**§ 15-2117. Cemeteries.**

1. Whenever for the purposes of title 21 of this article it shall be necessary to use any portion of any lands or premises now occupied by graves, burial places, cemeteries, or other places of interment of human remains, the board may acquire the same in the same manner as other real estate may be acquired by it. Provided, however, that if lands or premises so occupied and sought to be acquired are not within a cemetery under the actual control and management of a then existing religious or cemetery corporation, and proceedings shall have been instituted by the board for their acquisition under the eminent domain procedure law, the court, if satisfied at any stage of the proceedings, that the public interests will be prejudiced by delay, may, by order, direct that the board may enter immediately on such lands and premises, and, after the provisions of subdivisions 4 through 8 of this section and sections 304 and 404 of the eminent domain procedure law have been complied with, may devote the same to the public use specified in the petition, upon deposit with the court of a sum to be fixed by the court; but no such order shall be made except upon notice of the application therefor served and posted as hereinafter provided.

2. Such notice shall be served as follows: If any of the owners or their places of residence are unknown, notice addressed, generally, to all owners of and persons interested in the lands used for graves, burial places, cemetery purposes or places of interment within a certain lot, tract or parcel of land, to be described with sufficient certainty to identify it, shall be published in the time and manner prescribed by subdivisions 4 through 8 with respect to the notice therein provided for. Owners, if any, whose names and places of residence are known and who reside within the state, shall be served with such notice personally or by leaving the notice at the abode of the owner to be served, with a person of suitable age and discretion residing therein. Owners, if any, whose names and places of residence are known and who reside without the state, shall be served with such notice by mail, the notice to be deposited in a post office in the state, addressed to the owner to be served, and inclosed in a securely sealed postpaid wrapper. The notice also shall be posted conspicuously in ten places in each town in which

the lands are located, at least twenty days before the time of making the application. If the notice be published, the time for making the application shall be not less than eight days nor more than sixteen days after the last publication, and in any case personal service, if any, or service by leaving at the owner's abode, shall be made at least eight days, and service by mail, if any, at least thirty days, before the time of making the application. If, in the condemnation proceeding, an attorney has been appointed by the court to represent defendants served with the original notice otherwise than personally, under the eminent domain procedure law, the notice also shall be served on him, at least eight days before the time of making the application.

3. The notice shall specify the relief sought and the time and place of making the application. The papers or proofs submitted to the court on the application shall include due proofs of the service and posting of the notice and proof, by affidavit, that the persons, if any, served personally or by leaving at their abodes or by mail constitute all of the owners of and persons interested in the lands so occupied whose names and places of residence are known, or, if none were so served, that all of the owners are unknown, and if certain owners were known but not their places of residence, and therefore were not served, personally or by mail, that fact and the names of such owners shall be stated. Such affidavit also shall set forth the extent of the inquiry to ascertain the names and places of residence of the owners. The provisions of the eminent domain procedure law, as to matter subsequent to the deposit of such moneys shall apply hereto, except that the general fund of the district shall be applicable to the payment of any deficiency judgment rendered pursuant to such section.

4. The board having so acquired title, or the right of immediate entry, shall cause to be published in two newspapers in the county where such burial place or places or graves are situated, which shall in its judgment be best calculated to notify the persons or parties interested or entitled to such notice, which notice shall describe the location of such burial place, cemetery or grave in such manner as to sufficiently identify the same. Such publication shall be made once in each week in each of the newspapers for the space of four weeks, and such notice

shall also contain a statement to the effect that any person or persons legally entitled to direct as to the disposition of any such remains may remove the same to any other cemetery or burial place within sixty days after the last publication of such notice, if they so elect, but without expense to the board therefor. From and after the period of sixty days from the last date of publication, the board shall advertise in the state paper and a newspaper published in the county or counties in which the cemetery or cemeteries are situated for bids for the removal of such remains by contract, and their proper reinterment as hereinafter provided.

5. All removals and transportation of such human remains shall be done in accordance with the provisions of the Public Health Law and the local rules or ordinances of any town, city or village wherein such cemetery, burial ground or graves shall be located or wherein any of such remains may be reinterred. The board may acquire such other lands as it deems necessary within the county or in an adjoining county where such burial place or places or graves are now located for the purpose of properly reinterring such removed remains, which lands shall be acquired in the same manner as provided by title 21 of this article for the acquisition of other lands, title to be taken in the name of the particular river regulating district, but lands shall not be acquired within the corporate limits of a village or city except within the bounds of an existing cemetery unless by consent of the board of trustees of the village or common council of the city or other authorities within such village or city occupying similar positions as trustees or aldermen respectively.

6. The lands so acquired shall be suitable and properly fenced or inclosed, and in such manner as to permit of proper ingress and egress thereto before the final completion and payment for such work, and the expense therefor shall be included within the estimate and contract for such removal. All the bodies removed by such contractor, or by order of the board shall, when distinguishable, be incased each in a separate box or coffin, and each monument, headstone, footstone, slab, board or other designation or distinguishing mark shall be properly removed and reset at the grave of each body at the time of such reinterment. Members of

the same family shall be interred in contiguous graves.

7. Whenever any person or persons legally entitled to direct as to the disposition of any remains now interred in such cemeteries, burying place or graves shall request the board, in writing, to reinter such remains in any other cemetery or burial plot, within the same county where such cemetery, burial place or graves sought to be removed are located or in an adjoining county, the board shall cause such remains to be interred where requested within the same county or in an adjoining county, and shall carefully and properly remove such remains to such burial plot and properly reinter the same, but no payment shall be made for a grave or graves or burial plot for such reinterment other than that acquired by the board as hereinbefore provided. Whenever any person or persons legally entitled to direct as to the disposition of any human remains exhumed or to be exhumed from any cemetery, burial place or graves as herein provided, desire to remove the same for reinterment to any burial plot or cemetery not within the same county from which such remains were exhumed or in an adjoining county as herein provided, such person or persons so entitled to designate such other burial place or plot shall be permitted to remove such exhumed remains from such county, subject to the written consent of the board and the provisions of the Public Health Law, and the local rules or ordinances of any town, city or village wherein such cemetery, burial ground or graves shall be located, or wherein such human remains may be reinterred, but no portion of the expense of such transportation or burial in another county other than an adjoining county shall be borne by the board. The board shall pay all expenses connected with such removal, out of the general fund of the district in the same manner as other payments are made.

8. Whenever any lands acquired by the board for the purposes of reinterment of human remains as herein provided, and all the remains so interred have been exhumed from a cemetery, burial place or grave belonging to a corporation organized under the Religious Corporations Law, the Membership Corporations Law, the Not-For-Profit Corporation Law, or by special act, or belonging to a town or board of trustees elected pursuant to the provisions of the Town Law, or to a village or city, the board shall by a proper resolution, after completion and

acceptance thereof and final payment for all work performed as provided in this section, execute and deliver in the name of the district, and without expense to the grantee therefor, to the trustees or other governing body of such corporation, by whatsoever name or title they may hold office, or to the board of trustees of a town burial ground, or to a duly incorporated cemetery association, and to their successors in office, a quitclaim deed covering the lands so acquired, together with all structures erected thereon; and where such lands were so acquired for the purposes of reinterment of human remains exhumed from a public or private cemetery, burial place or grave which shall have been used by the inhabitants of any town in this state as a cemetery or burial ground for the space of fourteen years and not having a board of trustees pursuant to the provisions of the Town Law, the board shall by proper resolution as provided by title 21 of this article, after completion and acceptance thereof, and final payment for all work as by this section provided, execute and deliver in the name of the board, and without expense to the grantee therefor, a quitclaim deed or other proper release to such town wherein such lands so acquired as provided by this section may be situated, and such cemetery or burial place shall from and after the execution and delivery thereof be deemed to be vested in such town, and shall be subject in the same manner as other corporate property of towns, to the government and direction of the electors in town meeting, excepting, however, that where such lands so acquired for the purposes set forth in this section are situate within the corporate limits of a village or city, such quitclaim deed or release herein provided for shall be executed and delivered to such village or city and thereafter be and become the property of such village or city and subject to the laws governing such village or city, and further excepting, however, that the board, subject to the approval of the town board, or city or village authorities herein referred to, shall have the right to convey such lands so acquired, together with all structures erected thereon, to a duly incorporated cemetery association. From and after the date of the execution and delivery by the board, as by this section provided, of the quitclaim deed or release, the board shall be deemed to be divested of all right and title to such lands so quit-claimed or released and shall not thereafter be liable for the care, custody, maintenance and control thereof. This section does not

limit any existing rights of burial, or removal of remains under other provisions of law applicable thereto.