

# HOUSE BILL 404

J3, C2

(4lr0530)

## ENROLLED BILL

— Health and Government Operations/Finance —

Introduced by **Delegates Rosenberg, Braveboy, Busch, Reznik, and Schuh**

Read and Examined by Proofreaders:

\_\_\_\_\_  
Proofreader.

\_\_\_\_\_  
Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this

\_\_\_\_\_ day of \_\_\_\_\_ at \_\_\_\_\_ o'clock, \_\_\_\_\_ M.

\_\_\_\_\_  
Speaker.

### CHAPTER \_\_\_\_\_

1 AN ACT concerning

#### 2 **Department of Health and Mental Hygiene – State Facilities – Cemeteries**

3 FOR the purpose of requiring ~~the State to maintain certain cemeteries in accordance~~  
4 ~~with a certain definition~~ certain cemeteries to be provided perpetual care;  
5 requiring certain activities or projects to be undertaken in consultation with the  
6 Maryland Historical Trust in accordance with certain provisions of law; making  
7 certain provisions of State law that apply to property of cemeteries also apply to  
8 a cemetery owned by the State and located on the grounds of a State facility;  
9 requiring the Department of Health and Mental Hygiene, beginning on a  
10 certain date and annually thereafter, to report on the implementation of certain  
11 provisions to certain legislative committees; defining a certain term; altering a  
12 certain definition; making a conforming change; and generally relating to  
13 cemeteries owned by the State and located on the grounds of a State facility.

14 BY repealing and reenacting, without amendments,

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#### EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.

*Italics indicate opposite chamber/conference committee amendments.*



1 Article – Business Regulation  
 2 Section ~~5–502 and 5–601~~  
 3 Annotated Code of Maryland  
 4 (2010 Replacement Volume and 2013 Supplement)

5 BY repealing and reenacting, with amendments,  
 6 Article – State Finance and Procurement  
 7 Section 10–309  
 8 Annotated Code of Maryland  
 9 (2009 Replacement Volume and 2013 Supplement)

10 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
 11 MARYLAND, That the Laws of Maryland read as follows:

12 **Article – Business Regulation**

13 5–502.

14 (a) An alley, canal, road, or other public thoroughfare may not be opened  
 15 through property of a cemetery if that property is used or to be used for burial.

16 (b) This section does not authorize a registered cemeterian, permit holder, or  
 17 other person to obstruct:

18 (1) a public road in use when the cemetery is formed; or

19 (2) the site of a future public road that, when the cemetery is formed,  
 20 is shown on a plat made by authority of the State, a county, or a municipal  
 21 corporation.

22 ~~5–601.~~

23 ~~In this subtitle, “perpetual care”:~~

24 ~~(1) means the maintenance, including the cutting of grass abutting~~  
 25 ~~memorials or monuments, administration, supervision, and embellishment of a~~  
 26 ~~cemetery and its grounds, roads, and paths; and~~

27 ~~(2) includes the repair and renewal of buildings, including columbaria~~  
 28 ~~and mausoleums, and the property of the cemetery.~~

29 **Article – State Finance and Procurement**

30 10–309.

31 (a) **(1)** In this section, THE FOLLOWING WORDS HAVE THE MEANINGS  
 32 INDICATED.

1           **(2) (I) “PERPETUAL CARE” MEANS THE MAINTENANCE,**  
 2 **INCLUDING THE CUTTING OF GRASS ABUTTING MEMORIALS OR MONUMENTS,**  
 3 **ADMINISTRATION, SUPERVISION, AND EMBELLISHMENTS OF A CEMETERY AND**  
 4 **ITS GROUNDS, ROADS, AND PATHS.**

5           **(II) “PERPETUAL CARE” INCLUDES THE REPAIR AND**  
 6 **RENEWAL OF BUILDINGS, INCLUDING COLUMBARIA AND MAUSOLEUMS, AND**  
 7 **THE PROPERTY OF THE CEMETERY.**

8           **(3)** “State facility” means:

9           ~~(1)~~ **(I)** a facility maintained by the Mental Hygiene Administration  
 10 of the Department of Health and Mental Hygiene and listed in § 10–406 of the Health  
 11 – General Article; [or]

12           ~~(2)~~ **(II)** a State residential center for individuals with an intellectual  
 13 disability in the Developmental Disabilities Administration of the Department of  
 14 Health and Mental Hygiene; AND

15           ~~(3)~~ **(III) A FACILITY THAT FORMERLY MET THE DEFINITION OF**  
 16 **“STATE FACILITY” UNDER ITEM (I) OR (II) OF THIS SUBSECTION, INCLUDING:**

17                           **1. THE FORMER ROSEWOOD CENTER; AND**

18                           **2. THE FORMER CROWNSVILLE HOSPITAL CENTER.**

19           (b) A cemetery owned by the State and located on the grounds of a State  
 20 facility may not be sold by the State if the State facility is downsized, consolidated,  
 21 closed, or sold.

22           (c) A cemetery owned by the State **AND LOCATED ON THE GROUNDS OF A**  
 23 **STATE FACILITY** shall be ~~maintained by the State, IN ACCORDANCE WITH THE~~  
 24 ~~DEFINITION OF PERPETUAL CARE UNDER § 5-601 OF THE BUSINESS~~  
 25 ~~REGULATION ARTICLE,~~ **PROVIDED PERPETUAL CARE** and marked with a  
 26 monument commemorating the individuals interred in the cemetery.

27           **(D) ACTIVITIES OR PROJECTS UNDERTAKEN UNDER SUBSECTION (C) OF**  
 28 **THIS SECTION SHALL BE UNDERTAKEN IN CONSULTATION WITH THE MARYLAND**  
 29 **HISTORICAL TRUST, IN ACCORDANCE WITH THE CONSULTATION PROVISIONS:**

30                           **(1) FOR CAPITAL PROJECTS UNDER § 5A-325 OF THIS ARTICLE;**  
 31 **AND**

1                   **(2) FOR ISSUANCE OF PERMITS OR LICENSES OR PROVISION OF**  
 2 **FINANCIAL ASSISTANCE UNDER § 5A-326(D)(2) OF THIS ARTICLE.**

3           ~~(d)~~ **(E)**       Any easement or right of entry to a cemetery owned by the State  
 4 and located on the grounds of a State facility that has been recorded among the land  
 5 records of the county where the cemetery is located on or before October 1, 2004 may  
 6 not be transferred or sold.

7           ~~(e)~~ **(F)**       Notwithstanding subsections (b) and ~~(d)~~ **(E)** of this section, a  
 8 cemetery or an easement or right of entry to a cemetery owned by the State and  
 9 located on the grounds of a State facility may be sold by the State if the deed for the  
 10 property includes a restrictive covenant requiring the owner and any future owner to  
 11 maintain the cemetery as provided under subsection (c) of this section.

12           ~~(F)~~ **(G)**       **THE PROVISIONS OF § 5-502 OF THE BUSINESS REGULATION**  
 13 **ARTICLE APPLY TO A CEMETERY OWNED BY THE STATE AND LOCATED ON THE**  
 14 **GROUND OF A STATE FACILITY.**

15           ~~(G)~~ **(H)**       **BEGINNING JANUARY 1, 2015, AND ON OR BEFORE JANUARY**  
 16 **1 OF EACH SUCCEEDING YEAR, THE DEPARTMENT OF HEALTH AND MENTAL**  
 17 **HYGIENE SHALL REPORT, IN ACCORDANCE WITH § 2-1246 OF THE STATE**  
 18 **GOVERNMENT ARTICLE, TO THE SENATE FINANCE COMMITTEE AND THE**  
 19 **HOUSE HEALTH AND GOVERNMENT OPERATIONS COMMITTEE ON THE**  
 20 **IMPLEMENTATION OF THIS SECTION.**

21           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
 22 October 1, 2014.

Approved:

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Governor.

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Speaker of the House of Delegates.

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President of the Senate.