delivery in person or by prepaid United States mail, properly addressed. If the notice is mailed, delivery is effective on the date the envelope containing the notice is postmarked.

(e) The governing body may petition a court of competent jurisdiction for an order declaring that a plot is abandoned if, not later than the 91st day and not earlier than the 120th day before the date the petition is filed, the governing body gives written notice of its claim of the plot to the owner or, if the owner is deceased or his address is unknown, to the owner's known successors in interest. The notice must be delivered in person or by prepaid United States mail, sent to the last known address of the owner or the owner's successors in interest.

(f) If after reasonable effort the governing body cannot locate or ascertain the identity of an owner or an owner's successors in interest, the governing body must give the notice required by this section by publishing it once each week for four consecutive weeks in a newspaper of general circulation in the county in which the cemetery is located.

(g) After deducting reasonable expenses related to the reacquisition and sale of an abandoned plot, including restoration, expenses of the sale, court costs and legal fees, a cemetery shall deposit the balance of the funds from the sale of the plot into an account to be used for the care of the cemetery.

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(h) This section prevails over Sections [711.035](#), [711.036](#), [711.038](#), [711.039](#), and [711.040](#) to the extent of any conflict.

(i) In this section:

(1) "Governing body" means the person in a nonprofit organization responsible for conducting a cemetery business.

(2) "Nonprofit organization" means an organization described by Section 501(c)(13), Internal Revenue Code of 1986 (26 U.S.C. Section 501(c)(13)).

(3) "Plot" means a grave space in a cemetery that has not been used to inter human remains.

(4) "Private cemetery" means a cemetery that is not owned or operated by the United States, this state, or a political subdivision of this state, but is owned and operated by a nonprofit organization.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1999, 76th Leg., ch. 1124, Sec. 1, 2, eff. June 18, 1999.