

BY: Finance Committee

AMENDMENTS TO SENATE BILL NO. 465

(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in the sponsor line, strike “Senator Madden” and substitute “Senators Madden and Della”; in line 2, strike “For Profit Cemetery Companies” and substitute “State Board of Cemeteries”; in line 3, strike “any person” and substitute “certain persons”; strike beginning with “owns” in line 3 down through the third “of” in line 4 and substitute “engage in operating a”; strike beginning with “providing” in line 12 down through “date;” in line 14; in line 16, after “violations;” insert “establishing an immunity from civil liability for certain persons under certain circumstances;”; in the same line, after “terms;” insert “providing for the application of this Act;”; in line 17, strike “cemetery companies” and substitute “persons operating cemeteries”; after line 17, insert:

“BY repealing and reenacting, with amendments,

Article - Business Regulation

Section 5-101, 5-306, 5-307, 5-309, 5-410, and 5-411

Annotated Code of Maryland

(1992 Volume and 1995 Supplement)”;

strike in their entirety lines 20 and 21 and substitute “Section 5-102; 5-1A-01 through 5-1A-08, inclusive, to be under the new subtitle “Subtitle 1A. State Board of Cemeteries.”; and 5-2A-01 through 5-2A-14, inclusive, to be under the new subtitle “Subtitle 2A. Licensing”; and 5-701 to be under the new subtitle “Subtitle 7. Prohibited Acts; Penalties””; and after line 23, insert:

“BY repealing and reenacting, without amendments,

Article - Business Regulation

Section 5-412

Annotated Code of Maryland

(1992 Volume and 1995 Supplement)”

(Over)

BY adding to

Article - Courts and Judicial Proceedings

Section 5-399.7

Annotated Code of Maryland

(1995 Replacement Volume and 1995 Supplement)”.

AMENDMENT NO. 2

On pages 1 and 2, strike in their entirety the lines beginning with line 27 on page 1 through line 27 on page 2, inclusive, and substitute:

“5-101.

(a) In this title the following words have the meanings indicated.

(B) “BOARD” MEANS THE STATE BOARD OF CEMETERIES.

[(b)] (C) (1) “Burial” means all final disposition of human remains.

(2) “Burial” includes:

(i) earth burial;

(ii) mausoleum entombment; and

(iii) niche or columbarium interment.

[(c)](D) (1) “Cemetery” means land used or to be used for burial.

(2) “Cemetery” includes a structure used or to be used for burial.”

On page 2, in lines 28 and 30, strike “(G)” and “(H)”, respectively, and substitute “(E)” and “(F)”, respectively; and strike beginning with “OWN” in line 30 down through the second “CEMETERY” in line 31 and substitute “ENGAGE IN OPERATING A CEMETERY”.

On pages 2 and 3, strike in their entirety the lines beginning with line 32 on page 2 through line 2 on page 3, inclusive, and substitute:

“(G) “OPERATING A CEMETERY” MEANS OWNING, CONTROLLING, OR MAINTAINING A CEMETERY, INCLUDING PERFORMING THE ACTIVITY NECESSARY FOR OR INCIDENT TO:

(1) ESTABLISHING OR IMPROVING A CEMETERY;

(2) BURIAL; AND

(3) THE CARE, PRESERVATION, OR EMBELLISHMENT OF A CEMETERY.”.

On page 3, in lines 3, 8, and 10 strike “5A-102.”, “5A-201.”, and “5A-202.”, respectively, and substitute “5-102.”, “5-1A-01.”, and “5-1A-02.”, respectively; in line 6, strike “BY ALL CEMETERY COMPANIES” and substitute “IN THE OPERATION OF CEMETERIES”; in line 7, strike “2.” and substitute “1A.”; strike beginning with “ONE” in line 13 down through “(II)” in line 14; strike beginning with “OWNERS” in line 14 down through “COMPANY” in line 15 and substitute “LICENSEES, OR REPRESENTATIVES OF LICENSEES”; in line 17, strike “(III)” and substitute “(II)”; in the same line strike “THREE” and substitute “FOUR”; strike in their entirety lines 21 through 24, inclusive; in line 31, strike “LICENSED”; and in the same line, after “BOARD” insert “DESCRIBED IN SUBSECTION (A)(2)(I) OF THIS SECTION”.

On page 4, in line 4, after “(E)” insert “BEFORE TAKING OFFICE, EACH MEMBER OF THE BOARD SHALL TAKE THE OATH REQUIRED BY ARTICLE I, SECTION 9 OF THE MARYLAND CONSTITUTION.”

(F)”;

in the same line, strike “EXCEPT FOR THE SECRETARY OF STATE,”; after line 13, insert:

“(5) A MEMBER MAY NOT SERVE MORE THAN TWO CONSECUTIVE FULL TERMS.”;

(Over)

in line 14, strike “(F)” and substitute “(G)(1)”; after line 15, insert:

“(2) ON THE RECOMMENDATION OF THE SECRETARY, THE GOVERNOR MAY REMOVE A MEMBER WHOM THE SECRETARY FINDS TO HAVE BEEN ABSENT FROM TWO SUCCESSIVE BOARD MEETINGS WITHOUT ADEQUATE REASON.”;

in lines 16, 20, and 30, strike “5A-203.”, “5A-204.”, and “5A-205.”, respectively, and substitute “5-1A-03.”, “5-1A-04.”, and “5-1A-05.”, respectively; strike in their entirety lines 17 through 19, inclusive, and substitute:

“(A) FROM AMONG ITS MEMBERS, THE BOARD SHALL ELECT A PRESIDENT, A FIRST VICE PRESIDENT, AND A SECOND VICE PRESIDENT.

(B) THE BOARD SHALL DETERMINE:

(1) THE MANNER OF ELECTION OF OFFICERS;

(2) THE TERM OF OFFICE OF EACH OFFICER; AND

(3) THE DUTIES OF EACH OFFICER.”;

strike beginning with the first “THE” in line 23 down through “MEETINGS” in line 24 and substitute “THE BOARD SHALL MEET AT LEAST ONCE A YEAR, AT THE TIMES AND PLACES THAT IT SETS IN ITS BYLAWS AND RULES AND REGULATIONS”; in line 31, strike “(A)”; in the same line, after “ELSEWHERE” insert “IN THIS TITLE”; strike beginning with “EXCEPT” in line 35 down through the comma in line 36; and in line 37, strike “AND” and substitute:

“(4) INSPECT THE RECORDS AND SITES OF LICENSEES TO DETERMINE COMPLIANCE WITH THE PROVISIONS OF THIS TITLE.”;

On page 5, strike in their entirety lines 1 through 4, inclusive; in lines 5 and 12, strike “(1)”

and “(4)”, respectively, and substitute “(5)” and “(6)”, respectively; in line 5, after “TITLE” insert “BY A LICENSEE”; strike in their entirety lines 6 through 11, inclusive; in line 12, strike “AND”; after line 12, insert:

“(7) ADOPT REGULATIONS ESTABLISHING STANDARDS FOR LICENSEES AND EMPLOYEES OF LICENSEES; “;

in line 13, strike “(5)” and substitute “(8)”; in the same line, strike the period and substitute “;

(9) ISSUE A CEASE AND DESIST ORDER, AND ORDER RESTITUTION, IF THE BOARD FINDS A VIOLATION OF THIS TITLE;

(10) REFER A VIOLATION OF THIS TITLE TO THE STATE’S ATTORNEY FOR ENFORCEMENT; AND

(11) REFER TO THE ATTORNEY GENERAL AN ALLEGED UNFAIR OR DECEPTIVE TRADE PRACTICE UNDER TITLE 13 OF THE COMMERCIAL LAW ARTICLE.

5-1A-06.

THE BOARD, IN CONSULTATION WITH THE CONSUMER PROTECTION DIVISION OF THE OFFICE OF THE ATTORNEY GENERAL, SHALL PUBLISH A CONSUMER INFORMATION PAMPHLET THAT INFORMS CONSUMERS OF:

(1) THE RIGHTS OF CONSUMERS OF CEMETERY GOODS AND SERVICES;
AND

(2) ANY OTHER INFORMATION THAT THE BOARD CONSIDERS NECESSARY OR USEFUL TO CONSUMERS.”;

in lines 14 and 25, strike “5A-206.” and “5A-301.”, respectively, and substitute “5-1A-07.” and “5-2A-01.”, respectively; in line 18, after “WILL” insert “; (1)”; in line 20, strike “THE CEMETERY INDUSTRY IN THE STATE” and substitute a comma; in line 21, after “TITLE”

(Over)

insert “ THE CEMETERIES LICENSED UNDER THIS TITLE; AND

(2) TAKE INTO CONSIDERATION THE SIZE OF A LICENSEE, INCLUDING THE LICENSEE’S REVENUES AND ANNUAL NUMBER OF BURIALS”;

after line 23, insert:

“5-1A-08.

A PERSON SHALL HAVE THE IMMUNITY FROM LIABILITY DESCRIBED UNDER § 5-399.7 OF THE COURTS ARTICLE FOR GIVING INFORMATION TO THE BOARD OR OTHERWISE PARTICIPATING IN ITS ACTIVITIES.”;

in line 24, strike “3.” and substitute “2A.”; in line 26, after “(A)” insert “THIS SUBTITLE DOES NOT APPLY TO A:

(1) PERSON OPERATING A CEMETERY THAT HAS LESS THAN 1 ACRE AVAILABLE FOR BURIAL;

(2) COUNTY;

(3) MUNICIPAL CORPORATION;

(4) CHURCH;

(5) SYNAGOGUE;

(6) RELIGIOUS ORGANIZATION; OR

(7) NOT-FOR-PROFIT ORGANIZATION CREATED BEFORE 1900 BY AN ACT OF THE GENERAL ASSEMBLY.

(B)”;

in the same line, strike the colon and substitute a comma; in line 27, strike “(1) AN INDIVIDUAL” and substitute “A PERSON”; in line 28, strike “INDIVIDUAL” and substitute “PERSON”; in the same line, strike “OWN OR CONTROL A CEMETERY OR CONDUCT THE BUSINESS OF” and substitute “ENGAGE IN OPERATING”.

On pages 5 and 6, strike beginning with the semicolon in line 29 on page 5 through “RENEWAL” in line 2 on page 6.

On page 6, in lines 3 and 15, strike “5A-302.” and “5A-303.”, respectively, and substitute “5-2A-02.” and “5-2A-03.”, respectively; in line 9, after “(C)” insert “(1)”; in the same line, strike “EACH” and substitute “THE FIRM SHALL:”

(I) HAVE A PERMANENT OFFICE IN THE STATE, FROM WHICH THE LICENSEE IS TO ENGAGE IN OPERATING A CEMETERY; OR

(II) SUBMIT PROOF, SATISFACTORY TO THE BOARD, OF THE INTENT OF THE FIRM TO ESTABLISH IMMEDIATELY A PERMANENT OFFICE IN THE STATE, FROM WHICH THE LICENSEE IS TO ENGAGE IN OPERATING A CEMETERY.

(2) EACH PERMANENT OFFICE REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL BE MANAGED BY A PARTNER, OFFICER, OR DIRECTOR OF THE FIRM.

(3) FOR A PARTNER, OFFICER, OR DIRECTOR OF THE FIRM, IF A MAJORITY OF THE WORK THAT THE INDIVIDUAL PERFORMS FOR THE FIRM IS PERFORMED WITHIN THE STATE, THAT”;

in lines 9 and 10, strike “OF THE FIRM”; in lines 11 and 12, strike “(1)” and “(2)”, respectively, and substitute “(I)” and “(II)”, respectively; in line 13, after “OTHER” insert “REASONABLE”; in line 18, strike “CONDUCT THE BUSINESS OF” and substitute “ENGAGE IN OPERATING”; in line 21, strike “AS” and substitute “TO THE EXTENT”; in the same line, strike “TITLE 5 OF THIS ARTICLE” and substitute “SUBTITLE 3 OF THIS TITLE”; strike beginning with “A” in line 22

(Over)

down through “(4)” in line 26; strike beginning with “INDIVIDUAL” in line 26 down through “OF” in line 28 and substitute “PERSON OPERATING OR SEEKING TO ENGAGE IN OPERATING”; and strike beginning with “(5)” in line 31 down through “(6)” in line 35 and substitute “(4)”.

On page 7, in lines 3 and 9, strike “(7)” and “(8)”, respectively, and substitute “(5)” and “(6)”, respectively; strike beginning with the colon in line 3 down through “(I)” in line 4 and substitute a comma; strike in their entirety lines 6 through 8, inclusive; in lines 16, 22, and 31, strike “5A-304.”, “5A-305.”, and “5A-306.”, respectively, and substitute “5-2A-04.”, “5-2A-05.”, and “5-2A-06.”, respectively; in line 26, strike “CEMETERY COMPANY” and substitute “LICENSEE”; strike beginning with “CEMETERY” in line 27 down through “COMPANY” in line 28 and substitute “LICENSEE”; in line 32, before “WHILE” insert “(A)”; strike beginning with “OWN” in line 32 down through “OF” in line 33 and substitute “ENGAGE IN OPERATING”; and after line 33, insert:

“(B) A LICENSE ISSUED BY THE BOARD UNDER THIS TITLE IS NOT TRANSFERABLE.

5-2A-07.

IF A LICENSEE THAT IS A CORPORATION IS SOLD, DECLARES BANKRUPTCY, OR CEASES TO OPERATE, WRITTEN NOTICE MUST BE SUBMITTED, WITHIN 2 WEEKS OF THE OCCURRENCE, TO:

(1) THE BOARD, DETAILING THE CHANGES AND THE ARRANGEMENTS FOR CARRYING OUT, UNDER SUBTITLE 4 OF THIS TITLE, PRENEED BURIAL CONTRACTS AND DISBURSEMENT OF MONEY HELD IN ESCROW; AND

(2) HOLDERS OF PRENEED BURIAL CONTRACTS ADVISING THEM OF THEIR OPTIONS UNDER STATE LAW.”.

On page 8, in lines 1 and 24, strike “5A-307.” and “5A-308.”, respectively, and substitute “5-2A-08.” and “5-2A-09.”, respectively; in line 17, strike the colon; in line 18, strike “(I)”; strike beginning with the semicolon in line 19 down through “RENEWAL” in line 21; in lines 22 and 23, strike “LICENSED CEMETERY COMPANY” and substitute “LICENSEE”; in line 25, strike “THE

BOARD.”; in line 26, strike “MAY REINSTATE THE LICENSE OF”; in the same line, strike the second “THE” and substitute “A”; in line 27, after “REASON” insert “MAY OBTAIN REINSTATEMENT OF THE LICENSE”; and in lines 29 and 32, in each instance, strike “§ 5A-307” and substitute “§ 5-2A-08”.

On page 9, in lines 3 and 10, strike “5A-309.” and “5A-310.”, respectively, and substitute “5-2A-10.” and “5-2A-11.”, respectively; strike beginning with “EACH” in line 6 down through “(C)” in line 8; in line 9, strike “CEMETERY” and substitute “LICENSEE”; in line 11, strike “§ 5A-311” and substitute “§ 5-2A-12”; in line 13, strike the second “LICENSE” and substitute “LICENSEE”; in the same line, after “OR” insert “SUSPEND OR”; in line 18, after “FRAUD” insert “OR MISREPRESENTATION IN OPERATING A CEMETERY”; in line 19, strike “THE OPERATION OF THE CEMETERY BUSINESS” and substitute “OPERATING A CEMETERY”; in line 31, after “PROVISIONS” insert “UNDER SUBTITLE 3 OF THIS TITLE”; in line 32, strike “TITLE 5 OF THIS ARTICLE; OR” and substitute “SUBTITLE 4 OF THIS TITLE;”; after line 32, insert:

“(10) FAILS, AFTER PROPER DEMAND, TO REFUND PROMPTLY ANY PAYMENTS RECEIVED UNDER A PRENEED BURIAL CONTRACT UNDER SUBTITLE 4 OF THIS TITLE;

“(11) ENGAGES IN OPERATING A CEMETERY UNDER A NAME OTHER THAN THE NAME THAT APPEARS ON THE LICENSE OF THAT PERSON;

“(12) SIGNS AN APPLICATION FOR A LICENSE IF THE SIGNER KNEW OR SHOULD HAVE KNOWN THAT GROUNDS EXISTED FOR WHICH THE LICENSE LATER WAS DENIED, SUSPENDED, OR REVOKED;

“(13) IS DISCIPLINED BY A LICENSING OR DISCIPLINARY AUTHORITY OF ANOTHER STATE OR COUNTRY OR CONVICTED OR DISCIPLINED BY A COURT OF ANY STATE OR COUNTRY FOR AN ACT THAT WOULD BE GROUNDS FOR DISCIPLINARY ACTION UNDER THE PROVISIONS OF THIS TITLE;

“(14) WILLFULLY MAKES OR FILES A FALSE REPORT OR RECORD IN

(Over)

OPERATING A CEMETERY:

(15) WILLFULLY FAILS TO FILE OR RECORD ANY REPORT AS REQUIRED UNDER LAW, WILLFULLY IMPEDES OR OBSTRUCTS THE FILING OR RECORDING OF THE REPORT, OR INDUCES ANOTHER TO FAIL TO FILE OR RECORD THE REPORT;

(16) SUBMITS A FALSE STATEMENT TO COLLECT A FEE;

(17) FAILS TO ALLOW AN INSPECTION REQUIRED BY THIS TITLE;

(18) FAILS TO COMPLY WITH INSPECTION REQUIREMENTS IN THE TIME SPECIFIED BY THE BOARD;

(19) VIOLATES A PROVISION OF THIS TITLE; OR”;

in line 33, strike “(10)” and substitute “(20)”; and strike beginning with “NOT” in line 35 down through “VIOLATION” in line 36 and substitute “AS PROVIDED IN PARAGRAPHS (2) AND (3) OF THIS SUBSECTION”.

On page 10, in line 1, after “(2)” insert “THE BOARD MAY IMPOSE A CIVIL PENALTY:

(I) EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION, NOT EXCEEDING \$5,000 FOR EACH VIOLATION OF THIS TITLE OR AN ORDER OF THE BOARD UNDER THIS TITLE; AND

(II) NOT EXCEEDING \$500 FOR EACH DAY A VIOLATION CONTINUES AGAINST A PERSON WHO FAILS TO CORRECT THE VIOLATION IN THE TIME SET FOR ITS CORRECTION.

(3) THE BOARD MAY IMPOSE A CIVIL PENALTY, NOT EXCEEDING \$10,000 FOR EACH VIOLATION, AGAINST A PERSON WHO WILLFULLY OR REPEATEDLY VIOLATES THIS TITLE OR AN ORDER OF THE BOARD UNDER THIS TITLE.

(4)”;

in line 7, strike “(3)” and substitute “(5)”; after line 8, insert:

“(C) IN ADDITION TO THE PROVISIONS OF SUBSECTIONS (A) AND (B) OF THIS SECTION, IF THE BOARD REVOKES A LICENSE, THE BOARD MAY PETITION A COURT OF EQUITY TO:

(1) APPOINT A RECEIVER OR TRUSTEE TO TAKE CHARGE OF THE ASSETS AND OPERATE THE BUSINESS OF THE PERSON WHOSE LICENSE IS SUSPENDED OR REVOKED; AND

(2) TAKE OTHER ACTIONS AS ARE APPROPRIATE TO PROTECT THE PUBLIC INTEREST.”;

in line 9, strike “(C)” and substitute “(D)”; in lines 13 and 34, strike “5A-311.” and “5A-312.”, respectively, and substitute “5-2A-12.” and “5-2A-13.”, respectively; in lines 15 and 16, strike “§ 5A-310” and substitute “§ 5-1A-05(9) OF THIS TITLE OR § 5-2A-11”; in line 23, strike “10” and substitute “30”; and after line 33, insert:

“(H) IF, AFTER A HEARING, A PERSON IS FOUND IN VIOLATION OF § 5-2A-11 OF THIS SUBTITLE, THE PERSON SHALL PAY THE HEARING COSTS.”.

On page 11, in line 1, strike “5A-313.” and substitute “5-2A-14.”; in line 3, strike “§ 5A-310(A)” and substitute “§ 5-2A-11(A)”; strike beginning with “EACH” in line 6 down through “FIRM” in line 7 and substitute “THE LICENSEE’S PERMANENT OFFICE IN THE STATE”; in line 8, strike “§ 5A-310(B)” and substitute “§ 5-2A-11(B)”; strike beginning with “EACH” in line 11 down through “FIRM” in line 12 and substitute “THE LICENSEE’S PERMANENT OFFICE IN THE STATE”; after line 12, insert:

“5-306.

(a) (1) Each cemetery owner subject to the trust requirements of this subtitle shall keep detailed records of all sales of burial lots or burial rights in a cemetery and money received.

(Over)

(2) The records of each cemetery owner and of each trustee appointed by the cemetery owner are subject to examination by:

(I) THE BOARD:

[(i)] (II) the Attorney General or an authorized representative of the Attorney General; and

[(ii)] (III) the State's Attorney for the county where the cemetery owner does business or where the cemetery is located.

(b) (1) Each cemetery owner subject to the trust requirements of this subtitle shall submit a report to the [Secretary of State] BOARD within 120 days after the close of each calendar or other fiscal year chosen by the cemetery owner.

(2) The report shall:

(i) be on the form that the [Secretary of State] BOARD requires;

(ii) be certified as to correctness by a certified public accountant;

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

(iv) include:

1. the name of the cemetery owner;

2. each location of the cemetery owner;

3. the amount of money in each trust fund at the beginning of the calendar or other fiscal year chosen by the cemetery owner;

4. the amount of money that the cemetery owner received during that year that is subject to the trust requirements of this subtitle;

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

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

7. the name and address of each trustee.

(3) A cemetery owner who stops selling burial lots or burial rights in a cemetery as to which perpetual care is stated or implied shall notify the [Secretary of State] BOARD in the required report for the year in which sales stop.

(c) The [Secretary of State] BOARD may adopt regulations:

(1) to administer subsection (b) of this section; and

(2) for determining whether cemetery owners are complying with this subtitle.

5-307.

(a) If the [Secretary of State] BOARD finds that a cemetery owner subject to the trust requirements of this subtitle has violated this subtitle or a regulation adopted under this subtitle, the [Secretary of State] BOARD may refer the matter to:

(1) the Attorney General for civil enforcement; or

(2) the appropriate State's Attorney for criminal prosecution.

(b) The Attorney General may sue for and a court may grant:

(1) injunctive or other equitable relief;

(Over)

(2) imposition of a civil penalty [not exceeding \$5,000]:

(I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, NOT EXCEEDING \$5,000 FOR EACH VIOLATION OF THIS SUBTITLE OR AN ORDER OF THE BOARD UNDER THIS SUBTITLE; AND

(II) NOT EXCEEDING \$10,000 FOR EACH VIOLATION AGAINST A PERSON WHO WILLFULLY OR REPEATEDLY VIOLATES THIS SUBTITLE OR AN ORDER OF THE BOARD UNDER THIS SUBTITLE; or

(3) both.

5-309.

(a) A person may not establish or operate a public or private cemetery or allow a public or private cemetery to be operated in violation of this subtitle.

(b) A person who violates this section is guilty of a misdemeanor and, on conviction, is subject to a fine not exceeding [\$1,000] \$5,000 or imprisonment not exceeding 1 year or both.

(c) If a corporation violates this subtitle, each officer who is responsible for the violation is guilty of a misdemeanor and, on conviction, is subject to a fine not exceeding [\$1,000] \$5,000 or imprisonment not exceeding 1 year or both.

5-410.

(a) (1) Each seller shall keep detailed records of all preneed burial contracts and specific funds.

(2) The records of each seller and of each trustee appointed by the seller are subject to examination by:

(I) THE BOARD;

[(i)] (II) the Attorney General or an authorized representative of the Attorney General; and

[(ii)] (III) the State's Attorney for the county where the seller does business.

(b) (1) Each seller subject to the trust requirements of this subtitle shall submit a report to the [Secretary of State] BOARD within 120 days after the close of each calendar or other fiscal year chosen by the seller.

(2) The report shall:

(i) be on the form that the [Secretary of State] BOARD requires;

(ii) be certified by a certified public accountant employed by the seller;

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

(iv) include:

1. the name of the seller;

2. each location of the seller;

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

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

5. the name and address of the trustee.

(3) A seller who stops selling preneed goods or preneed services shall notify the [Secretary of State] BOARD in the required report for the year in which sales stop.

(Over)

(c) The [Secretary of State] BOARD may adopt regulations:

(1) to administer this section; and

(2) for determining whether sellers are complying with this subtitle.

5-411.

(a) If the [Secretary of State] BOARD finds that a seller has violated this subtitle or a regulation adopted under this subtitle, the [Secretary of State] BOARD may refer the matter to:

(1) the Attorney General for civil enforcement; or

(2) the appropriate State's Attorney for criminal prosecution.

(b) The Attorney General may sue for and a court may grant:

(1) injunctive or other equitable relief;

(2) imposition of a civil penalty [not exceeding \$5,000];

(I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, NOT EXCEEDING \$5,000 FOR EACH VIOLATION OF THIS SUBTITLE OR AN ORDER OF THE BOARD UNDER THIS SUBTITLE; AND

(II) NOT EXCEEDING \$10,000 FOR EACH VIOLATION AGAINST A PERSON WHO WILLFULLY OR REPEATEDLY VIOLATES THIS SUBTITLE OR AN ORDER OF THE BOARD UNDER THIS SUBTITLE; or

(3) both.

5-412.

(a) A seller may not fail to deposit, as required by this subtitle, money received under or in connection with a preneed burial contract.

(b) (1) A person who violates this section is guilty of a misdemeanor and, on conviction, is subject to a fine not exceeding \$5,000 or imprisonment not exceeding 1 year or both.

(2) If a corporation violates this section, each officer responsible for the violation is guilty of a misdemeanor and, on conviction, is subject to a fine not exceeding \$5,000 or imprisonment not exceeding 1 year or both.

SUBTITLE 7. PROHIBITED ACTS; PENALTIES.

5-701.

(A) EXCEPT AS OTHERWISE PROVIDED IN THIS TITLE, A PERSON MAY NOT ENGAGE IN OPERATING A CEMETERY IN THE STATE UNLESS LICENSED BY THE BOARD.

(B) UNLESS AUTHORIZED UNDER THIS TITLE TO ENGAGE IN OPERATING A CEMETERY, A PERSON MAY NOT REPRESENT TO THE PUBLIC THAT THE PERSON IS AUTHORIZED TO ENGAGE IN OPERATING A CEMETERY IN THE STATE.

(C) A LICENSEE MAY NOT EMPLOY AN INDIVIDUAL IF THE LICENSEE KNOWS OR REASONABLY SHOULD KNOW THAT THE INDIVIDUAL, ON AT LEAST THREE SEPARATE OCCASIONS, HAS BEEN FOUND IN VIOLATION OF THIS TITLE BY THE BOARD OR A COURT OF COMPETENT JURISDICTION.

(D) UNLESS A CRIMINAL PENALTY IS OTHERWISE PROVIDED IN THIS TITLE, A PERSON THAT VIOLATES ANY PROVISION OF THIS TITLE IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING \$5,000 OR IMPRISONMENT NOT EXCEEDING 1 YEAR OR BOTH.”;

(Over)

and strike in their entirety lines 13 through 34, inclusive, and substitute:

“Article - Courts and Judicial Proceedings

5-399.7.

A PERSON THAT ACTS IN GOOD FAITH AND WITHIN THE SCOPE OF THE JURISDICTION OF THE STATE BOARD OF CEMETERIES IS NOT CIVILLY LIABLE FOR GIVING INFORMATION TO THE BOARD OR OTHERWISE PARTICIPATING IN ITS ACTIVITIES.”.

AMENDMENT NO. 3

On page 11, in line 35, after “That” insert “, notwithstanding § 5-1A-02(f)(1) of the Business Regulation Article, as enacted by Section 1 of this Act,”.

On page 12, in line 1, strike “2001” and substitute “1998”; in line 2, strike “2002; and” and substitute “1999;”; in line 3, strike “2003” and substitute “2000; and

(4) 1 member in 2001”;

after line 3, insert:

“SECTION 3. AND BE IT FURTHER ENACTED, That, notwithstanding the provisions of Section 1 of this Act, a person who is operating a cemetery on or before October 1, 1996, is not required to obtain a license under this Act until April 1, 1997.”;

and in line 4, strike “3.” and substitute “4.”.