

HOUSE BILL 404

J3, C2

4r0530
CF SB 577

By: **Delegates Rosenberg, Braveboy, Busch, Reznik, and Schuh**

Introduced and read first time: January 24, 2014

Assigned to: Health and Government Operations

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 5, 2014

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,
15 Article – Business Regulation
16 Section ~~5–502 and 5–601~~
17 Annotated Code of Maryland
18 (2010 Replacement Volume and 2013 Supplement)

19 BY repealing and reenacting, with amendments,
20 Article – State Finance and Procurement
21 Section 10–309
22 Annotated Code of Maryland
23 (2009 Replacement Volume and 2013 Supplement)

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.



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

3 **Article – Business Regulation**

4 5–502.

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

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

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

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

13 ~~5–601.~~

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

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

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

20 **Article – State Finance and Procurement**

21 10–309.

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

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

28 **(II)** “PERPETUAL CARE” INCLUDES THE REPAIR AND
29 RENEWAL OF BUILDINGS, INCLUDING COLUMBARIA AND MAUSOLEUMS, AND
30 THE PROPERTY OF THE CEMETERY.

1 **(3)** “State facility” means:

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

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

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

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

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

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

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

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

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

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

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

31 ~~(f)~~ **(F)** Notwithstanding subsections (b) and (d) of this section, a cemetery
32 or an easement or right of entry to a cemetery owned by the State and located on the

1 grounds of a State facility may be sold by the State if the deed for the property
 2 includes a restrictive covenant requiring the owner and any future owner to maintain
 3 the cemetery as provided under subsection (c) of this section.

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

7 ~~(G)~~ **(H)** BEGINNING JANUARY 1, 2015, AND ON OR BEFORE JANUARY
 8 1 OF EACH SUCCEEDING YEAR, THE DEPARTMENT OF HEALTH AND MENTAL
 9 HYGIENE SHALL REPORT, IN ACCORDANCE WITH § 2-1246 OF THE STATE
 10 GOVERNMENT ARTICLE, TO THE SENATE FINANCE COMMITTEE AND THE
 11 HOUSE HEALTH AND GOVERNMENT OPERATIONS COMMITTEE ON THE
 12 IMPLEMENTATION OF THIS SECTION.

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

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.