

1 SB72
2 115289-1
3 By Senator Mitchell
4 RFD: Governmental Affairs
5 First Read: 12-JAN-10
6 PFD: 01/04/2010

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8 SYNOPSIS: Under existing law, the abandonment of a
9 cemetery may be declared by certain entities or
10 individuals and provisions made for reinterment.

11 This bill would provide further for the
12 abandonment of cemeteries by requiring the consent
13 of the governing body of the municipality or county
14 where the cemetery is located.

15 This bill would require that when remains
16 are reinterred, a copy of the map or plat where the
17 remains are reinterred or deposited be filed with
18 the office of probate in the county where the
19 cemetery is located and that grave objects be
20 relocated and reinstalled with the human remains at
21 the new burial site.

22 This bill would further provide for the
23 maintenance of cemeteries that are presumed
24 abandoned.

25 This bill would provide that counties and
26 municipalities would not be subject to civil
27 liability for certain damage to property and would

1 allow counties and municipalities to maintain an
2 action against the owner to recover certain costs.

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4 A BILL
5 TO BE ENTITLED
6 AN ACT

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8 To amend Sections 11-47-60, 11-47-68, and 11-47-70,
9 Code of Alabama 1975, relating to reinterment and abandonment
10 of cemeteries, to require the approval of the governing body
11 of the municipality or county to declare a cemetery abandoned,
12 and to further provide for reinterment.

13 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

14 Section 1. Sections 11-47-60, 11-47-68, and
15 11-47-70, Code of Alabama 1975, are amended to read as
16 follows:

17 "§11-47-60.

18 "(a) Any cemetery corporation or association,
19 including religious bodies, owning or controlling any cemetery
20 within this state may, with the consent and approval of the
21 governing body of the city or town in which such cemetery is
22 located or with the consent and approval of the governing body
23 of the county if such cemetery is located outside the limits
24 of an incorporated municipality, by resolution of its board of
25 directors or other governing body, when assented to in writing
26 filed with the secretary by at least three fourths of the lot
27 owners and holders of such corporation or association or

1 ratified and approved by like vote thereof at any regular
2 meeting of the cemetery corporation or association or at a
3 meeting specially called for that purpose, declare for the
4 abandonment in whole or in part of such cemetery as a burial
5 place for the human dead and for the removal of human remains
6 interred therein to another cemetery or cemeteries in this
7 state or for the depositing of such remains in a memorial
8 mausoleum or columbarium as provided in this division.

9 "(b) Any corporation sole or other person owning or
10 controlling any cemetery or the lands on which any grave or
11 cemetery is located in this state, may with the consent and
12 approval of the governing body of the city or town in which
13 such cemetery is located or with the consent and approval of
14 the governing body of the county if such cemetery is located
15 outside the limits of an incorporated municipality, also
16 declare for the abandonment in whole or in part of any such
17 cemetery owned or controlled by such corporation sole or other
18 person and for the removal of human remains interred therein
19 to another cemetery or cemeteries in this state or the
20 depositing of such remains in a memorial mausoleum or
21 columbarium as provided in this division.

22 "§11-47-68.

23 "After the removal and reinterment or deposit in a
24 mausoleum or columbarium of the bodies disinterred from any
25 such abandoned cemetery or part thereof the cemetery
26 corporation, association, corporation sole or other person
27 owning or controlling such abandoned cemetery lands and making

1 such removals shall cause to be erected upon or imbedded in
2 any lot or plat wherein any such body is reinterred a suitable
3 permanent marker identifying such remains and shall prepare a
4 complete map or plat describing and showing the location and
5 subdivision into lots and plats of the cemetery lands where
6 such bodies are reinterred or a plan of any mausoleum or
7 columbarium wherein such bodies may be deposited, and there
8 shall also be attached to any such map or plat or plans a
9 description of the name of each person whose body is so
10 reinterred or deposited, where known, and the lot or plat in
11 the cemetery or the niche or compartment in any mausoleum or
12 columbarium where such body is reinterred or deposited. Such
13 map or plat shall be kept on file in the office of such
14 cemetery corporation, association, corporation sole or other
15 person making such removals and reinterments or depositing
16 bodies in a mausoleum or columbarium and shall at all times be
17 open to inspection by the relatives or friends of those so
18 reinterred or deposited and a copy of the map or plat shall be
19 filed with the probate office of the county in which the
20 cemetery is located. If a body is reinterred or deposited in a
21 county other than the county from which the body was removed,
22 a copy of the map or plot shall be filed with the probate
23 office of both counties.

24 "§11-47-70.

25 "~~(a)~~ Whenever the remains of any person shall have
26 been removed from any cemetery by any relative or friend of
27 such person under ~~the provisions of~~ Section 11-47-65, the

1 person causing such removal shall also ~~be entitled to~~ remove
2 any associated vault, monument, headstone, coping, or other
3 improvement appurtenant to the grave from which such remains
4 have been removed, and the affidavit or written consent given
5 under ~~the provisions of~~ Section 11-47-65 shall be sufficient
6 warrant and authority for the cemetery corporation,
7 association, corporation sole, or other person owning or
8 controlling such cemetery to permit such removal of any vault,
9 monument, headstone, coping, or other improvement appurtenant
10 to such grave. All grave objects removed shall stay with the
11 human remains and be reinstalled at the new burial site to
12 duplicate the original configuration as close as possible.

13 " (b) Whenever the remains of any person buried in
14 any lot or plat shall have been removed and any vault,
15 monument, headstone, coping or other improvement appurtenant
16 thereto shall remain on said lot or plat for more than 90 days
17 after the removal of the last human remains therefrom, such
18 vault, monument, headstone, coping or other improvement may be
19 removed and disposed of by the cemetery corporation,
20 association, corporation sole or other person owning or
21 controlling such cemetery lands and thereafter no person
22 claiming any interest in said lot or plat or any such vault,
23 monument, headstone, coping or other improvement appurtenant
24 thereto shall have the right to maintain in any court any
25 action in relation to any such vault, monument, headstone,
26 coping or other improvement so removed or disposed of."

1 Section 2. This act shall become effective on the
2 first day of the third month following its passage and
3 approval by the Governor, or its otherwise becoming law.