

HOUSE BILL No. 2656

AN ACT relating to cemetery corporations; authorizing certain cemetery corporations to convey real estate not platted into cemetery lots free from trust restrictions.

Be it enacted by the Legislature of the State of Kansas:

Section 1. Any cemetery corporation to which real estate was deeded and restricted to be used only for cemetery purposes prior to 1909 and such deed was coupled with a trust for the benefit of not-for-profit charitable beneficiaries, other than cemetery lot owners, may sell any excess part of such real estate that has not been platted into burial plots free from such trust and restrictions after a written determination by its trustees that such real estate is excess real estate that will not be reasonably required for cemetery purposes. Such determination shall include a written finding by the trustees determining that the following further conditions have been or will be satisfied and in compliance with section 2, and amendments thereto:

(a) The sale and transfer of marketable title to such excess real estate for fair market value is necessary to allow the cemetery to meet current statutory maintenance and reserve requirements and its obligations to the beneficiaries of the trust;

(b) the cemetery corporation will record restrictions or include restrictions in the deed of conveyance prohibiting the use of the excess real estate for sepulture, mortuary or crematorium uses;

(c) such excess real estate is not reasonably required for future sepulture purposes considering all remaining real estate owned by the cemetery corporation will remain restricted to use solely for sepulture purposes;

(d) the proceeds of such sale shall be used solely for the purposes of meeting maintenance and reserve requirements and for the benefit of the beneficiaries of the trust all as approved in writing by the beneficiaries of the trust;

(e) the sale contract including the proposed use, a development plan showing the location of all proposed improvements with a reasonable buffer zone between the improvements and all real estate platted into burial plots and any restrictions on use of the real estate by the purchaser shall be approved in writing by the beneficiaries of the trust; and

(f) the sale contract including the proposed use, a development plan showing the location of all proposed improvements with a reasonable buffer zone between the improvements and all real estate platted into burial plots and any restrictions on use of the real estate by the purchaser shall be approved by the attorney general as being in accordance with the public interest of the trust.

Sec. 2. Upon compliance with section 1, and amendments thereto, the cemetery corporation shall petition the district court of the county in which the cemetery is located, or, if any court shall have assumed jurisdiction of the trust, the court which has assumed jurisdiction of the trust, and give notice of a hearing on the petition by mail to the attorney general and the beneficiaries of the trust and notice to the lot owners by publication as provided in subsection (d) of K.S.A. 60-307, and amendments thereto, without mailing to any other person. Upon proof of compliance with section 1, and amendments thereto, satisfactory to the court, the court may approve the sale of marketable title to the excess real estate subject to the restrictions placed thereon by the cemetery corporation, but free of the trust restrictions for use of sepulture purposes, if it finds such sale to be equitable and in the best interest of the general public, the trust beneficiaries and owners of lots in the cemetery.

Sec. 3. This act shall take effect and be in force from and after its publication in the statute book.

I hereby certify that the above BILL originated in the HOUSE, and passed that body

Speaker of the House.

Chief Clerk of the House.

Passed the SENATE _____

President of the Senate.

Secretary of the Senate.

APPROVED _____

Governor.