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HOUSE BILL 71

50TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2011

INTRODUCED BY

Jim R. Trujillo

AN ACT

RELATING TO CEMETERIES; PROVIDING FOR ACQUISITION OF ABANDONED
CEMETERIES BY MUNICIPALITIES; ENACTING A NEW SECTION OF CHAPTER
3, ARTICLE 40 NMSA 1978.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. A new section of Chapter 3, Article 40 NMSA
1978 is enacted to read:

"[NEW MATERIAL] ACQUISITION OF ABANDONED CEMETERIES--
NOTICE--OBJECTIONS--VESTING OF TITLE.--

A. Notwithstanding the limits found in Section
3-40-9 NMSA 1978, a municipality may acquire an abandoned
cemetery, including ownership of any unoccupied lots or grave
sites in the cemetery. To acquire ownership of the cemetery,
the municipality shall:

- (1) use due diligence to identify any owners

underscored material = new
~~[bracketed material] = delete~~

1 of the abandoned cemetery or any owners of the cemetery's
2 unoccupied lots or grave sites; and

3 (2) provide written notice to any owners of
4 the abandoned cemetery or any owners of the cemetery's
5 unoccupied lots or grave sites of the municipality's intent to
6 acquire the abandoned cemetery. If the owner cannot be
7 located, the municipality shall publish notice of its intention
8 to acquire the abandoned cemetery for three successive weeks in
9 a newspaper of general circulation in the county in which the
10 municipality is located.

11 B. The notice required in Paragraph (2) of
12 Subsection A of this section shall include a description of the
13 abandoned cemetery by reference to the municipality's tax maps,
14 set a date and place where objections to the acquisition of the
15 abandoned cemetery by the municipality will be received and
16 heard and, if there are unoccupied lots or grave sites in the
17 abandoned cemetery, state the municipality's intention to
18 acquire the unoccupied lots or grave sites.

19 C. An owner who receives notice pursuant to
20 Paragraph (2) of Subsection A of this section may object to the
21 municipality's acquisition of the abandoned cemetery or an
22 unoccupied lot or grave site in the cemetery by providing
23 written or oral notice to the municipality of the objection and
24 reasserting the owner's right of ownership over the abandoned
25 cemetery or unoccupied lot or grave site within fourteen days

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1 of the date of notice. An owner who reasserts ownership rights
2 under this subsection shall promptly conform to all municipal
3 ordinances concerning the abandoned cemetery or unoccupied lot
4 or grave site.

5 D. If no objection is received by the municipality
6 within fifteen days after notice is given, title to the
7 abandoned cemetery and any unoccupied lots or grave sites shall
8 vest in the municipality providing the notice. The
9 municipality shall record confirmation of the acquisition of
10 the abandoned cemetery, including a basic description of the
11 cemetery, in the land records of the county in which the
12 municipality is located.

13 E. After title to an abandoned cemetery is vested
14 with a municipality, the municipality shall maintain title to
15 the cemetery, continue using the cemetery land as a cemetery
16 and maintain the characteristics of the cemetery. The
17 municipality may work with a local cemetery board, established
18 in accordance with Section 3-40-2 NMSA 1978, to manage the
19 cemetery.

20 F. As used in this section, "abandoned cemetery"
21 means a cemetery in which the lots or grave sites have not been
22 maintained for the previous ten years, except for maintenance
23 rendered by the municipality in which the cemetery is located,
24 and no burial has been made or lots sold in the previous forty
25 years."

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SECTION 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2011.