
By: **Delegate Fulton**
Introduced and read first time: February 2, 2000
Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Historic Cemetery Fund**

3 FOR the purpose of creating an Historic Cemetery Fund in the Office of Cemetery
4 Oversight; providing for the funding and administration of the Fund; providing
5 for the purposes of the Fund; requiring the Office to transfer not more than a
6 certain percentage of the moneys collected annually for the Cemetery Oversight
7 Fund to the Historic Cemetery Fund; requiring that fees collected by the Office
8 for the Cemetery Oversight Fund be sufficient to provide funding for the
9 Historic Cemetery Fund; requiring the Office to adopt regulations governing
10 grants and applications for grants by a certain date; defining "historic
11 cemetery"; requiring an audit of the Historic Cemetery Fund; and generally
12 relating to the creation, use, purposes, and administration of an Historic
13 Cemetery Fund.

14 BY repealing and reenacting, with amendments,
15 Article - Business Regulation
16 Section 5-205
17 Annotated Code of Maryland
18 (1998 Replacement Volume and 1999 Supplement)

19 BY adding to
20 Article - Business Regulation
21 Section 5-803
22 Annotated Code of Maryland
23 (1998 Replacement Volume and 1999 Supplement)

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

26 **Article - Business Regulation**

27 5-205.

28 (a) There is a Cemetery Oversight Fund.

1 (b) (1) By regulation, the Director shall establish reasonable fees and a fee
2 schedule for the issuance and renewal of registrations and permits.

3 (2) In establishing the fees, the Director shall consider the size of the
4 business, whether the business is for-profit or designated as tax exempt under §
5 501(c) of the Internal Revenue Code, the volume of business conducted, and the type
6 of services provided, including the percentage of preneed contracts written.

7 (c) The fees charged shall be set so as to [approximate]:

8 (1) SATISFY the direct and indirect cost of maintaining the Office; AND

9 (2) PROVIDE APPROPRIATE MONEYS TO CARRY OUT THE PURPOSES OF
10 THE HISTORIC CEMETERY FUND ESTABLISHED UNDER § 5-803 OF THIS TITLE.

11 (d) The Director shall pay all funds collected under this title to the
12 Comptroller who shall distribute the fees to the Cemetery Oversight Fund.

13 (e) (1) The Fund shall be used to:

14 (I) cover the actual documented direct and indirect costs of
15 fulfilling the statutory and regulatory duties of the Office; AND

16 (II) PROVIDE APPROPRIATE MONEYS TO CARRY OUT THE
17 PURPOSES OF THE HISTORIC CEMETERY FUND.

18 (2) The Fund is a continuing nonlapsing fund, not subject to § 7-302 of
19 the State Finance and Procurement Article.

20 (3) Any unspent portions of the Fund may not revert or be transferred to
21 the General Fund of the State, but shall remain in the Fund to be used for the
22 purposes specified in this title.

23 (4) No other State money may be used to support the Fund.

24 (f) (1) The Director shall administer the Fund.

25 (2) Moneys in the Fund may be expended for any lawful purpose
26 authorized under the provisions of this title.

27 (g) The Legislative Auditor shall audit the accounts and transactions of the
28 Fund as provided in § 2-1220 of the State Government Article.

29 5-803.

30 (A) IN THIS SECTION, A "HISTORIC CEMETERY" IS:

31 (1) A CEMETERY THAT A HISTORIC DISTRICT COMMISSION OR HISTORIC
32 PRESERVATION COMMISSION HAS DESIGNATED AS HISTORIC; OR

1 (2) A CEMETERY IN WHICH AT LEAST ONE GRAVE SITE IS NOT LESS
2 THAN 100 YEARS OLD.

3 (B) (1) THERE IS A HISTORIC CEMETERY FUND IN THE OFFICE OF
4 CEMETERY OVERSIGHT.

5 (2) THE HISTORIC CEMETERY FUND CONSISTS OF:

6 (I) FUNDS INCLUDED IN THE STATE BUDGET AND DESIGNATED
7 FOR THE PURPOSE OF MAINTAINING THE FUND;

8 (II) A REASONABLE PERCENTAGE OF THE FEES COLLECTED
9 ANNUALLY BY THE OFFICE FOR THE CEMETERY OVERSIGHT FUND AND
10 TRANSFERRED BY THE OFFICE TO THE HISTORIC CEMETERY FUND THAT:

11 1. DOES NOT EXCEED 5% OF THE FEES COLLECTED; AND

12 2. THE OFFICE DETERMINES TO BE NECESSARY TO CARRY
13 OUT THE PURPOSES OF THE HISTORIC CEMETERY FUND;

14 (III) ANY GIFT OR GRANT RECEIVED BY THE OFFICE FOR THE
15 PURPOSE OF MAINTAINING THE FUND; AND

16 (IV) INTEREST EARNED ON INVESTMENTS BY THE OFFICE OF
17 MONEYS IN THE FUND.

18 (C) THE OFFICE SHALL USE THE MONEYS IN THE HISTORIC CEMETERY FUND
19 TO PROVIDE GRANTS TO PERSONS TO:

20 (1) PHYSICALLY RESTORE AND PRESERVE HISTORIC CEMETERIES IN
21 THE STATE; AND

22 (2) TAKE APPROPRIATE LEGAL AND OTHER ACTION TO PROTECT
23 HISTORIC CEMETERIES FROM ENCROACHMENT BY COMMERCIAL AND
24 NONCOMMERCIAL DEVELOPMENT.

25 (D) (1) ON OR BEFORE JANUARY 1, 2001, THE OFFICE SHALL ADOPT
26 REGULATIONS ESTABLISHING CRITERIA FOR MAKING GRANTS OF MONEYS FROM
27 THE HISTORIC CEMETERY FUND.

28 (2) THE REGULATIONS SHALL INCLUDE:

29 (I) THE INFORMATION WHICH A GRANT APPLICANT SHALL BE
30 REQUIRED TO INCLUDE IN AN APPLICATION FOR A GRANT;

31 (II) APPROPRIATE MONETARY LIMITS ON THE AMOUNTS OF
32 GRANTS; AND

33 (III) OTHER APPROPRIATE RESTRICTIONS ON AND REQUIREMENTS
34 FOR GRANTS.

1 (E) (1) THE HISTORIC CEMETERY FUND IS A CONTINUING, NONLAPSING
2 FUND THAT IS NOT SUBJECT TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT
3 ARTICLE.

4 (2) ANY PORTION OF THE FUND NOT GRANTED OR OTHERWISE SPENT
5 MAY NOT REVERT OR BE TRANSFERRED TO THE GENERAL FUND OF THE STATE, BUT
6 SHALL REMAIN IN THE FUND TO BE USED FOR THE PURPOSES SPECIFIED IN THIS
7 SECTION.

8 (3) NO STATE MONEY OTHER THAN THE MONEYS SPECIFIED IN
9 SUBSECTION (B) OF THIS SECTION MAY BE USED TO SUPPORT THE FUND.

10 (F) THE DIRECTOR SHALL ADMINISTER THE HISTORIC CEMETERY FUND.

11 (G) THE LEGISLATIVE AUDITOR SHALL AUDIT THE ACCOUNTS AND
12 TRANSACTIONS OF THE HISTORIC CEMETERY FUND, AS PROVIDED IN § 2-1220 OF THE
13 STATE GOVERNMENT ARTICLE.

14 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
15 October 1, 2000.