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Legislative Document

No. 1054

H.P. 777

House of Representatives, February 28, 2019

An Act To Clarify the Use of Burying Grounds and Family Burying Grounds

Reference to the Committee on State and Local Government suggested and ordered printed.

Robert B. Hunt
ROBERT B. HUNT
Clerk

Presented by Representative BAILEY of Saco.

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 13 MRSA §1141** is repealed and the following enacted in its place:

3 **§1141. Grounds inalienable; description recorded**

4 When a person appropriates for a burying ground a piece of land containing not more
5 than 1/2 of an acre, that piece of land is exempt from attachment and execution, is
6 inalienable and indivisible by the owners without the consent of all the owners and must
7 be kept fenced or otherwise substantially marked and occupied as a burying ground. The
8 person appropriating the land shall cause a written description of it, under the hand of all
9 the owners and attested by 2 disinterested witnesses, to be recorded in the registry of
10 deeds in the county or district where the piece of land lies. A piece of land appropriated
11 under this section may be used only as a burying ground and is exempt from any
12 minimum lot size, road frontage or other dimensional requirement of any land use
13 regulation or ordinance. The appropriation of a burying ground under this section does
14 not create a lot or lots for the purposes of Title 30-A, section 4401, subsection 4.

15 **Sec. 2. 13 MRSA §1142**, as amended by PL 1991, c. 412, §1, is further amended
16 to read:

17 **§1142. Family burying grounds**

18 When a person appropriates for a family burying ground a piece of land containing
19 not more than 1/4 of an acre, causes a description of it to be recorded in the registry of
20 deeds of the same county or ~~by the clerk of the town~~ district where it is situated and
21 substantially marks the bounds of the burying ground or encloses it with a fence, it is
22 exempt from attachment and execution. ~~No subsequent conveyance of it is valid while~~
23 ~~As long as~~ any person is interred in the burying ground; ~~but, it must remain to~~ may be
24 used as a burial place by the person who appropriated, recorded and marked that burying
25 ground and ~~to by~~ that person's heirs as a burial place forever. If property surrounding a
26 burying ground appropriated pursuant to this section is conveyed, ~~the property is~~
27 conveyed by the person who appropriated the property or by an heir of that person and
28 the conveyance causes the burying ground to be inaccessible from any public way, ~~then~~
29 the conveyance is made subject to an easement for the benefit of the spouse, ancestors
30 and descendants of any person interred in the burying ground. The easement may be used
31 only by persons to walk ~~in a direct route from the public way nearest the burying ground~~
32 ~~to the burying ground at reasonable hours~~ to the burying ground at reasonable hours using
33 a reasonably convenient route established in the conveyance or, if a route was not
34 established in the conveyance, in a direct route from the public way nearest the burying
35 ground or using another route of equal convenience designated by the landowner. A
36 piece of land appropriated under this section may be used only as a family burying
37 ground and is exempt from any minimum lot size, road frontage or other dimensional
38 requirement of any land use regulation or ordinance. The appropriation of a family
39 burying ground under this section does not create a lot or lots for the purposes of Title
40 30-A, section 4401, subsection 4.

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SUMMARY

This bill clarifies the law relating to the use of burying grounds and family burying grounds. It requires that the description of a burying ground or family burying ground be recorded only in the registry of deeds and not with the town clerk. The bill also allows property surrounding a family burying ground to be conveyed as long as reasonable access, including the establishment of an easement route, is provided to the spouse, ancestors and descendants of persons interred there.