

Department of Legislative Services
Maryland General Assembly
2026 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 233
Finance

Business Regulation - Cemeteries - Actions for Sale, Transfer, or Alternate Use

This bill alters the requirements and procedures related to a court action that may be brought for the sale of a burial ground for another purpose, and it makes them applicable to Baltimore City.

Fiscal Summary

State Effect: The bill is not anticipated to materially affect the operations or finances of the Judiciary.

Local Effect: The bill is not anticipated to materially affect local government operations or finances.

Small Business Effect: Potential meaningful.

Analysis

Bill Summary:

Definitions in the Business Regulation Article

The bill expands the definition of “cemetery” under current law to include a structure used to conduct business related to the operation of a cemetery.

“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.

Court Action – Sale, Transfer, or Alternate Use of a Cemetery

The bill repeals the current requirements for bringing an action for a court to pass a judgment for sale of a *burial ground* for another purpose. Instead, the bill expands when a court action may be brought – when the owner of property that includes a *cemetery* proposes the sale, transfer, or alternate use of all or part of the cemetery that does not conform with the operation of a cemetery. 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.

Standing to Bring Court Action

The following persons, organizations, and government 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 an interest in the property; or
- 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 (MHT).

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.

Allowing the Sale of a Cemetery

The bill modifies the provision related to the court’s judgment for the sale of a cemetery by:

- *requiring* the court to pass a judgment for the sale of the cemetery on the terms and notice the court sets, if the court is satisfied that it is appropriate or would be in the interest of the persons who have standing under the bill's provisions to sell the cemetery; and
- replacing a potential claimant to the cemetery – the holders of *burial lots* – with the holders of *burial rights in the cemetery*, whose claims are cut off by a judgment approving the sale of a cemetery and conveyance of title.

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 interests of a person who has standing under the bill's provisions, the court must (1) approve the transfer to a descendant community organization or other nonprofit organization that agrees to maintain and preserve the cemetery, and 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.

Court Action for the Sale of a Burial Ground for Another Purpose – Baltimore City

The bill repeals provisions that specifically apply to Baltimore City related to an action that may be brought in accordance with Maryland Rules for the sale of a burial ground for another purpose.

Current Law:

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 Maryland Rules and a court may pass a judgment for sale of burial ground

in Baltimore City for another purpose, as specified. (As noted above, the bill repeals 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.

Burial Site Access

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 a burial site by the public or any person in interest to grant reasonable access to the burial site for the purpose of restoring, maintaining, or viewing the burial site. Statute includes related provisions, including that an owner who allows persons to enter or go on the land for the aforementioned purposes is not liable for damages in a civil action to a person who enters on the land, as specified.

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

The Office of Cemetery Oversight (OCO), within the Department of Labor, is primarily responsible for registering and monitoring individuals and businesses engaged in the operation of cemeteries and burial goods businesses in Maryland. 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.

Small Business Effect: Small businesses that own cemeteries and propose to sell, transfer, or alternatively use all or part of a cemetery may face court actions that would not have occurred, in the absence of the bill, because the bill (1) specifies the parties who have standing to bring a court action and (2) expands the conditions on which a court action may be brought.

Additional Comments: Chapters 411 and 412 of 2025 established the Maryland Inventory of Cemeteries and Burial Sites Workgroup, staffed by MHT, 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 not been introduced within the last three years; however, legislation with similar provisions has been proposed. For example, see SB 1021 and HB 1354 of 2025.

Designated Cross File: None.

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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