

CHAPTER 249

H.B. No. 557

An Act relating to the care and maintenance of neglected and unkept cemeteries by nonprofit corporations.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Sections 1-4, Chapter 555, Acts of the 65th Legislature, Regular Session, 1977 (Article 969c-2, Vernon's Texas Civil Statutes), are amended to read as follows:

Sec. 1. (a) An incorporated city, town or village having a cemetery within its boundaries or within its extraterritorial jurisdiction which threatens or endangers the health, safety, comfort, or welfare of the public may, by resolution of its governing body, take possession and control of the cemetery on behalf of the public health, safety, comfort, and welfare of present and future generations.

(b) *If a city fails or refuses to take possession and control of a cemetery as provided by this section, or acts to take possession and control but subsequently fails or refuses to perform the work required by Sections 2 and 3 of this Act, a district judge, on petition of a resident of the county in which the cemetery is located, shall by order appoint a willing nonprofit corporation organized under the Texas Non-Profit Corporation Act (Article 1396-I.01 et seq., Vernon's Texas Civil Statutes) to act in lieu of the city in order to protect the health, safety, comfort, and welfare of the public.*

(c) *A district court appointing a nonprofit corporation under Subsection (b) of this section maintains continuing jurisdiction to monitor and review the operation of the cemetery by the corporation, and may on its own motion revoke the appointment and appoint another willing nonprofit corporation without the necessity of another petition being filed. The court must review the subsequent appointment if a resident of the county petitions for review.*

Sec. 2. The resolution of the city or the order of the court shall specify that 60 days after giving notice of a declaration of intent to take possession and control, the city or corporation, as appropriate, [in which the cemetery is located] will remove or repair any fences, walls, or improvements, and will straighten and reset any memorial stones or embellishments that are found to be a threat or danger to the health, safety, comfort, or welfare of the public and take proper steps to restore and maintain the premises in orderly and decent condition. Notice shall be given by mail to all persons shown by the records in the county clerk's office to have an interest in the cemetery and to all interested persons by publication in a newspaper of general circulation in the city.

Sec. 3. Sixty days after giving notice, the city or nonprofit corporation shall [may] remove or repair any fences, walls, or improvements, and will straighten and reset any memorial stones or embellishments that are found to be a threat or danger to the health, safety, comfort, or welfare of the public and restore the premises to decent condition. Thereafter, the city or nonprofit corporation shall maintain the cemetery so that it will not endanger the health, safety, comfort, or welfare of the public. Provided, however, no additional burial spaces will be offered for sale.

Sec. 4. A cemetery in the possession and control of a city or a nonprofit corporation under the provisions of this Act shall remain open to the public. A person who has an interest in a grave or burial lot or who has a kinship within the third degree of affinity or consanguinity to those interred may care for a grave or burial lot in the cemetery.

SECTION 2. This Act takes effect September 1, 1985.

SECTION 3. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Passed by the House on April 4, 1985, by a non-record vote; passed by the Senate on May 15, 1985, by the following vote: Yeas 31, Nays 0.

Approved: June 4, 1985

Effective: September 1, 1985