WEST VIRGINIA CODE: §35-5-8

§35-5-8. Abandoned interment rights.

(a) A cemetery company contract may include a provision whereby interment rights that are not used for a period of seventy-five years or more shall be deemed abandoned if unclaimed and shall revert to the cemetery company if the procedures in subsection (b) are followed.

(b) (1) Prior to deeming an owner's interment rights abandoned, a cemetery company shall send notice of such intent to the owner of record, his or her heirs or assigns or any next of kin, by a registered letter, return receipt requested, at the owner's last known address requesting the owner's current address or the names and addresses of the heirs or assigns of the owner of record. If a written response is received, then the records of the cemetery company shall be amended accordingly and the interment rights shall be maintained for seventy-five years from the date the written response was received by the cemetery company.

(2) If the registered letter is undeliverable or if no response is received within thirty days after the registered letter was sent, then the cemetery company shall advertise a notice of its intent to declare the interment rights abandoned in a newspaper of general circulation in the county where the cemetery is located and also in the county of the last known address of the owner of record, which notice shall contain the name and business address of the cemetery and the name of the last owner of record. If no response to the newspaper notice is made on behalf of the owner of record or his or her heirs or assigns within one hundred twenty days, then the interment rights shall be deemed abandoned and shall revert to the cemetery company. Upon the reversion of interment rights to the cemetery company, the cemetery company shall amend its records accordingly and maintain these records for thirty years. If a written response is received, then the records of the cemetery company shall be amended accordingly and the interment rights shall be maintained for seventy-five years from the date the written response was received by the cemetery company.

(c) If, within thirty years after the interment rights have been declared abandoned, the owner of record or his or her heirs or assigns can prove to a cemetery company or a court of competent jurisdiction that he or she would be entitled to the interment rights of the owner of record if those rights had not reverted to the cemetery company as provided for by this section, then the cemetery company shall, at no cost, provide a right of interment similar to the one that was deemed abandoned.

(d) The provisions of this section shall take effect on July 1, 1999, and shall not be construed to apply retroactively.

WV Legislature