

Department of Legislative Services
Maryland General Assembly
2026 Session

FISCAL AND POLICY NOTE
Enrolled - Revised

Senate Bill 233

(Senator Salling, *et al.*)

Finance

Economic Matters and Health

**Business Regulation - Cemeteries and Abandoned Cemeteries - Sale, Transfer, or
Government Acquisition and Disposition**

This bill (1) prohibits a registered cemeterian, permit holder, or the owner of a cemetery that is exempt from registration and permitting requirements, except as specified for a religious organization that is a cemetery owner, from selling or transferring a cemetery, in whole or in part, to another person, as specified, without the approval of the director of the Office of Cemetery Oversight (OCO); (2) specifies requirements that must be met before the OCO director approves a sale or transfer of a cemetery; (3) authorizes a court action by any party that has standing, as specified, and disputes the OCO director's decision regarding the sale of a burial ground for another purpose; (4) specifies procedures and requirements for a court proceeding and judgment; and (5) authorizes the State, a county, or a municipality to acquire an abandoned cemetery for specified purposes. The bill generally does not apply to property acquired by the Maryland Department of Transportation that is necessary for a public project.

Fiscal Summary

State Effect: OCO can likely implement the bill with existing resources, as discussed below. No effect on revenues.

Local Effect: The bill does not directly affect local government operations or finances.

Small Business Effect: Potential minimal.

Analysis

Bill Summary: The bill repeals the existing provisions in § 5-505 of the Business Regulation Article authorizing an action in court for sale of a burial ground for another purpose.

“Cemetery owner” means (1) a registered cemeterian; (2) a permit holder under Title 5, Subtitle 4 of the Business Regulation Article; or (3) an owner of a cemetery that is exempt from the registration and permitting requirements under Title 5 of the Business Regulation Article.

“Cultural affiliation” means a relationship of shared group identity that can be reasonably traced historically between a present-day group, tribe, band, or clan and an identifiable earlier group.

“Descendant community organization” means an organization that has members who have ancestors who are interred at a cemetery or who have a cultural affiliation with the deceased persons interred at a cemetery.

Prohibitions Against Selling or Transferring a Cemetery

The bill prohibits a registered cemeterian or permit holder from selling or transferring a cemetery, in whole or in part, to another person for a use other than a cemetery without the approval of the OCO director. Also, the owner of a cemetery that is exempt from registration and permitting requirements (except a religious organization that is a cemetery owner) is prohibited from selling or transferring the cemetery, in whole or in part, to another person without the approval of the OCO director.

Office of Cemetery Oversight – Approval of the Sale or Transfer of a Cemetery

Before approving the sale or transfer of a cemetery, the OCO director must require a cemetery owner to submit:

- ***an application*** – the application must include, among other things, (1) the name and address of each owner; (2) notice of the intent to sell or transfer the cemetery, including a description of the cemetery, as specified; (3) the name and contact information of any known potential buyers or transferees of the cemetery; (4) an agreement to submit a preservation plan; and (5) a copy of the public notice required under the bill;
- ***a completed preservation plan*** – the plan must be developed, in consultation with the director, and attempt to identify and contact (1) any descendant or descendant community organization of an individual interred in the cemetery; (2) any individual

or family who has purchased an unused plot in the cemetery; and (3) any person that has worked to maintain the abandoned cemetery; and

- ***evidence of having fulfilled public notice requirements*** – satisfactory evidence of completion of the public notice requirements, including (1) publishing notice of the sale or transfer in a newspaper of general circulation in the county where the cemetery is located for nine successive weeks; (2) placing a written notice of intent to sell or transfer in the cemetery at a conspicuous location in full public view for at least 60 days; (3) providing notice to local genealogical and historical societies; and (4) holding a public meeting at which public testimony must be offered. A public notice must include information as specified in the bill.

The OCO director must consider any public comments about the cemetery received by the cemetery owner at a public hearing or by the director, including whether the cemetery owner has considered the concerns of the descendant community. More specifically, the director must consider, among other things, (1) reasons for the proposed sale or transfer and future plans for the property; (2) whether the current location of the cemetery holds any cultural or historical significance; and (3) the cost of disinterment and reinterment of the human remains or pet remains in the cemetery and who should bear the cost.

The OCO director must approve the sale or transfer of, or part of, a cemetery if (1) the cemetery owner satisfies all the requirements of the bill and (2) the director determines that it is in the interest of all parties to sell or transfer the cemetery or part of the cemetery.

Standing to Bring Court Action

If any party disputes the OCO director's decision, an action may be brought in accordance with the Maryland Rules and a court may pass judgment regarding the sale of a burial ground for another purpose. The following persons, organizations, and governmental units have standing to bring a court action:

- a person with a burial right in the cemetery;
- a descendant community organization;
- a nonprofit organization that has a purpose of preserving the cemetery;
- a governmental unit with a financial, regulatory, or other interest in the property; and
- a person in interest, who is a person that – with respect to a person interred in a burial site – (1) is related by blood or marriage; (2) is a domestic partner; (3) has a cultural affiliation; or (4) has an interest in a burial site that the Office of the State's Attorney for the county where the burial site is located recognizes is in the public interest after consultation with a local burial sites advisory board or, if such board does not exist, the Maryland Historical Trust.

The owner of the property that includes the cemetery has the burden of proof in any proceeding regarding the disposition of the property and the cemetery.

Court Procedures and Judgment

After hearing from any person who has standing under the bill's provisions and who wishes to be heard on the proposed sale, transfer, or alternate use of the cemetery, the court must (1) allow – or prohibit – the proposed sale, transfer, or alternate use of all or part of the cemetery or (2) order an alternative disposition of the cemetery. Further, a court must make all required determinations for the disposition of a property that includes a cemetery within six months after the action is served.

Allowing the Sale of a Cemetery

If the court is satisfied that it is appropriate or would be in the interest of a person who has standing under the bill's provisions to sell the cemetery, the court must:

- pass a judgment for the sale of the cemetery on the terms and notice the court sets;
- order that as much of the proceeds of the sale as necessary be used to pay the costs of removing any human remains in the cemetery, buying burial lots in another cemetery, and reburying the remains; and
- distribute the remaining proceeds of the sale among the parties according to their interests.

A judgment approving the sale of a cemetery conveys the title of the cemetery free of the claims of the owners of the cemetery and holders of burial rights in the cemetery.

Prohibiting the Sale or Transfer of a Cemetery

If the court determines that the sale or transfer of a cemetery is inappropriate and not in the best interest of a person who has standing under the bill's provisions, the court must either (1) approve the transfer to a descendant community organization or other nonprofit organization that agrees to maintain and preserve the cemetery as well as approve the price of the transfer, including a donation or nominal fee or (2) order a negotiation between the owner of the cemetery and the person that wishes to acquire it.

Applicability to Religious Organizations

As noted above, the bill's requirements for the sale or transfer of a cemetery generally do not apply to a religious organization that is a cemetery owner. However, before selling or transferring a cemetery, a religious organization must (1) attempt to identify and contact any descendant or descendant community organization of an individual interred in the

cemetery, any individual or family who has purchased an unused plot in the cemetery, and any person that has worked to maintain the abandoned cemetery and (2) provide public notice of the intent to sell or transfer the cemetery, as specified.

Acquisition and Transfer of an Abandoned Cemetery – State, County, or Municipality

“Abandoned cemetery” means a cemetery for which (1) legal ownership cannot be determined; (2) the person with legal responsibility for operation or maintenance of the cemetery cannot be determined; (3) the entity that operated the cemetery has ceased to operate; or (4) the real property on which the cemetery is located has been condemned.

The bill authorizes the State, a county, or a municipality to acquire an abandoned cemetery, including ownership of any unoccupied lots or burial sites, for the purpose of transferring ownership of the abandoned cemetery to a descendant community organization, veterans organization, or nonprofit organization, so long as the organization agrees to properly maintain, preserve, and protect the cemetery. After acquiring property on which an abandoned cemetery is located, a governmental unit must make timely and reasonable efforts to contact descendants of the deceased persons interred in the abandoned cemetery in order to identify descendants, a descendant community organization, veterans organization, or nonprofit organization to which the property may be transferred. A person or organization specified immediately above may bring a court action against a governmental unit for transfer of the property. If so, the court must make a determination on the disposition of the property within six months after a governmental unit is served in an action.

If, after acquisition, the governmental unit is unable to transfer ownership of the abandoned cemetery within a reasonable period, the OCO director may facilitate the reinterment of any human remains or pet remains from the abandoned cemetery to an operational cemetery in a professional manner.

Current Law:

“Cemetery” is land used or to be used for interment, including a structure used or to be used for interment.

Action for Sale of Burial Ground for Another Purpose

An action may be brought in accordance with the Maryland Rules and a court may pass a judgment for sale of a burial ground for another purpose if (1) the ground has been dedicated and used for burial; (2) burial lots have been sold in the burial ground and deeds executed or certificates issued to buyers of the lots; (3) the ground has ceased to be used for burial; and (4) it is desirable to dispose of the burial ground for another purpose.

If the court passes a judgment for the sale of the burial ground, the court must order that the sales proceeds pay the expenses of removing any human remains in the burial ground, buying burial lots in another burial ground, and reburying the remains, and that the remaining sales proceeds be distributed among the parties according to their interests.

A judgment for the sale of a burial ground passes to the buyer of the burial ground the title to the burial ground free of the claims of (1) the owners of the burial ground and (2) the holders of burial lots.

Also, under § 5-506 of the Business Regulation Article, an action may be brought in accordance with the Maryland Rules and a court may pass a judgment for sale of burial ground in Baltimore City for another purpose, as specified. The bill does not affect these provisions.

Maryland Rule 14-401 – Action for Sale of a Burial Ground for Another Use

Maryland Rule 14-401 specifies the court procedures for an action for sale of a burial ground for a use other than burial purposes, including (1) that the action must be brought in the county in which the burial ground is located, or if located in more than one county, in any county in which all or any part of the burial ground is located; (2) the contents and requirements of the complaint initiating court action; and (3) notice of the court action published and posted by the clerk of the court, as specified, to all lot owners or other persons in interest.

Interpretation of § 5-505 of the Business Regulation Article

The Supreme Court of Maryland, in *Bethesda Afr. Cemetery Coal. v. Hous. Opportunities Comm'n*, held that § 5-505 of the Business Regulation Article, among other things:

- requires, under Maryland Rule 14-401(c) and § 14-121 of the Real Property Article, that a person be a “person in interest” to have standing to bring a court action;
- operates alongside the common law of burial places that gives interested parties specific rights not covered by the statute that the circuit court, as a court of equity, has jurisdiction, such as a right to prevent desecration of a grave, or a right to disinterment of human remains because the ground is unsuitable for burial;
- is narrower than the common law of burial places, because it is only available for certain types of burial grounds (applies only when there is a sale for another purpose, and burial lots have been sold in the burial ground and deeds executed or certificates issued to buyers of the lots); and
- is an “optional mechanism to make it easier to sell and repurpose certain burial grounds,” because a court judgment cuts off any legal and equitable claims to the

burial ground, but the statute does not require the owner of the cemetery to file a court action before selling burials grounds for another purpose. 489 Md. 1, 44 n.25, 49 n.28, 77-78, 81 (2024).

Office of Cemetery Oversight

OCO's primary responsibilities are to register and monitor individuals and businesses engaged in the operation of cemeteries and burial goods businesses in Maryland. This includes individuals and companies that sell funerary monuments and memorials on a retail basis. (OCO also regulates and provides registration for crematories and reduction facilities under its jurisdiction in the State until July 1, 2026, when that regulatory authority transfers to the State Board of Morticians and Funeral Directors under Chapters 187 and 188 of 2026.)

Responsibilities of OCO include the investigation and mediation of consumer complaints involving registrants and permit holders. To protect Maryland citizens from unfair and unscrupulous practices, OCO determines and enforces the ethical standards related to the operation of cemeteries and those related to the provision of burial goods and services within the State. OCO also regulates and monitors the funds held in perpetual care and preneed trusts by its licensees. OCO's operations are funded by the Cemetery Oversight Fund, which receives fees paid to OCO by registrants and permit holders.

Registration and permitting requirements for cemetery owners and operators do not apply to (1) *bona fide* religious nonprofit cemeteries; (2) nonprofit organizations created before 1900 by an Act of the General Assembly that own a cemetery; (3) a county, city, or municipal corporation that owns and operates a cemetery; (4) a veterans' cemetery operated by the State; or (5) a private family cemetery that does not conduct private sales.

State Expenditures: OCO indicates that it requires one full-time administrative specialist, one full-time investigator, and contractual legal services at an annual cost of \$30,000, for a total cost of \$158,237 in fiscal 2027, to process applications and implement other related requirements under the bill. The Department of Legislative Services (DLS) acknowledges that the bill expands the work of OCO; however, because the bill is expected to apply in a limited number of cases, DLS disagrees that additional staffing is required. Instead, DLS advises that the processing of applications and other duties required under the bill can likely be handled with existing resources. To the extent that the number of cemetery sales and transfers exceeds expectations and additional staff are required, OCO can request additional resources through the annual budget process.

This analysis assumes that the Judiciary can handle any additional court actions resulting from the bill, which are expected to be limited in number, with existing budgeted resources.

Additional Comments: Chapters 411 and 412 of 2025 established the Maryland Inventory of Cemeteries and Burial Sites Workgroup, staffed by the Maryland Historical Trust, to study issues related to the development and maintenance of a State cemetery inventory system. On December 1, 2025, the workgroup issued its [report](#).

Additional Information

Recent Prior Introductions: Similar legislation has been introduced within the last three years. See SB 1021 and HB 1354 of 2025.

Designated Cross File: HB 892 (Delegate Hill, *et al.*) - Economic Matters and Health.

Information Source(s): Harford, Montgomery, and Wicomico counties; Maryland Municipal League; Judiciary (Administrative Office of the Courts); Maryland Department of Labor; Maryland Department of Planning; Maryland State Archives; Department of Legislative Services

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