

## 1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend the Code of Virginia by adding in Article 4 of Chapter 3 of Title 57 a section numbered*  
 3 *57-39.1:2, relating to cemeteries; maintenance of abandoned or neglected graveyards; owner unknown.*

4 [H 1237]

5 Approved

6 **Be it enacted by the General Assembly of Virginia:**

7 **1. That the Code of Virginia is amended by adding in Article 4 of Chapter 3 of Title 57 a section**  
 8 **numbered 57-39.1:2 as follows:**

9 **§ 57-39.1:2. *Maintenance of abandoned or neglected graveyards; owner unknown.***

10 *A. When a graveyard, wholly or partly within any locality, has been abandoned, is unused and neglected*  
 11 *by the owner, and the owner of such graveyard is unknown, or cannot with reasonable diligence be found, the*  
 12 *owner of adjacent land or an incorporated nonprofit entity may petition the circuit court of the county or city*  
 13 *in which the graveyard is located for an exclusive license to maintain the property at the petitioner's expense.*  
 14 *Such petition shall set forth the type of maintenance for which such license is sought, which may include (i)*  
 15 *mowing and weeding; (ii) removing brush, debris, and refuse without mechanical equipment or ground*  
 16 *disturbance; (iii) applying fertilizers/herbicides; (iv) trimming trees or removing dead trees; (v) cleaning,*  
 17 *repairing, or resetting headstones and monuments; (vi) installing replacement memorials or memorials for*  
 18 *newly identified graves; (vii) replacing fencing; (viii) developing preservation plans; and (ix) identifying*  
 19 *unmarked graves though ground penetrating radar.*

20 *B. Following a hearing on a petition pursuant to subsection A, the court may grant an exclusive license*  
 21 *for the maintenance of a graveyard upon a showing by the petitioner of (i) a good faith effort to identify and*  
 22 *contact an owner of record of the graveyard, or his heirs if such owner of record is known to be dead, to seek*  
 23 *permission to maintain the graveyard and (ii) publication in a newspaper having general circulation in the*  
 24 *locality in which the graveyard is located once a week for two consecutive weeks at least 20 days before the*  
 25 *date fixed for the hearing containing (a) a declaration that such graveyard has been presumed abandoned,*  
 26 *(b) notice that a petition for a maintenance license has been filed, and (c) the date of the hearing for such*  
 27 *maintenance license.*

28 *C. A court may grant a petitioner an exclusive license for the maintenance of a graveyard not to exceed*  
 29 *five years. Such petitioner may, by petition of the court, renew such license indefinitely. After the petitioner*  
 30 *has been granted such license, the petitioner shall have the same rights and obligations as any person*  
 31 *granted the right of ingress and egress pursuant to subsections A, B, and C of § 57-27.1.*

32 *D. After the court grants a petitioner a license to maintain the property of an abandoned graveyard, the*  
 33 *owner of such graveyard may petition the circuit court of the county or city in which the graveyard is located*  
 34 *to terminate the license. Such owner, in the absence of gross negligence or willful misconduct, shall be*  
 35 *immune from liability in any civil suit, claim, or cause of action arising out of any access granted to the*  
 36 *petitioner pursuant to this section.*

37 *E. All costs incurred in any petition to obtain a license to maintain the property of an abandoned*  
 38 *graveyard pursuant to subsections A, B, and C shall be at the petitioner's expense.*

ENROLLED

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