



OHIO LEGISLATIVE SERVICE COMMISSION

Bill Analysis

Alyssa Bethel

H.B. 454

132nd General Assembly
(As Introduced)

Reps. Patterson and Arndt, Ashford, Seitz, Becker, Reece

BILL SUMMARY

- Requires a township that reclaims its interest in certain unused cemetery lots or rights to compensate an owner who comes forward after the lot or right is reclaimed.
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CONTENT AND OPERATION

Compensation to cemetery lot owner for reclaiming lot

The bill requires a board of township trustees to compensate the owner of a cemetery lot or right who comes forward after the township reclaims its interest in the lot. Under continuing law, a township may reclaim its interest in an unused cemetery lot if the township provides notice to the owner and the owner does not respond within the time period specified by the township. Under the bill, if an owner responds after that time period ends, the township must provide the owner a lot or right at no cost. If the owner declines the offered lot or right, or if there is no lot or right available, the township must pay the owner 80% of the owner's original purchase price.¹

The bill applies only to lots purchased before July 24, 1986, and entombment rights purchased before September 29, 2015. For lots and rights purchased after those dates, continuing law requires the township and owner to enter into an agreement whereby the township pays the owner 80% of the original purchase price if the township reclaims its interest in the lot or right because the owner does not renew the owner's interest.²

¹ R.C. 517.073.

² R.C. 517.07, not in the bill.

COMMENT

A township generally must conduct appropriations of property in accordance with Chapter 163. of the Revised Code, which in part requires that notice be provided to a person whose property is subject to appropriation and that due compensation³ be paid to an owner whose property is appropriated.⁴ Although the law under the bill provides notice and compensation to a lot owner, a township may be subject to legal challenge for failure to follow all of the procedures established under Chapter 163. For instance, filing a petition for appropriation in the proper court.⁵ Additionally, 80% of the original purchase price may not constitute due compensation in some cases. For instance, a lot purchased for \$100 in 1920 may be worth \$1,200 in 2018; \$80 is significantly less than today's fair market value and probably would not be considered due compensation. This is not an issue under continuing law for post-1986 lots under R.C. 517.07 because lot owners agree to be subject to the 80% term. In other words, the township is utilizing its *contractual right* to reclaim its interest in the lot and compensate the owner 80% of the purchase price rather than any *appropriation authority*.

HISTORY

| ACTION | DATE |
|------------|----------|
| Introduced | 12-21-17 |

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³ Generally, fair market value. *Columbia Gas Transmission Corp. v. An Exclusive Natural Gas Storage Easement*, 67 Ohio St.3d 463 (1993).

⁴ 2009 Op. Att'y Gen. No. 2009-006; Ohio Const., art. I, sec. 19; R.C. Chapter 163.

⁵ R.C. 163.05, not in the bill.

