

# HOUSE BILL 394

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By: **Chair, Health and Government Operations Committee**

Introduced and read first time: February 1, 2012

Assigned to: Health and Government Operations

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Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 16, 2012

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Office of Cemetery Oversight – Sunset Extension and Program Evaluation**

3 FOR the purpose of continuing the Office of Cemetery Oversight in accordance with  
4 the provisions of the Maryland Program Evaluation Act (sunset law) by  
5 extending to a certain date the termination provisions relating to statutory and  
6 regulatory authority of the Office; exempting private family cemeteries that do  
7 not conduct public sales from certain permitting and registration, perpetual  
8 care, and preneed contract requirements of the Maryland Cemetery Act;  
9 altering the membership of the Advisory Council on Cemetery Operations;  
10 increasing the number of times the Advisory Council is required to convene each  
11 year; ~~authorizing the Director of the Office of Cemetery Oversight or the~~  
12 ~~Director's designee to confer with the Advisory Council or with individual~~  
13 ~~members of the Council on complaint processing and resolution;~~ requiring the  
14 Director of the Office of Cemetery Oversight to include certain information  
15 regarding the number of registrants and permit holders in a certain annual  
16 report; requiring the Director to provide a copy of certain annual reports to each  
17 member of the Advisory Council; requiring the Director, at certain times, to  
18 deliver to each member of the Advisory Council certain paperwork; requiring  
19 the Advisory Council to respond to issues raised in certain annual reports and  
20 develop a plan to study ongoing issues; authorizing a certain registration to be  
21 transferred under certain circumstances; requiring a certain annual report to  
22 include certain information on the number of inquiries received by the Office;  
23 requiring an applicant for a permit to submit certain documentation to the  
24 Director; requiring certain reports to be accompanied by certain statements that  
25 include certain information; requiring a certain disclosure to be made in a

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 certain manner; ~~repealing an exemption for certain cemeteries from certain~~  
 2 ~~provisions of law relating to perpetual care requirements~~; requiring the Office to  
 3 provide a report on the implementation of certain recommendations to certain  
 4 committees of the General Assembly on or before a certain date; requiring the  
 5 Advisory Council to develop a plan for consumer outreach, study record-keeping  
 6 practices for cemeteries in a certain manner, and develop a legislative proposal  
 7 on record-keeping practices; requiring the Director and the Advisory Council to  
 8 develop certain orientation materials and study the issue of the increasing rate  
 9 of cremations and its effect on the Office's finances; requiring the Director and a  
 10 committee formed of members of the Advisory Council to update the Office  
 11 newsletter and develop a certain plan for updating the newsletter; making  
 12 stylistic and technical changes; ~~providing for a delayed effective date for certain~~  
 13 ~~provisions of this Act~~; and generally relating to the Office of Cemetery  
 14 Oversight and the operation of cemeteries and burial goods businesses in the  
 15 State.

16 BY repealing and reenacting, with amendments,  
 17 Article – Business Regulation  
 18 Section 5–102(a), 5–201(c), ~~5–204(b), (i), and (l)~~ 5–204(i) and (l), 5–305(b),  
 19 5–311(h), 5–404, 5–602(a), ~~5–603(b)~~ 5–606(b), 5–702(a), 5–710(b), 5–801,  
 20 and 5–1002  
 21 Annotated Code of Maryland  
 22 (2010 Replacement Volume and 2011 Supplement)

23 BY adding to  
 24 Article – Business Regulation  
 25 Section 5–204(m) and 5–204.1  
 26 Annotated Code of Maryland  
 27 (2010 Replacement Volume and 2011 Supplement)

28 ~~BY repealing and reenacting, with amendments,~~  
 29 ~~Article – Business Regulation~~  
 30 ~~Section 5–602(a)~~  
 31 ~~Annotated Code of Maryland~~  
 32 ~~(2010 Replacement Volume and 2011 Supplement)~~  
 33 ~~(As enacted by Section 1 of this Act)~~

34 BY repealing and reenacting, without amendments,  
 35 Article – State Government  
 36 Section 8–403(a)  
 37 Annotated Code of Maryland  
 38 (2009 Replacement Volume and 2011 Supplement)

39 BY repealing and reenacting, with amendments,  
 40 Article – State Government  
 41 Section 8–403(b)(10)  
 42 Annotated Code of Maryland

1 (2009 Replacement Volume and 2011 Supplement)

2 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
3 MARYLAND, That the Laws of Maryland read as follows:

4 **Article – Business Regulation**

5 5–102.

6 (a) The registration and permitting provisions of this title do not apply to:

7 (1) a person that owns and operates a bona fide religious–nonprofit  
8 cemetery in this State;

9 (2) a cemetery owned by a not for profit organization created before  
10 1900 by an act of the General Assembly;

11 (3) a county, city, or municipal corporation that owns and operates a  
12 cemetery in the State; [or]

13 (4) a veterans' cemetery operated by the State; **OR**

14 **(5) A PRIVATE FAMILY CEMETERY THAT DOES NOT CONDUCT**  
15 **PUBLIC SALES.**

16 5–201.

17 (c) (1) The Secretary shall appoint an Advisory Council on Cemetery  
18 Operations.

19 (2) The Advisory Council consists of [eleven] **12** members.

20 (3) Of the [eleven] **12** members of the **ADVISORY** Council:

21 (i) three shall be registered ceterierians representing the  
22 for–profit cemetery industry;

23 (ii) one shall be a registered ceterierian representing a  
24 nonprofit cemetery;

25 (iii) one shall be a registered seller from a monument company;

26 (iv) one shall be a representative from a religious cemetery;

27 [and]

1 (V) ONE SHALL BE A REPRESENTATIVE FROM A  
2 CREMATORY; AND

3 [(v)] (VI) five shall be consumer members.

4 (4) The Advisory Council shall be convened at least [once] FOUR  
5 TIMES a year to give advice to the Secretary and the Director.

6 (5) In addition to the [annual meeting] REQUIRED MEETINGS, the  
7 Advisory Council may meet as necessary.

8 5-204.

9 (b) ~~(1) Upon receipt of a written complaint, or at the discretion of the~~  
10 ~~Director, the Director or the Director's designee may conduct an investigation and an~~  
11 ~~inspection of the records and site of a registered cemeterian, registered crematory~~  
12 ~~operator, registered seller, permit holder, or any other person subject to the~~  
13 ~~registration or permit provisions of this title.~~

14 ~~(2) THE DIRECTOR OR THE DIRECTOR'S DESIGNEE MAY CONFER~~  
15 ~~WITH THE ADVISORY COUNCIL OR WITH INDIVIDUAL MEMBERS OF THE~~  
16 ~~ADVISORY COUNCIL ON COMPLAINT PROCESSING AND RESOLUTION.~~

17 (i) (1) For each fiscal year, the Director shall maintain a list of:

18 (i) all registrants and permit holders;

19 (ii) all for-profit cemeteries and nonreligious-nonprofit  
20 cemeteries associated with a registrant or permit holder; and

21 (iii) all bona fide religious-nonprofit cemeteries, veterans'  
22 cemeteries, and local government-owned cemeteries that have filed a statement or  
23 report required under §§ 5-405, 5-606, and 5-710 of this title.

24 (2) All lists maintained by the Director shall be open to inspection by  
25 any person.

26 (3) BASED ON THE LIST MAINTAINED BY THE DIRECTOR UNDER  
27 PARAGRAPH (1)(I) OF THIS SUBSECTION, THE DIRECTOR SHALL INCLUDE IN  
28 THE ANNUAL REPORT TO THE GENERAL ASSEMBLY REQUIRED UNDER  
29 SUBSECTION (L)(3) OF THIS SECTION THE FOLLOWING INFORMATION AS OF  
30 JUNE 30 OF THE YEAR THAT IS THE SUBJECT OF THE REPORT:

31 (I) THE TOTAL NUMBER OF REGISTRANTS AND PERMIT  
32 HOLDERS; AND

1                   **(II) THE NUMBER OF REGISTRANTS AND PERMIT HOLDERS**  
2 **FOR EACH LICENSING CATEGORY.**

3           (1)   (1)   Beginning with a report due on December 1, 2008, the Director  
4 shall conduct an inventory of all known burial sites in the State and shall update the  
5 inventory and report every 5 years to the General Assembly, in accordance with §  
6 2-1246 of the State Government Article, on the number of for-profit cemeteries,  
7 nonreligious-nonprofit cemeteries, bona fide religious-nonprofit cemeteries, veterans'  
8 cemeteries, and local government-owned cemeteries.

9           (2)   Beginning December 1, 2008, the Director shall annually assess  
10 the rate of compliance with the registration, permit, and reporting requirements of  
11 this title by comparing the lists required under subsection (i)(1)(ii) and (iii) of this  
12 section with the most recent inventory of all known burial sites conducted under  
13 paragraph (1) of this subsection.

14           (3)   Beginning with a report due on January 31, 2009, for fiscal year  
15 2008, the Director shall report annually to the General Assembly, in accordance with §  
16 2-1246 of the State Government Article, on the implementation of an action plan, if  
17 appropriate, to address any noncompliance issues identified by the assessment  
18 required under paragraph (2) of this subsection.

19           **(4) THE DIRECTOR SHALL PROVIDE A COPY OF THE ANNUAL**  
20 **REPORT REQUIRED UNDER PARAGRAPH (3) OF THIS SUBSECTION TO EACH**  
21 **MEMBER OF THE ADVISORY COUNCIL.**

22           **(M) AT THE TIME OF APPOINTMENT OF NEW MEMBERS AND BEFORE**  
23 **REAPPOINTMENT OF EXISTING MEMBERS OF THE ADVISORY COUNCIL, THE**  
24 **DIRECTOR SHALL DELIVER TO EACH MEMBER THE PAPERWORK NECESSARY TO**  
25 **DISCLOSE ANY INTEREST OR EMPLOYMENT HELD BY THE MEMBER AT THE TIME**  
26 **OF APPOINTMENT AS REQUIRED BY THE MARYLAND PUBLIC ETHICS LAW.**

27 **5-204.1.**

28           **THE ADVISORY COUNCIL SHALL RESPOND TO ISSUES RAISED BY THE**  
29 **DIRECTOR IN THE ANNUAL REPORT REQUIRED UNDER § 5-204 OF THIS**  
30 **SUBTITLE AND § 5-311 OF THIS TITLE AND DEVELOP A PLAN TO STUDY**  
31 **ONGOING ISSUES DURING THE YEAR FOLLOWING THE ISSUANCE OF THE**  
32 **REPORT.**

33 **5-305.**

34           (b)   A registration issued by the Director under this title [is not transferable]:

1           **(1) MAY NOT BE TRANSFERRED FROM ONE INDIVIDUAL TO**  
2 **ANOTHER; BUT**

3           **(2) MAY BE TRANSFERRED FOR THE SAME INDIVIDUAL FROM ONE**  
4 **CEMETERY TO ANOTHER.**

5 5-311.

6           (h) (1) The Director shall adopt guidelines that establish a schedule for  
7 the prompt and timely processing and resolution of each complaint made to the  
8 Director.

9           (2) Beginning December 31, 1998, and on or before December 31 of  
10 each year thereafter, the Director shall report, subject to § 2-1246 of the State  
11 Government Article, to the General Assembly on:

12                   (i) the number of complaints resolved within the schedule  
13 adopted under paragraph (1) of this subsection;

14                   (ii) the number of complaints **AND THE NUMBER OF**  
15 **INQUIRIES** received under subsection (c)(2) of this section by the type of registrant,  
16 permit holder, or exemption from the registration and permit requirements of this  
17 title;

18                   (iii) the number of complaints **AND THE NUMBER OF**  
19 **INQUIRIES** received under subsection (c)(2) of this section by persons subject to, but  
20 not in compliance with, the registration and permit requirements of this title;

21                   (iv) the nature of complaints **AND INQUIRIES** received under  
22 subsection (c)(2) of this section, including whether complaints are related to the illegal  
23 recycling of graves;

24                   **(V) THE TYPE OF PURCHASE, FOCUS OF DISSATISFACTION,**  
25 **AND TYPE OF RESOLUTION FOR BOTH COMPLAINTS AND INQUIRIES;**

26                   [[v)] **(VI)** whether complaints reported under item (i) of this  
27 paragraph were resolved through negotiation, binding arbitration, or another method;  
28 and

29                   [[vi)] **(VII)** any disciplinary or enforcement actions taken against  
30 a registrant, permit holder, or a person subject to, but not in compliance with, the  
31 registration and permit requirements of this title.

32           **(3) THE DIRECTOR SHALL PROVIDE A COPY OF THE ANNUAL**  
33 **REPORT REQUIRED UNDER PARAGRAPH (2) OF THIS SUBSECTION TO EACH**  
34 **MEMBER OF THE ADVISORY COUNCIL.**

1 5-404.

2 An applicant for a permit shall submit to the Director:

3 (1) an application on the form that the Director provides; [and]

4 (2) an application fee as set by the Director; AND

5 **(3) DOCUMENTATION ~~SHOWING~~ VERIFYING THE NUMBER OF**  
6 **SALES CONTRACTS SUBJECT TO THE SALES CONTRACT FEE ENTERED INTO**  
7 **WITHIN THE BUSINESS'S LAST 2 FISCAL YEARS.**

8 5-602.

9 (a) This subtitle does not apply to a cemetery that:

10 (1) has less than 1 acre available for burial; or

11 (2) is owned and operated by:

12 (i) a county;

13 (ii) a municipal corporation;

14 (iii) a church;

15 (iv) a synagogue;

16 (v) a religious organization;

17 (vi) a not for profit organization created before 1900 by an act of  
18 the General Assembly; [or]

19 **(VII) A FAMILY AND DOES NOT CONDUCT PUBLIC SALES; OR**

20 **[(vii)] (VIII) a State veterans agency.**

21 5-606.

22 (b) (1) Each sole proprietor registered cemeterian, permit holder, or any  
23 other person subject to the trust requirements of this subtitle shall submit a report to  
24 the Director within 120 days after the close of each calendar or other fiscal year chosen  
25 by the sole proprietor registered cemeterian, permit holder, or any other person  
26 subject to the trust requirements of this subtitle.

1           (2)   The report shall:

2                   (i)   be on the form that the Director requires;

3                   (ii)   be certified as to correctness by a certified public accountant  
4 retained by the cemetery;

5                   (iii)   be accompanied by a trustee's ANNUAL summary statement  
6 of assets FOR THE REPORTING PERIOD THAT INCLUDES:

7                               1.   THE AMOUNT OF MONEY IN THE PERPETUAL CARE  
8 TRUST FUND AT THE BEGINNING OF THE REPORTING PERIOD;

9                               2.   AN INVESTMENT PORTFOLIO SUMMARY  
10 DESCRIBING THE ASSET AND THE MARKET VALUE FOR EACH INVESTMENT  
11 CLASS;

12                              3.   A TRANSACTION SUMMARY OF THE PERPETUAL  
13 CARE TRUST FUND CONTAINING:

14                                   A.   TRUST ACCOUNT EARNINGS, INCLUDING  
15 INTEREST, DIVIDENDS, AND REALIZED GAINS OR LOSSES;

16                                   B.   MONEY DEPOSITED;

17                                   C.   TOTAL RECEIPTS;

18                                   D.   ADMINISTRATIVE EXPENSES;

19                                   E.   DISBURSEMENTS OF INCOME FOR CEMETERY  
20 CARE, MAINTENANCE, ADMINISTRATION, AND EMBELLISHMENT;

21                                   F.   OTHER DISBURSEMENTS; AND

22                                   G.   TOTAL DISBURSEMENTS; AND

23                              4.   THE AMOUNT OF MONEY IN THE PERPETUAL CARE  
24 TRUST FUND AT THE END OF THE REPORTING PERIOD;

25                   (iv)   be accompanied by a fee of \$25; and

26                   (v)   include:

27                               1.   the name of the sole proprietor registered cemeterian,  
28 permit holder, or any other person subject to the trust requirements of this subtitle;

1                   2. each location of the sole proprietor registered  
2 cemeterian, permit holder, or any other person subject to the trust requirements of  
3 this subtitle;

4                   3. the amount of money in each perpetual care trust  
5 fund at the beginning of the calendar or other fiscal year chosen by the sole proprietor  
6 registered cemeterian, permit holder, or any other person subject to the trust  
7 requirements of this subtitle;

8                   4. the amount of money that the sole proprietor  
9 registered cemeterian, permit holder, or any other person subject to the trust  
10 requirements of this subtitle received during that year that is subject to the trust  
11 requirements of this subtitle;

12                   5. the amount of money actually deposited into each  
13 perpetual care trust fund in that year;

14                   6. the amount of money spent during that year to  
15 provide care, maintenance, administration, and embellishment of each cemetery,  
16 except for money used for the care of monuments and memorials; and

17                   7. the name and address of each trustee.

18                   **(3) IF THE DIRECTOR DETERMINES, AFTER A REVIEW OF THE**  
19 **REPORT AND ANNUAL SUMMARY STATEMENT OF ASSETS REQUIRED BY THIS**  
20 **SUBSECTION, THAT ADDITIONAL DOCUMENTATION IS REQUIRED, A SOLE**  
21 **PROPRIETOR REGISTERED CEMETERIAN, PERMIT HOLDER, OR ANY OTHER**  
22 **PERSON SUBJECT TO THE TRUST REQUIREMENTS OF THIS SUBTITLE SHALL**  
23 **PROVIDE THE ADDITIONAL DOCUMENTATION TO THE DIRECTOR.**

24                   **[(3)] (4) A sole proprietor registered cemeterian, permit holder, or**  
25 **any other person subject to the trust requirements of this subtitle who stops selling**  
26 **burial lots or burial rights in a cemetery as to which perpetual care is stated or**  
27 **implied shall notify the Director in the required report for the year in which sales stop.**

28                   **[(4)] (5) The Director may require a sole proprietor registered**  
29 **cemeterian, permit holder, or any other person subject to the trust requirements of**  
30 **this subtitle to correct any underfunding, including interest, due to the perpetual care**  
31 **trust fund.**

32 5-702.

33 (a) This subtitle does not apply to:

34 (1) the sale of burial space; [or]

1 (2) a preneed contract made by an individual in connection with  
2 practicing funeral direction or practicing mortuary science, as those practices are  
3 defined in and regulated by the Health Occupations Article; OR

4 (3) THE PRENEED SALE OF BURIAL GOODS OR SERVICES BY A  
5 PRIVATE FAMILY CEMETERY THAT DOES NOT CONDUCT PUBLIC SALES OF  
6 BURIAL GOODS OR SERVICES.

7 5-710.

8 (b) (1) Each seller subject to the trust requirements of this subtitle shall  
9 submit a report to the Director within 120 days after the close of each calendar or  
10 other fiscal year chosen by the seller.

11 (2) The report shall:

12 (i) be on the form that the Director requires;

13 (ii) be certified by a certified public accountant retained by the  
14 seller;

15 (iii) be accompanied by a trustee's ANNUAL summary statement  
16 of assets FROM THE TRUSTEE FOR THE REPORTING PERIOD WHICH INCLUDES:

17 1. THE AMOUNT OF MONEY IN THE PRENEED TRUST  
18 FUND AT THE BEGINNING OF THE REPORTING PERIOD;

19 2. AN INVESTMENT PORTFOLIO SUMMARY  
20 DESCRIBING THE ASSET AND THE MARKET VALUE FOR EACH INVESTMENT  
21 CLASS;

22 3. A TRANSACTION SUMMARY OF THE PRENEED  
23 TRUST FUND CONTAINING:

24 A. TRUST ACCOUNT EARNINGS;

25 B. MONEY DEPOSITED;

26 C. TOTAL RECEIPTS;

27 D. ADMINISTRATIVE EXPENSES;

28 E. WITHDRAWALS FROM THE TRUST ACCOUNT FOR  
29 CANCELLED CONTRACTS;

1                   **F. WITHDRAWALS FROM THE TRUST ACCOUNT FOR**  
2 **DELIVERY OF MERCHANDISE FOR USE OR STORAGE, AND FOR SERVICES**  
3 **PERFORMED, INCLUDING THE PRINCIPAL AND EARNINGS;**

4                   **G. OTHER DISBURSEMENTS; AND**

5                   **H. TOTAL DISBURSEMENTS; AND**

6                   **4. THE AMOUNT OF MONEY IN THE PRENEED TRUST**  
7 **FUND AT THE END OF THE REPORTING PERIOD;**

8                   (iv) be accompanied by a fee of \$25; and

9                   (v) include:

10                   1. the name of the seller;

11                   2. each location of the seller;

12                   3. the amount of money that the seller received during  
13 that year that is subject to the trust requirements of this subtitle;

14                   4. the amount of money actually deposited into trust  
15 accounts in that year;

16                   5. the amount of money required to be disbursed from  
17 the trust accounts in that year;

18                   6. the amount of money actually disbursed from the  
19 trust accounts in that year; and

20                   7. the name and address of the trustee.

21                   **(3) IF THE DIRECTOR DETERMINES, AFTER A REVIEW OF THE**  
22 **REPORT AND ANNUAL SUMMARY STATEMENT OF ASSETS REQUIRED BY THIS**  
23 **SUBSECTION, THAT ADDITIONAL DOCUMENTATION IS REQUIRED, A SELLER**  
24 **SUBJECT TO THE TRUST REQUIREMENTS OF THIS SUBTITLE SHALL PROVIDE**  
25 **THE ADDITIONAL DOCUMENTATION TO THE DIRECTOR.**

26                   **[(3)] (4) (i) A seller of preneed goods or preneed services that sells**  
27 **its business, files a petition in bankruptcy, or ceases to operate shall provide written**  
28 **notice within 15 days;**

1 1. to the Director, detailing the changes and the  
2 arrangements the seller has made for carrying out the preneed burial contracts and  
3 the disbursement of any moneys held in an escrow or trust account; and

4 2. to each buyer of a preneed burial contract, advising  
5 the buyer of the buyer's options under State law in regard to the preneed contract.

6 (ii) Nothing in this paragraph exempts a seller of preneed goods  
7 or services that sells its business, files a petition in bankruptcy, or ceases to operate  
8 from filing the annual report required under this section.

9 5-801.

10 (a) At the time of entering into a contract with a consumer for the sale of  
11 burial goods or services, registrants, permit holders, or any other person subject to the  
12 provisions of this title shall make the following written disclosures:

13 (1) the itemized cost for each service performed under the contract;

14 (2) a list of services incidental to burial that are not covered by the  
15 contract;

16 (3) a statement regarding the cemetery's policy on the use of  
17 independent monument companies; and

18 (4) the name, address, and telephone number for the State Office of  
19 Cemetery Oversight.

20 (b) **(1)** The disclosures **REQUIRED UNDER SUBSECTION (A)(1), (2), AND**  
21 **(3) OF THIS SECTION** shall be conspicuously incorporated in the contract in 12-point  
22 type.

23 **(2) THE DISCLOSURE REQUIRED UNDER SUBSECTION (A)(4) OF**  
24 **THIS SECTION SHALL BE ON A FORM SEPARATE FROM THE CONTRACT AND MUST**  
25 **BE SEPARATELY SIGNED AND DATED BY THE CONSUMER.**

26 (c) The disclosure must be signed and dated by the consumer.

27 (d) The consumer must be provided with a copy of the contract **AND A COPY**  
28 **OF THE FORM REQUIRED UNDER SUBSECTION (B)(2) OF THIS SECTION** at the  
29 time of purchasing the burial goods or services.

30 (e) The disclosure shall occur:

31 (1) not later than the first scheduled face-to-face contact with the  
32 purchaser or party representing the purchaser; or



1 shall be made of the following governmental activities or units and the statutes and  
2 regulations that relate to the governmental activities or units:

3 (10) Cemetery Oversight, Office of (§ 5–201 of the Business Regulation  
4 Article: July 1, [2012] **2022**);

5 ~~SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland~~  
6 ~~read as follows:~~

7 ~~Article—Business Regulation~~

8 ~~5–602.~~

9 (a) ~~This subtitle does not apply to a cemetery that:~~

10 (1) ~~has less than 1 acre available for burial; or~~

11 (2) ~~is owned and operated by:~~

12 (i)  ~~a county;~~

13 (ii)  ~~a municipal corporation;~~

14 (iii)  ~~a church;~~

15 (iv)  ~~a synagogue;~~

16 (v)  ~~a religious organization;~~

17 (vi)  ~~a not for profit organization created before 1900 by an act of~~  
18  ~~the General Assembly;~~

19 (vii)  ~~a family and does not conduct public sales; or~~

20 [(viii)] ~~(H) a State veterans agency.~~

21 ~~5–603.~~

22 (b) (1) ~~[Each sole proprietor registered cemeterian, permit holder, or any~~  
23 ~~other person subject to the registration or permit provisions of this title who sells or~~  
24 ~~offers to sell to the public a burial lot or burial right in] EXCEPT FOR A CEMETERY~~  
25 ~~THAT IS EXEMPT UNDER § 5–602 OF THIS SUBTITLE, a cemetery as to which~~  
26 ~~perpetual care is stated or implied shall have a perpetual care trust fund.~~

27 (2) ~~A separate perpetual care trust fund shall be established for each~~  
28 ~~cemetery to which this section applies.~~

1           ~~(3) On the general price list, contract of sale of burial space, and any~~  
2 ~~conveyance documents, all cemeteries subject to the provisions of this subtitle shall~~  
3 ~~state in writing the following using 12 point or larger type font:~~

4           ~~(i) "The cemetery is a perpetual care cemetery."; or~~

5           ~~(ii) "The cemetery is not a perpetual care cemetery."~~

6           ~~[(4) A cemetery created in the State after October 1, 2001, that is not~~  
7 ~~exempt under § 5-602 of this subtitle shall be required to establish a perpetual care~~  
8 ~~trust fund.]~~

9           SECTION ~~2~~ 2. AND BE IT FURTHER ENACTED, That, on or before October  
10 1, 2013, the Office of Cemetery Oversight shall report to the Senate Finance  
11 Committee and the House Health and Government Operations Committee, in  
12 accordance with § 2-1246 of the State Government Article, on the implementation  
13 status of nonstatutory recommendations of the Department of Legislative Services  
14 contained in the sunset evaluation report dated October 2011.

15           SECTION ~~4~~ 3. AND BE IT FURTHER ENACTED, That the Advisory Council  
16 on Cemetery Operations shall:

17           (1) develop a plan to improve consumer outreach, including an  
18 approach to disseminating the consumer information pamphlet to key locations  
19 around the State, such as nursing homes, churches, the offices of estate lawyers,  
20 consumer protection agencies of every county, and other locations;

21           (2) study record-keeping practices for cemeteries in relation both to  
22 best practices and for disaster preparedness, including pandemics and natural  
23 disasters, with the intention of developing legislation to address this issue;

24           (3) develop a legislative proposal on record-keeping practices for  
25 introduction no later than the 2014 regular session of the General Assembly; and

26           (4) in developing the proposal under item (3) of this section, determine  
27 the categories of cemeteries to which any record-keeping requirements developed  
28 should be applied and consider the possibility of phasing in requirements to limit the  
29 economic impact on cemeteries.

30           SECTION ~~5~~ 4. AND BE IT FURTHER ENACTED, That the Director of the  
31 Office of Cemetery Oversight and the Advisory Council on Cemetery Operations shall:

32           (1) collaborate on the development of orientation materials for new  
33 members appointed to the Advisory Council, which shall include information on the  
34 requirements of the Public Ethics Laws applicable to Advisory Council members; and

1           (2) study the issue of the increasing rate of cremations within the  
2 death care industry, including whether the rate of cremations will continue to rise at  
3 the same rate and the possible effect this trend may have on the Office's finances.

4           SECTION ~~6~~ 5. AND BE IT FURTHER ENACTED, That the Director of the  
5 Office of Cemetery Oversight and a committee formed of members of the Advisory  
6 Council on Cemetery Operations shall update the Office newsletter and develop a plan  
7 to ensure that the newsletter continues to be updated on a regular basis.

8           ~~SECTION 7. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall~~  
9 ~~take effect July 1, 2013.~~

10           SECTION ~~8~~ 6. AND BE IT FURTHER ENACTED, That, ~~except as provided in~~  
11 ~~Section 7 of this Act,~~ this Act shall take effect July 1, 2012.

Approved:

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Governor.

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Speaker of the House of Delegates.

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President of the Senate.