

AN ACT  
RELATING TO CEMETERIES; LIMITING LIABILITY WHEN A  
MUNICIPALITY ACQUIRES A CEMETERY THAT HAS NO RECORDS OR  
OTHER MATERIALS; DECLARING AN EMERGENCY.

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

Section 1. Section 3-40-7 NMSA 1978 (being Laws 1965, Chapter 300, Section 14-41-8) is amended to read:

"3-40-7. TRANSFER OF OTHER CEMETERIES TO CEMETERY BOARD. --

A. Subject to the approval of the governing body of the municipality, a cemetery board may accept any cemetery within or adjacent to the municipality used as a burial place by the inhabitants of the municipality from any person, corporation or organization owning, controlling or maintaining the cemetery.

B. If the cemetery board accepts a cemetery whose records have been lost or destroyed or are otherwise nonexistent, the cemetery board or the municipality shall not be liable for any liabilities of prior owners.

C. Any cemetery accepted by the cemetery board as provided in this section shall become part of the municipality and shall be governed as any other municipal cemetery is governed."

Section 2. Section 3-40-9 NMSA 1978 (being Laws 1973, Chapter 395, Section 8) is amended to read:

"3-40-9. ACQUISITION OR CONDEMNATION OF AN EXISTING CEMETERY. --

A. Except as provided in Subsection B of Section 3-40-7 NMSA 1978, a municipality shall not acquire or condemn a cemetery or part of a cemetery unless a detailed audit listing all the assets and liabilities of the cemetery is prepared by a certified public accountant and submitted to the governing body. The municipality shall not be held liable for any liabilities not shown in the audit.

B. Any person, estate, trust, receiver or other group acting as a unit shall transfer to the municipality all records, property, trusts and other relevant material pertaining to the cemetery or part of the cemetery acquired or condemned by the municipality. The acquisition or condemnation and transfer of a cemetery or part of a cemetery shall be in compliance with the Endowed Care Cemetery Act of 1961 and other provisions relating to cemeteries."

Section 3. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.

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