

Department of Legislative Services  
Maryland General Assembly  
2017 Session

FISCAL AND POLICY NOTE  
First Reader

House Bill 235 (Delegate Knotts, *et al.*)  
Environment and Transportation

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Abandoned Private Cemeteries - Repair or Maintenance by County or  
Municipality

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This bill authorizes a county or municipality, by local law, to establish that unpaid charges made against real property that is an abandoned private cemetery for the repair, maintenance, or preservation of the cemetery are a lien on the property. A county or municipality that determines that a private cemetery located within its jurisdiction is abandoned and in need of repair, maintenance, or preservation must (1) notify the cemetery owner that it has made the determination; (2) request permission from the cemetery owner to perform the necessary repairs, maintenance, or preservation; and (3) notify the cemetery owner that, if the county or municipality performs the repair, maintenance, or preservation, any unpaid charges for that work are a lien on the property.

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Fiscal Summary

**State Effect:** None. The bill applies to local governments.

**Local Effect:** The bill is not anticipated to materially affect local government finances or operations. The bill authorizes, but does not require, a county or municipality to establish liens for the costs of certain cemetery maintenance and repair work. Any discretionary expenditures by local governments under the bill may be partially offset by revenues from liens made against the properties.

**Small Business Effect:** None.

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## Analysis

### **Current Law/Background:**

#### *Cemetery Repair and Maintenance*

Any county or municipality that has within its jurisdiction a burial site in need of repair or maintenance may, upon the request of the owner or with permission of the owner of the burial site in need of repair or maintenance, maintain and preserve the burial site for the owner. In order to maintain and preserve a burial site or to repair or restore fences, tombs, monuments, or other structures located in a burial site, a county or municipality may:

- appropriate money and solicit donations from individuals or public or private corporations;
- provide incentives for charitable organizations or community groups to donate their services; and
- develop a community service program through which students may volunteer their services or individuals required to perform community service hours under a sentence of a court may satisfy their community service requirements.

Any person in interest may request the owner of a burial site or of the land encompassing a burial site that has been documented or recognized as such to grant reasonable access to the burial site for the purpose of restoring, maintaining, or viewing the burial site, subject to specified conditions.

#### *Abandoned Property*

The Maryland Uniform Disposition of Abandoned Property Act establishes criteria for various types of personal property to be presumed “abandoned” as well as procedures for the disposition of such property. Generally, property is presumed abandoned if it is left unclaimed for three years.

#### *Mechanic’s Lien*

Under the mechanic’s lien statute, a building erected or a building repaired, rebuilt, or improved to the extent of 15% of its value is subject to the establishment of a lien for the payment of all debts contracted for work done and for materials furnished, including the drilling and installation of wells to supply water; the construction or installation of any swimming pool or fencing; the sodding, seeding, or planting of shrubbery or other nursery products; the grading, filling, landscaping, and paving of the premises; building or

landscape architectural services, engineering services, or land surveying services; and the leasing of equipment for use about the building or premises.

### *Office of Cemetery Oversight*

The Office of Cemetery Oversight was established by Chapter 675 of 1997. The office registers and regulates the cemetery and burial goods industry in the State under the leadership of a director. An advisory council serves as a source of expertise for the director and provides insight into the needs of the business community and the consumers served by the industry. The office does not regulate private family cemeteries.

**Additional Comments:** The bill does not specify the method by which a local government must notify the owner of an abandoned cemetery. It is unclear what the minimum threshold for notification would be prior to the local government performing the maintenance work and establishing a lien on the property. Notice of a mechanic's lien, discussed above, is effective if given by registered or certified mail, return receipt requested, or personally delivered to the owner by the claimant or his agent.

The bill does not specify whether a county or municipality may, after notifying the owner in accordance with the bill, perform the repair work without the owner's express permission.

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## **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Judiciary (Administrative Office of the Courts); Department of Labor, Licensing, and Regulation; Baltimore City; Montgomery and Talbot counties; cities of Salisbury and Westminster; Town of Leonardtown; Maryland Association of Counties; Maryland Municipal League; Department of Legislative Services

**Fiscal Note History:** First Reader - February 1, 2017  
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Analysis by: Stephen M. Ross

Direct Inquiries to:  
(410) 946-5510  
(301) 970-5510