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HOUSE BILL 419

45TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2001

INTRODUCED BY

Terry T. Marquardt

AN ACT

**RELATING TO CULTURAL PROPERTIES; ELIMINATING THE RIGHT OF
EMINENT DOMAIN ON CULTURAL PROPERTIES.**

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

**Section 1. Section 18-6-6 NMSA 1978 (being Laws 1969,
Chapter 223, Section 6, as amended) is amended to read:**

**"18-6-6. MUSEUM DIVISION--POWERS AND DUTIES RELATING TO
THE CULTURAL PROPERTIES ACT--DIRECTOR. --**

**A. The museum division of the office of cultural
affairs is responsible for administering, developing and
maintaining all registered cultural properties in its
ownership or custody.**

**B. Unless other locations are deemed more
appropriate by the committee, in consultation with the museum
of New Mexico, because of the nature of the property involved,**

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1 the museum division shall be the depository for all
2 collections made under the provisions of the Cultural
3 Properties Act and shall make available material from such
4 collections to museums in and out of the state on the request
5 of the governing bodies of those museums when, in the opinion
6 of the director of the museum division, such use is
7 appropriate and when arrangements are made for the safe
8 custodianship and public exhibition of the material in
9 accordance with museum division regulations. The museum of
10 New Mexico shall maintain a record of the location of all such
11 collections.

12 C. The museum division may seek and accept gifts,
13 donations and grants, subject to the provisions of Subsection
14 B of Section 18-6-7 NMSA 1978, to be used to acquire, preserve
15 or restore registered cultural properties.

16 D. The museum division may acquire by gift or
17 purchase [~~or, if no other means of acquisition are available,~~
18 ~~condemnation~~] any cultural property or interest therein
19 sufficient to preserve such property. Cultural properties so
20 acquired shall be administered by the museum division or other
21 appropriate state agencies in accordance with Subsections A
22 and B of this section.

23 E. The museum division may enter into agreements
24 with the committee to provide assistance in carrying out the
25 duties of the committee. "

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1 Section 2. Section 18-6-10 NMSA 1978 (being Laws 1969,
2 Chapter 223, Section 9) is amended to read:

3 "18-6-10. CULTURAL PROPERTIES ON PRIVATE LAND. --

4 A. It is the declared intent of the legislature
5 that field [~~archeology~~] archaeology on privately owned lands
6 should be discouraged except in accordance with the provisions
7 and spirit of the Cultural Properties Act, and persons having
8 knowledge of the location of [~~archeological~~] archaeological
9 sites are encouraged to communicate such information to the
10 committee.

11 B. It shall be deemed an act of trespass and a
12 misdemeanor for any person to remove, injure or destroy
13 registered cultural properties situated on private lands or
14 controlled by a private owner without the owner's prior
15 permission. Where the owner of a registered cultural property
16 has submitted his acceptance in writing to the committee's
17 registration of that cultural property, the provisions of
18 Section [~~8 of the Cultural Properties Act~~] 18-6-9 NMSA 1978
19 shall apply to that registered cultural property.

20 C. Where a cultural property is on private land or
21 is otherwise privately owned and the committee determines that
22 such cultural property is worthy of preservation and inclusion
23 on the official register, the committee may recommend the
24 procedure best calculated to insure preservation. Such
25 procedures may include:

. 134934. 1

underscored material = new
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1 (1) providing technical assistance to the
2 owner who is willing to restore, preserve and maintain the
3 cultural property;

4 (2) acquiring the property or an easement or
5 other right therein by gift or purchase;

6 (3) advising the county or municipality
7 within which the cultural property is located on zoning the
8 property as an historic area or district in accordance with
9 the Historic District and Landmark Act; and
10

11 (4) advising the county or municipality
12 within which the cultural property is located on the use of
13 agreements and purchases [~~or the right of eminent domain~~] to
14 obtain control of the cultural property in accordance with the
15 Historic District and Landmark Act [~~and~~
16

17 ~~(5) acquiring the property for the state by~~
18 ~~use of the right of eminent domain]. "~~

19 Section 3. EFFECTIVE DATE. -- The effective date of the
20 provisions of this act is July 1, 2001.