

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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HOUSE BILL 209

Short Title: Define "Abandoned Cemetery".

(Public)

Sponsors: Representative Fitch.

Referred to: Judiciary III.

February 19, 1993

A BILL TO BE ENTITLED

AN ACT TO DEFINE "ABANDONED CEMETERY".

The General Assembly of North Carolina enacts:

Section 1. G.S. 65-1 reads as rewritten:

"§ 65-1. County commissioners to provide list of public and abandoned cemeteries.

(a) It shall be the duty of the boards of county commissioners of the various counties in the State to prepare and keep on record in the office of the register of deeds a list of all public cemeteries in the counties outside the limits of incorporated towns and cities, and not established and maintained for the use of an incorporated town or city, together with the names and addresses of the persons in possession and control of the same. To such list shall be added a list of the public cemeteries in the rural districts of such counties which have been abandoned, and it shall be the duty of the boards of county commissioners to furnish to the division of publications in the office of the Secretary of State copies of the lists of such public and abandoned cemeteries, to the end that it may furnish to the boards, for the use of the persons in control of such cemeteries, suitable literature, suggesting methods of taking care of such places.

(b) For purposes of this Article a cemetery is an abandoned cemetery, either public or private, when it can be characterized by substantial neglect and lack of maintenance.

A cemetery shall be presumed to be abandoned when:

(1) No burials have taken place there for 15 years or more; and

(2) It is:

a. In a state of disrepair or overgrown by vegetation as a result of a lack of maintenance or upkeep; or

1 b. There is substantial uncertainty as to who holds record title to
2 the land, or if record title is in a religious, fraternal benevolent,
3 or charitable society, the board of trustees or similar governing
4 body of the owner has been dissolved or its present members
5 cannot be ascertained through the exercise of due diligence."

6 Sec. 2. G.S. 121-8(g) reads as rewritten:

7 "(g) Abandoned Cemeteries. – The Department of Cultural Resources is
8 authorized to take appropriate measures to record and permanently preserve information
9 of significant historical genealogical or archaeological value when, in the opinion of the
10 Department, any such information located within an abandoned cemetery is in imminent
11 danger of loss or destruction because of the condition or circumstances of the cemetery.
12 The Department may obtain access to any abandoned cemetery for the purpose of
13 recording and preserving information of significant historical, genealogical or
14 archaeological value pursuant to Chapter 15, Article 4A of the General Statutes:
15 Provided, that prior to the requesting of the administrative warrant, the Department shall
16 contact the affected landowners and request their consent for access to their lands for
17 the purpose of gathering such information. If consent is not granted, the Department
18 shall give reasonable notice of the time, place and before whom the administrative
19 warrant will be requested so that the owner or owners may have an opportunity to be
20 heard. Service of this notice may be in any manner prescribed by N.C.G.S. 1A-1 Rule
21 4(j). Any measures taken by the Department pursuant to this subsection shall be effected
22 in such a manner as to cause as little inconvenience or disruption as possible to the
23 owners of the land upon which the abandoned cemetery is located and of land necessary
24 to obtain access to the cemetery. For purposes of this subsection, the definition in G.S.
25 65-1(b) for 'abandoned cemeteries' applies."

26 Sec. 3. G.S. 143B-128 is amended by adding a new subsection to read:

27 "(f) For purposes of this section a cemetery is an abandoned cemetery, either
28 public or private, when it can be characterized by substantial neglect and lack of
29 maintenance.

30 A cemetery shall be presumed to be abandoned when:

31 (1) No burials have taken place there for 15 years or more; and

32 (2) It is:

33 a. In a state of disrepair or overgrown by vegetation as a result of
34 a lack of maintenance or upkeep; or

35 b. There is substantial uncertainty as to who holds record title to
36 the land, or if record title is in a religious, fraternal benevolent,
37 or charitable society, the board of trustees or similar governing
38 body of the owner has been dissolved or its present members
39 cannot be ascertained through the exercise of due diligence."

40 Sec. 4. This act is effective upon ratification.