

1 SB83
2 91291-1
3 By Senator Mitchell
4 RFD: Governmental Affairs
5 First Read: 05-FEB-08

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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 to further provide for reinterment, to further provide for the
13 maintenance of abandoned cemeteries, to provide the
14 municipality or county shall not be subject to certain civil
15 liability, and to allow actions to recover certain costs.

16 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

17 Section 1. Sections 11-47-60, 11-47-68, and
18 11-47-70, Code of Alabama 1975, are amended to read as
19 follows:

20 "§11-47-60.

21 "(a) Any cemetery corporation or association,
22 including religious bodies, owning or controlling any cemetery
23 within this state may, with the consent and approval of the
24 governing body of the city or town in which such cemetery is
25 located or with the consent and approval of the governing body
26 of the county if such cemetery is located outside the limits
27 of an incorporated municipality, by resolution of its board of

1 directors or other governing body, when assented to in writing
2 filed with the secretary by at least three fourths of the lot
3 owners and holders of such corporation or association or
4 ratified and approved by like vote thereof at any regular
5 meeting of the cemetery corporation or association or at a
6 meeting specially called for that purpose, declare for the
7 abandonment in whole or in part of such cemetery as a burial
8 place for the human dead and for the removal of human remains
9 interred therein to another cemetery or cemeteries in this
10 state or for the depositing of such remains in a memorial
11 mausoleum or columbarium as provided in this division.

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

25 "§11-47-68.

26 "After the removal and reinterment or deposit in a
27 mausoleum or columbarium of the bodies disinterred from any

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

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. (a) Notwithstanding any provision of law
2 to the contrary, a county or municipality which has within its
3 jurisdiction an abandoned cemetery or a cemetery that has not
4 been reasonably maintained for a period in excess of six
5 months, upon notice to the Alabama Historical Commission, may
6 take action as is necessary and appropriate to provide for
7 maintenance and security of the cemetery. The solicitation of
8 private funds and the expenditure of public funds for the
9 purposes enumerated in this subsection are authorized,
10 provided that no action taken by a county or municipality
11 under this subsection shall establish an ongoing obligation or
12 duty to provide continuous security or maintenance for any
13 cemetery.

14 (b) No county or municipality nor any person under
15 the supervision or direction of the county or municipality,
16 providing good faith assistance in securing or maintaining a
17 cemetery under subsection (a), may be subject to civil
18 liabilities or penalties of any type for damages to property
19 at the cemetery.

20 (c) A county or municipality that has maintained or
21 secured a cemetery pursuant to subsection (a) may maintain an
22 action at law against the owner of the cemetery to recover an
23 amount equal to the value of the maintenance or security.

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