

LD 806, AS DISCUSSED BY SUBCOMMITTEE AND
AGREED TO BY INTERESTED PARTIES

Section 1. 13 MRSA §1101(1), is amended to read:

1. Grave sites of veterans in ancient burying grounds. In any ancient burying ground, as referenced in Title 30-A, section 5723, the municipality in which that burying ground is located, in collaboration with veterans' organizations, cemetery associations, civic and fraternal organizations and other interested persons, shall keep in good condition all graves, headstones, monuments and markers designating the burial place of Revolutionary soldiers and sailors and veterans of the Armed Forces of the United States. To the best of its ability given the location and accessibility of the ancient burying ground, the municipality, in collaboration with veterans' organizations, cemetery associations, civic and fraternal organizations and other interested persons, shall keep the grass, weeds and brush suitably cut and trimmed on those graves from May 1st to September 30th of each year. A municipality may designate a caretaker to whom it delegates for a specified period of time the municipality's responsibilities regarding an ancient burying ground. Caretakers shall not be considered agents of the municipality unless they are undertaking activity pursuant to a written designation signed by the municipal officers.

Section 2. 13 MRSA §1101-A, sub-§1, is amended to read:

1. Ancient burying ground. "Ancient burying ground" means a private cemetery established before 1880: wherein burial is restricted to members of the family or families who established the cemetery and their descendants, or to persons or group of persons specified by those who established the cemetery, but may include others of their choosing

Section 3. 13 MRSA §1101-B, sub-§3, is enacted to read:

3. Documentation; lack of documentation or apparent marked boundaries. The existence of an ancient burying ground may be documented in family papers, including but not limited to deeds or manuscripts or published records of the history of the county or municipality where the ancient burying ground is located or on historical or current maps of the area where the ancient burying ground is located.

The existence of an ancient burying ground may be documented in the records of the register of deeds of the county in which the ancient burying ground was located when it was established or in the records of the municipality in which the ancient burying ground was located when it was established.

A lack of documentation of an ancient burying ground as described in this subsection does not negate the existence of, or a place's status as, an ancient burying ground.

A lack of apparent marked boundaries of an ancient burying ground does not negate the existence of, or a place's status as, an ancient burying ground.

LD 1054, WITH AMENDMENTS AGREED TO BY J. CUNNINGHAM, ESQ.

13 MRSA §1141 is repealed and the following enacted in its place:

§ 1141. Grounds inalienable; description recorded

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

13 MRSA §1142, is amended to read:

§ 1142. Family burying grounds

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