SENATE COMMITTEE ON
BUSINESS, PROFESSIONS AND ECONOMIC DEVELOPMENT
Senator Dr. Aisha Wahab, Chair
2025 - 2026 Regular

Bill No:	AB 929	**Hearing Date:**	August 26, 2026
Author:	Connolly		
Version:	August 26, 2026		
Urgency:	No	**Fiscal:**	No
Consultant:	Elissa Silva		

Subject: Abandoned endowment care cemeteries: County of Marin.

SUMMARY: Permits the County of Marin to transfer the ownership of a single, designated, abandoned endowment care cemetery to either a nonprofit entity or another licensee of the Cemetery and Funeral Bureau (Bureau), as specified, and sunsets that authority on January 1, 2029.

<u>NOTE:</u> Senate floor amendments of 8/26/26 create a new bill and this measure has been referred to the Committee pursuant to Senate Rule 29.10 (c) for consideration. The Committee may, by a vote of the majority, either: (1) hold the bill, or (2) return the bill to the Senate floor for consideration of the bill as amended.

Existing law:

1) Establishes the Bureau within the Department of Consumer Affairs (DCA) to administer and enforce the Cemetery and Funeral Act (Act), subject to review by the Legislature as though it were scheduled to be repealed on January 1, 2029. (Business and Professions Code (BPC) § 7602)

2) Establishes the Act, which provides for the licensing and oversight of 14 professional categories within the death care industry. (BPC §§ 7600 *et seq.*)

3) Permits the Bureau to inspect the premises in which the business of a funeral establishment, reduction facility, cemetery, or crematory is conducted, where embalming is practiced, or where human remains are stored. (BPC § 7607)

4) Defines a “cemetery manager” as a person who engages in or conducts those activities involved in, or incidental to, the maintaining, operating, or improving a cemetery licensed under the Act, the interring of human remains, and the care, preservation, and embellishment of cemetery property. (BPC § 7611.4(a))

5) Exempts the following from the provisions of the Act:

   a) A religious corporation, church, religious society or denomination, a corporation sole administering temporalities of any church or religious society or denomination, or any cemetery organized, controlled, and operated by any of them.

   b) A public cemetery.

c) Any private or fraternal burial park not exceeding 10 acres in area, established prior to September 19, 1939; however, those cemeteries are subject to the cemetery brokerage provisions of the Act, and any cemetery is subject to all of the provisions of the Act, if it collects a care, maintenance, or embellishment deposit or sets up a trust for burial purposes, as specified, including funeral services such as mortuary, cremation, or other commodities or services furnished at the time of and in connection with that funeral or cremation. (BPC § 7612.2)

6) Authorizes a cemetery authority from time to time to adopt plans for the general care, maintenance, and embellishment of its cemetery, and charge and collect from all subsequent purchasers of plots such reasonable sum as, in the judgment of the cemetery authority, will aggregate a fund, the reasonable income from which will provide care, maintenance and embellishment. (HSC § 8728)

7) Requires the endowment care fund to be kept separate and apart from all other cemetery funds, including separate records and books, as specified, and prohibits when selling cemetery property, a commission being paid to a broker or salesman on the amount deposited by the purchaser in the fund. (HSC § 8738.2)

This bill:

1) Authorizes the County of Marin, if it acquires title to the Mount Tamalpais Mortuary and Cemetery, to transfer ownership, care and management to either of the following:

   a) A California nonprofit organization in good standing;

   b) A cemetery authority licensed under the Cemetery Act.

2) Exempts the entity that acquires the Mount Tamalpais Mortuary and Cemetery from liability for any debts, obligations, taxes, fines, judgements, or recordkeeping failures of a prior owner or cemetery authority arising before the date the successor acquires ownership and assumes responsibility for the care and management of the Mount Tamalpais Mortuary and Cemetery; however, this does not absolve the successor from honoring valid burial rights or prepaid burial contracts.

3) States that liability exemptions are applicable to any transfer regardless of when the County of Marin acquired title to the Mount Tamalpais Mortuary and Cemetery and regardless of whether the successor transfer occurs before or after the effective implementation date of this bill.

4) Sunsets the authority provided in this bill on January 1, 2029.

5) Makes the provisions of this bill operative only if SB 1312 (Richardson) is enacted.

6) Makes findings and declarations related to the necessity to create a tailored and narrow transfer process for the County of Marin.

FISCAL EFFECT: Unknown. This bill is not keyed fiscal by Legislative Counsel.

COMMENTS:

1. **Purpose.** The County of Marin is the sponsor of this bill. According to the Author, "For years, families in Marin County have been forced to personally maintain the graves of their loved ones in overgrown grounds, damaged, and unsafe conditions due to the mismanagement and neglect at Mt. Tamalpais Cemetery. AB 929 offers a long-term path forward by allowing the County of Marin to transfer this property to a responsible nonprofit or licensed cemetery authority."

2. **Background.**

   Cemetery and Funeral Bureau. The Bureau licenses, regulates, and investigates complaints against California funeral establishments, funeral directors, embalmers, apprentice embalmers, cemetery brokers, cemetery salespersons, cremated remains disposers, crematories, crematory managers, cemetery managers, cemetery brokers and privately-owned cemeteries in the state. The Bureau does not have authority over cemeteries operated by religious organizations, cities, counties, or cemetery districts, the military, or tribal governments. The Bureau has oversight of both the fiduciary and operational activities of its licensing population. With respect to the financial aspect of the industry, the Bureau is responsible for the oversight and regulation of preneed funeral trust funds, cemetery endowment care trust funds, and cemetery special care trust funds.

   Cemetery Oversight. When it comes to operating a cemetery, there are typically two licenses involved: 1) the cemetery manager who is the person engaged in the maintenance, operations, and improvements of a licensed cemetery and 2) the cemetery authority, which includes cemetery association, corporation, sole, limited liability company, or other person owning or controlling the cemetery lands or property. The Bureau oversees approximately 19 cemetery authority licensees. When the Bureau revokes a cemetery authority license, its regulatory jurisdiction over that business or individual ends. However, cemeteries are unique in that the Bureau can revoke the license, but the "business" does not end. There is still a piece of land or real estate wherein deceased people are buried that must be maintained. The Bureau's jurisdiction over a revoked or lapsed cemetery license remains only for approving interments as specified in BPC § 7653.1 and pursuant to Title 16 of the California Code of Regulations § 2332. Current law permits the Bureau to approve interments in cemeteries where the license has lapsed or been revoked. However, the Bureau's authorization is limited to allowing interments for decedents who have a right of interment through a preneed contract. The endowment care funds associated with that cemetery must remain as trust funds and can only be used for the purpose for which they were intended.

   A Bureau-licensed cemetery is any private, non-religious cemetery established after 1939. Any cemetery established after September 7, 1955, is required to be an endowment care cemetery (HSC § 8739.1). An endowment care cemetery is one in which a portion of the purchase price contributes to an *endowment care* fund. Income generated from the fund provides for the regular care of the cemetery, including routine maintenance such as cutting grass, grave upkeep, caring for trees, maintenance of water supply systems, roads, drainage, etc. The minimum amount to be contributed for the endowment care fund is provided in HSC § 8738.

Endowment care funds are collected no later than at completion of the initial sale. The intent of endowment care is to ensure that the maintenance and care of cemetery grounds are continuous to help prevent cemeteries from falling into disrepair. The Bureau has the authority to inspect and audit endowment care funds and cemeteries are required to report annually the status and conditions of such funds (BPC § 7612.6).

Pursuant to current regulations, every cemetery with an endowment care fund must develop cemetery maintenance standards. These standards are to help ensure the property can maintain a condition that helps to prevent the offensive deterioration of a cemetery. Examples of maintenance standards include trimming or mowing grass, removing shrubs and trees, removing or suppressing weeds, providing enough water to keep grass and plants green as seasonably possible in accordance with natural terrain, availability of water, and local or county ordinances regarding water use.

The monies reserved for endowment care are based on the sale from each interment space sold and those deposits are to be added to the principal of the trust. Current law prohibits spending the principal of the endowment care trust fund and instead, the principal is to be invested with the intent to earn income for the cemetery's long term general care and maintenance. Part of the issue for many cemeteries, especially older cemeteries, is they have limited new interment space to offer, and therefore are no longer able to collect funds for purposes of endowment care. As the cost of maintenance and care for cemeteries and properties in general has increased, invested dollars from many years ago may not be sufficient to keep up with today's maintenance or repair costs.

As noted by the Bureau in its 2024 Sunset Review Report, "it is the older cemeteries that are struggling with maintenance. Once a cemetery has sold most or all its cemetery spaces, business operating finances decline, and the cemetery authority must rely more on the income from the endowment care fund to maintain the cemetery grounds." As reported in the Bureau's 2017 Endowment Care Sufficiency Study, "many licensed cemeteries in California have an underfunded endowment care. As these cemeteries are private businesses, this leads to either the abandonment of the cemetery by cancelling the license, or the Bureau pursuing disciplinary measures that can include revocation."

Abandoned Endowment Care Cemeteries. Separate but related to the lack of sufficient endowment care funds, is the issue of abandoned private cemeteries. The Bureau's 2024 staff sunset background paper noted growing concerns regarding abandoned cemeteries and posed the question as to what steps could be taken to ensure that older cemeteries are appropriately and respectfully maintained by another entity after they have been abandoned by a licensee. Currently, when a private cemetery has not interred more than 10 human bodies in the preceding five years or if it threatens or endangers the health, safety, comfort, or welfare of the public, statute allows (but does not require) a city or county to declare that cemetery abandoned.

Pursuant to BPC § 7613.11, 90 days following the cancellation, revocation, or suspension of a cemetery license, the Bureau is required to take title of the endowment care funds and take possession of all the books, records, property, or assets and act as the conservator over the management of the cemetery. The goal is to ensure the cemetery can be maintained for the time being while there is no licensee. The Bureau is to appoint a trustee to manage the funds. However, if the ownership is transferred to another licensee, then the Bureau does not need to intervene.

To help determine a practicable resolution to the vexing challenge of abandoned privately-owned cemeteries, AB 3254 (Berman, Chapter 589, Stats. of 2024) required the Bureau to convene a workgroup by July 1, 2027. The workgroup was to be comprised of representatives from the cemetery industry, county government, and other interested stakeholders to discuss options for ensuring continued care, maintenance, and embellishment of abandoned cemeteries, including the possibility of requiring counties to assume responsibility for cemeteries located within their boundaries that become abandoned. That bill also required the Bureau to report on the workgroup's discussions and recommendations no later than January 1, 2028, in advance of its next sunset review. Subsequently, SB 777 (Richardson, Chapter 658, Statutes of 2025) required the workgroup to convene sooner, and the Bureau provide a report to the Legislature by March 1, 2026.

To address the current issue that arises when a cemetery property is no longer under the oversight of a Bureau-cemetery licensee, SB 1312 (Richardson of 2026) proposes to establish a process by which a county can take title to an abandoned endowment care cemetery property and subsequently transfer the cemetery property to a nonprofit public benefit corporation for purposes of maintenance and care of the cemetery property. As proposed by SB 1312, a cemetery will be considered abandoned if 1) the license has been canceled, suspended, or revoked by the Bureau and within a year a new licensee has not assumed responsibility, 2) the Bureau has conserved the endowment care fund as authorized under existing law and 3) the cemetery is negatively impacting public safety and welfare.

If a county takes title of the property, the county will be required to honor any outstanding contracts for burial that were sold or executed by the previous cemetery licensee. Upon the transfer of ownership of the abandoned cemetery to a county, SB 1312 proposes to exempt the county that takes title of the property from any debts, obligations, taxes, fines, or judgements of the previous owner. Any outstanding endowment care funds must be transferred to the county and placed in a special county fund which the county may only be expended for the care, maintenance, and embellishment of the abandoned endowment care cemetery.

While a county may choose to take ownership of the property, it may not want to provide the care and maintenance of the cemetery. To that end, SB 1312 would permit a county to transfer responsibility for only the care and maintenance of that cemetery to a California nonprofit public benefit corporation in good standing to oversee the burials, care, maintenance, and embellishment of the cemetery. Under this circumstance, the nonprofit public benefit corporation may seek reimbursement from the Bureau for monies from the endowment care fund for purposes of care, maintenance, and embellishment of the cemetery property. The Bureau is to remain in control of the endowment care funds until such time new licensee is identified or the county resumes management. Under this scenario, the nonprofit is exempt from any liability for the debts, obligations, taxes, fines or judgement of the abandoned cemetery's previous owner.

This bill also addresses concerns with abandoned endowment care cemeteries, as proposed to be defined in SB 1312. In contrast with SB 1312, instead of a county maintaining ownership of the abandoned cemetery, this bill will permit a county to transfer the ownership to a designated entity. While SB 1312 authorizes the county to transfer the property for care and maintenance (not ownership), this bill will permit the County of Marin to transfer the ***ownership*** of a single designated cemetery property, the Mount Tamalpais Mortuary and Cemetery, to either a nonprofit in good standing or another Bureau-licensee. SB 1312 does not provide a pathway for another licensee to take ownership of the property should a licensee be interested. The provisions of this bill are limited to one cemetery property, and the provisions are set to sunset on January 1, 2029. This bill will take effect only if SB 1312 is chaptered into law.

3. **Related Legislation.** SB 1312 (Richardson of 2026) establishes a process for an endowment care cemetery to be declared abandoned by a county and have its title transferred to the county in which the cemetery is located and permits the county to transfer the care and maintenance of the cemetery to a California nonprofit public benefit corporation, as specified. (Status: *This bill will also be heard in this committee on August 26, 2026.*)

   SB 777 (Richardson, Chapter 658, Statutes of 2025) Revised the timeframe and stakeholder participants for the Bureau to convene a workgroup from July 1, 2027, to March 1, 2026, and provide a report to the Legislature no later than June 1, 2026, instead of January 1, 2028, summarizing the discussions of the workgroup.

   SB 344 (Weber-Pierson of 2025) would clarify that, in addition to bridges and docks, cremated or hydrolyzed human remains cannot be scattered from a "dock attached to a shore." (Status: This bill is pending on the Assembly Inactive File.)

   AB 3254 (Berman, Chapter 589, Statutes of 2024) extended the sunset date for the Bureau and required the Bureau to convene a work group of interested stakeholders to make recommendations relating to abandoned cemeteries.

   AB 651 (Gipson, Chapter 442, Statutes of 2021) authorizes a county to assume the responsibility of a cemetery, under specified conditions, and authorizes the county to maintain public access to that cemetery; increases the required contribution amounts for an endowment care fund, as specified; requires the Bureau to examine an endowment care fund when it receives a valid complaint of misconduct; and requires the Bureau to conduct a study of endowment care funds by January 1, 2029.

   AB 926 (Irwin, Chapter 750, Statutes of 2017) authorizes a cemetery authority to convert its endowment care fund distribution method to a unitrust distribution method, upon application and approval from the Bureau, subject to specific requirements, beginning January 1, 2020.

AB 180 (Bonilla, Chapter 395, 2015) required the bureau to conduct a study to obtain information to determine if the endowment care fund levels of its licensees' cemeteries are sufficient to cover the cost of future maintenance, as specified, and to report its findings and recommendations to those policy committees by January 1, 2018.

4. **Arguments in Support.** The Marin County Board of Supervisors writes in support and notes that the bill "is critical, as it allows the County of Marin to serve as a bridge to responsible ownership, rather than permanently owning a private cemetery. AB 929 also protects a successor from liabilities created by the cemetery's prior owner – including debts, obligations, taxes, fines, judgments and recordkeeping failures – while expressly requiring the successor to honor valid burial rights and prepaid burial contracts. AB 929 is narrowly tailored to Mt. Tamalpais Cemetery, sunsets January 1, 2029, and only becomes operative if SB 1312 is enacted."

5. **Policy Issues for Consideration.** Current law provides distinct exemptions from the Funeral Act and regulation by the Bureau for the following:

   - A religious corporation, church, religious society or denomination, a corporation sole administering temporalities of any church or religious society or denomination, or any cemetery organized, controlled, and operated by any of them;

   - A public cemetery; or,

   - Any private or fraternal burial park not exceeding 10 acres in area, established prior to September 19, 1939; however, (1) those cemeteries are subject to the cemetery brokerage provisions of the Cemetery Act, and (2) any cemetery is subject to all of the provisions of the Cemetery act if the cemetery collects a care, maintenance, or embellishment deposit or sets up a trust for burial purposes, as specified.

   This bill will allow the County of Marin to transfer ownership to a "nonprofit in good standing" but current law does not expressly exempt a nonprofit in good standing from the Funeral Act. As a result of the way this bill is drafted, the nonprofit that receives ownership of the Mount Tamalpais Mortuary and Cemetery may not be exempt from Bureau oversight. In contrast, SB 1312 specifically exempts a "nonprofit public benefit corporation" from being subject to the Funeral Act if the cemetery property is transferred from a county for the care and maintenance of an abandoned endowment care cemetery.

   Licensure helps ensure accountability of endowment care funds. Current law prohibits licensees from spending the principal of an endowment care fund. If the conflict between these measures is resolved in the future and the goal is for all types of nonprofits which are transferred responsibility or ownership of a cemetery from a county to be exempt from the Funeral Act, the law should be amended in the future to establish clear standards and strong protections for the expenditure of endowment care funds that are no longer subject to the Bureau's oversight and regulations.

SUPPORT AND OPPOSITION:

Support:

Marin County Board of Supervisors

Opposition:

None received for the current version of this bill.

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