

40:60-25.61 to 40:60-25.64

LEGISLATIVE HISTORY CHECKLIST

NJSA: 40:60-25.61 to 40:60-25.64

(Cemeteries -abandonment -
procedure for acquisition)

LAWS OF: 1983

CHAPTER: 194

Bill No: A1109

Sponsor(s): Albohn and others

Date Introduced: March 11, 1982

Committee: Assembly: Municipal Government

Senate: County and Municipal Government

Amended during passage: Yes // **A amendments during passage
denoted by asterisks**

Date of Passage: Assembly: Sept. 30, 1982

Senate: March 30, 1983

Date of Approval: May 24, 1983

Following statements are attached if available:

Sponsor statement: Yes //

Committee statement: Assembly Yes //

Senate Yes //

Fiscal Note: /// No

Veto Message: /// No

Message on Signing: /// No

Following were printed:

Reports: /// No

Hearings: /// No

5-24-83

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ASSEMBLY, No. 1109

STATE OF NEW JERSEY

INTRODUCED MARCH 11, 1982

By Assemblyman ALBOHN, Assemblywoman BROWN, and
Assemblyman D. GALLO

Referred to Committee on Municipal Government

AN ACT to provide for the acquisition by municipalities of certain abandoned burying grounds or cemeteries in this State and supplementing chapter 60 of Title 40 of the Revised Statutes.

1 BE IT ENACTED *by the Senate and General Assembly of the State*
2 *of New Jersey:*

1 1. The governing body of a municipality may apply, in accordance
2 with the provisions of this act, to the Superior Court for an order
3 vesting title in the municipality to any abandoned burying ground
4 or cemetery therein owned or controlled by a person who cannot be
5 located, through diligent inquiry***[** for the purpose of negotiating
6 the transfer of the cemetery to the municipality by gift, purchase
7 or condemnation**]***

1 2. An application for an order vesting title to the abandoned
2 burying ground or cemetery in the municipality shall include a
3 certification by the clerk of the municipality that a diligent inquiry
4 has been conducted to locate the person owning or controlling the
5 burying ground or cemetery. A diligent inquiry shall include, but
6 shall not be limited to:

7 a. Mailing, by certified mail to the last known address of the
8 last owner of record of the burying ground or cemetery in ques-
9 tion **and the last known address of any lot owner or any interested*
10 *party if such information is available**, a notice of intent to acquire
11 the burying ground or cemetery by the municipality and that in the
12 absence of a written response to this notice by the person who owns
13 or controls it **or lot owner or other interested party**, within

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter printed in italics thus is new matter.

Matter enclosed in asterisks or stars has been adopted as follows:

*—Assembly committee amendments adopted September 20, 1982.

14 60 days of the date of delivery, the municipality will apply to the
14A Superior Court for an order vesting title to the burying ground or
14B cemetery in the municipality under this act.

15 b. Publication, in at least two newspapers published in this State
16 and of general circulation in the county in which the municipality
17 is located, ***[for]*** **at least four times in** a period of 60 days, of
18 notice of intent to acquire the burying ground or cemetery by the
19 municipality and that in the absence of a written response to this
20 notice by the person who owns or controls it within 60 days of the
21 last date of publication **or a lot owner within the same period of*
22 *time**, the municipality will apply to the Superior Court for an
23 order vesting title to the burying ground or cemetery in the
24 municipality under this act.

1 3. The Superior Court may vest title to the burying ground or
2 cemetery in the municipality upon its satisfaction that the person
3 owning or controlling the burying ground or cemetery cannot be
4 located through diligent inquiry for the purpose of ***[negotiating]***
5 the transfer of the burying ground or cemetery to the municipality.

1 4. This act shall apply only to the acquisition of an abandoned
2 burying ground or cemetery for the purpose of restoring, main-
3 taining and preserving it as a burying ground or cemetery. No
4 further interments will be permitted*, *except by order of the*
5 *Superior Court upon satisfactory proof of ownership of a lot prior*
6 *to the date of vesting of title in the municipality,** and any subse-
7 quent disinterment of bodies from the burying ground or cemetery
8 shall conform to the provisions of P. L. 1948, c. 80, s. 8, (C.
9 40:60-25.40), except that portion of that section requiring execu-
10 tion of a deed.

1 5. This act shall take effect immediately.

15 b. Publication, in at least two newspapers published in this State
16 and of general circulation in the county in which the municipality
17 is located, for a period of 60 days, of notice of intent to acquire the
18 burying ground or cemetery by the municipality and that in the
19 absence of a written response to this notice by the person who owns
20 or controls it within 60 days of the last date of publication, the
21 municipality will apply to the Superior Court for an order vesting
22 title to the burying ground or cemetery in the municipality under
23 this act.

1 3. The Superior Court may vest title to the burying ground or
2 cemetery in the municipality upon its satisfaction that the person
3 owning or controlling the burying ground or cemetery cannot be
4 located through diligent inquiry for the purpose of negotiating the
5 transfer of the burying ground or cemetery to the municipality.

1 4. This act shall apply only to the acquisition of an abandoned
2 burying ground or cemetery for the purpose of restoring, main-
3 taining and preserving it as a burying ground or cemetery. No
4 further interments will be permitted and any subsequent disinter-
5 ment of bodies from the burying ground or cemetery shall conform
6 to the provisions of P. L. 1948, c. 80, s. 8, (C. 40:60-25.40), except
7 that portion of that section requiring execution of a deed.

1 5. This act shall take effect immediately.

STATEMENT

This bill would prescribe the procedure for the acquisition of an abandoned burying ground or cemetery by a municipality where the owner of the cemetery cannot be located for the purposes of negotiating its transfer to the municipality by conventional methods. The tax-exempt status of cemeteries compounds the problems faced by municipalities when they seek to acquire an abandoned cemetery for public purposes. This bill would serve to alleviate these problems in the limited circumstances of an absent or defunct owner.

A1109 (1982)

ASSEMBLY MUNICIPAL GOVERNMENT COMMITTEE

STATEMENT TO

ASSEMBLY, No. 1109

with Assembly committee amendments

STATE OF NEW JERSEY

DATED: SEPTEMBER 8, 1982

Assembly Bill No. 1109 supplements chapter 60 of Title 40 of the Revised Statutes in order to prescribe procedures for the acquisition of abandoned burying grounds and cemeteries by a municipality in cases where the owner of the property is unknown or cannot be found.

Current law (P. L. 1948, c. 80; C. 40:60-25.33 et seq.) prescribes procedures for the conveying of burying grounds and cemeteries to municipalities by the church or corporation which owns or controls the burying ground or cemetery, but it does not provide procedures in cases where the owner is unknown or cannot be located.

Under the provisions of the bill, whenever the governing body of a municipality is unable to locate the owner of an abandoned burying ground or cemetery and, therefore, is unable to negotiate a transfer of ownership, it is authorized to apply to the Superior Court for an order to grant the municipality title to the burying ground or cemetery.

The bill requires that the application include a certification by the municipal clerk that the municipality conducted a diligent inquiry to locate the owner. A diligent inquiry, as set forth in the bill, is to include: (1) a certified mailing of a notice of the municipality's intent to acquire the burying ground or cemetery to the last known address of the last owner or record and (2) the publication of a notice of the municipality's intent to acquire the burying ground or cemetery in at least two newspapers that circulate within the county.

The committee, at the sponsor's request, amended the bill to clarify certain procedures set forth in the bill. As amended, the municipality would be required to attempt to notify lot owners and all interested parties of its intention to acquire the abandoned burying ground or cemetery. The newspaper notice requirement has been reduced. Rather requiring the notice to be published for 60 days, the bill now requires that the notice be published 4 times in 60 days. The bill was also amended to permit additional interments if the grave lot was acquired prior to the date on which the municipality received title to the burying ground or cemetery.

SENATE COUNTY AND MUNICIPAL GOVERNMENT
COMMITTEE

STATEMENT TO
ASSEMBLY, No. 1109

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STATE OF NEW JERSEY

DATED: NOVEMBER 8, 1982

Assembly Bill No. 1109, as amended by the Assembly Municipal Government Committee, is identical to Senate Bill No. 1269, as amended by this committee and reported favorably on September 23, 1982.

Assembly Bill No. 1109 passed the General Assembly by a vote of 57-0.