

**LD 1054 An Act To Clarify the Use of Burying Grounds and Family Burying Grounds**

To: Members, Joint Standing Committee on State and Local Government

From: Lynne Caswell, Esq., Legislative Analyst

Date: April 10, 2019

**SUMMARY**

This bill amends sub-§1141 and sub-§1142 of Title 13, Corporations, Chapter 83, Cemetery Corporations, subchapter 2, Burying Grounds.

1. The written description of a burying ground or family burying ground that must be recorded, may only be recorded with the registry of deed and not, as currently permitted, with the town clerk.
2. Creating a burying ground or family burying ground does not constitute the creation of a lot for subdivision purposes;
3. A burying ground or family burying ground is exempt from the following provision in any ordinance or land use regulation:
  - a. Minimum lot size;
  - b. Road frontage; and
  - c. Other dimensional requirements
4. Allows the person who creates a family burying ground to establish a different access route from the public way to the ground in any subsequent conveyance,;
5. Allows the landowner of the surrounding land to designate another access route of “equal convenience” to the family burying ground.
6. Allows heirs to continuing using a family burying ground to inter

**TESTIMONY****Sponsor** (Representative Bailey)

- on behalf of MSBA Real Estate and Title Section
- to address longstanding issues

**Proponents** (John Cunningham, Esq. on behalf of MSBA Real Estate and Title Section; Helen Shaw; Corelyn Senn)

- still being created;
- record only in registry of deeds is better;
- “most direct route” is nice and simple but may not be practical (i.e. wetlands); and
- Nonconforming lot under many zoning laws

**Opponents** – none

**NFNA** – none

**POTENTIAL ISSUES / TECHNICAL PROBLEMS**

1. Does the “route of equal convenience” become the permanent access route upon subsequent conveyance?
2. Why exemption from minimum lot size; road frontage; and other dimensional requirements?
3. Are setback requirements part of “other dimensional requirements” if so will an unintended consequence be placing hazardous objects (aka dangerous fixed object) in or near roadway?
4. Should the language exempting these from subdivision law be placed in section on subdivision law?

**FISCAL IMPACT - Preliminary (OFPR)**

None provided as of April 10, 2019>