
By: Delegates Pitkin, Hubbard, Conroy, and Morgan

Introduced and read first time: February 9, 1996

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 Business Regulation - Cemeteries - Licensing and Preneed Burial Contracts

3 FOR the purpose of requiring a preneed burial contract to contain certain disclosures;
4 repealing certain provisions of law concerning preneed goods and services;
5 repealing certain provisions of law that allow a cemetery to sell a preneed burial
6 contract to a commercial lending institution; altering the circumstances under which
7 certain charges may be imposed; altering the amount of money a seller of preneed
8 goods or services must put in trust and the time at which the money is put in trust;
9 altering the circumstances under which a preneed burial contract maybe canceled
10 and the amount of a refund on cancellation; providing that a violation of a provision
11 of law governing a preneed contract is an unfair and deceptive tradepractice;
12 requiring that persons that own or control certain cemeteries obtainlicenses;
13 establishing the State Board of Cemeteries; providing for the appointment,
14 membership, and term of the Board members; providing for the powers and duties
15 of the Board; establishing requirements for licenses; providing for the revocation or
16 denial of licenses under certain circumstances; providing for hearings and certain
17 rights of appeal; specifying certain prohibited acts; imposing certain penalties;
18 repealing a certain exemption from the State sales and use tax; defining certain
19 terms; providing for the termination of certain provisions of this Act; and generally
20 relating to cemeteries and preneed burial contracts.

21 BY repealing and reenacting, with amendments,
22 Article - Commercial Law
23 Section 13-301(14)
24 Annotated Code of Maryland
25 (1990 Replacement Volume and 1995 Supplement)

26 BY repealing and reenacting, with amendments,
27 Article - Business Regulation
28 Section 5-401, 5-404, 5-405, and 5-409
29 Annotated Code of Maryland
30 (1992 Volume and 1995 Supplement)

31 BY adding to
32 Article - Business Regulation

2

1 Section 5-413; 5-701 through 5-732, inclusive, to be under the new subtitle
2 "Subtitle 7. Licensing"
3 Annotated Code of Maryland
4 (1992 Volume and 1995 Supplement)

5 BY repealing and reenacting, with amendments,
6 Article - Tax - General
7 Section 11-204
8 Annotated Code of Maryland
9 (1988 Volume and 1995 Supplement)

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

12 **Article - Commercial Law**

13 13-301.

14 Unfair or deceptive trade practices include any:

15 (14) Violation of a provision of:

16 (i) This title;

17 (ii) An order of the Attorney General or agreement of a party relating
18 to unit pricing under Title 14, Subtitle 1 of this article;

19 (iii) Title 14, Subtitle 2 of this article, the Maryland Consumer Debt
20 Collection Act;

21 (iv) Title 14, Subtitle 3 of this article, the Maryland Door-to-Door
22 Sales Act;

23 (v) Title 14, Subtitle 9 of this article, Kosher Products;

24 (vi) Title 14, Subtitle 10 of this article, Automotive Repair Facilities;

25 (vii) Section 14-1302 of this article;

26 (viii) Title 14, Subtitle 11 of this article, Maryland Layaway Sales Act;

27 (ix) Section 22-415 of the Transportation Article;

28 (x) Title 14, Subtitle 20 of this article;

29 (xi) Title 14, Subtitle 15 of this article, the AutomotiveWarranty
30 Enforcement Act;

31 (xii) Title 14, Subtitle 21 of this article;

32 (xiii) Section 18-107 of the Transportation Article;

33 (xiv) Title 14, Subtitle 22 of this article, the Maryland Telephone
34 Solicitations Act;

3

1 (xv) Title 14, Subtitle 23 of this article, the AutomotiveCrash Parts
2 Act;

3 (xvi) Title 10, Subtitle 6 of the Real Property Article;

4 (xvii) Title 10, Subtitle 8 of the Real Property Article;

5 (xviii) Title 14, Subtitle 25 of this article, the Hearing Aid Sales Act;
6 [or]

7 (xix) Title 14, Subtitle 26 of this article, the Maryland Door-to-Door
8 Solicitations Act; or

9 (XX) TITLE 5, SUBTITLE 4 OF THE BUSINESS REGULATION ARTICLE;
10 OR

11 **Article - Business Regulation**

12 5-401.

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

14 (b) (1) "Burial space" means land or space in a structure used or to be used for
15 burial.

16 (2) "Burial space" includes a burial right in the land or space.

17 (c) "Buyer" means a [person] CONSUMER who buys preneed goods or preneed
18 services.

19 (D) "CONSUMER" HAS THE MEANING STATED IN § 13-101 OF THE
20 COMMERCIAL LAW ARTICLE.

21 (E) "CERTIFY" MEANS TO ATTEST OR AFFIRM IN AN AFFIDAVIT MADE ON
22 THE SELLER'S PERSONAL KNOWLEDGE.

23 (F) "DELIVERY" MEANS THAT:

24 (1) TITLE TO SPECIFIC PRENEED BURIAL GOODS IS PROVIDED TO THE
25 BUYER OR DESIGNEE OF THE BUYER AND SUPPORTED BY A VERIFIABLE RECORD;
26 AND

27 (2) (I) THE BUYER HAS TAKEN ACTUAL PHYSICAL POSSESSION OF
28 THE PRENEED GOODS; OR

29 (II) IF THE BURIAL GOODS COULD BE MOVED BY THE BUYER OR
30 DESIGNEE OF THE BUYER TO ANOTHER LOCATION IN A CLASS A PASSENGER
31 MOTOR VEHICLE IF THE SELLER IS NO LONGER IN BUSINESS, THE GOODS ARE
32 STORED BY THE SELLER IN SUCH A MANNER THAT THE GOODS WILL REMAIN
33 "MERCHANTABLE", AS DEFINED IN § 2-314 OF THE COMMERCIAL LAW ARTICLE,
34 UNTIL THE GOODS ARE USED BY THE BUYER OR DESIGNEE OF THE BUYER.

35 (G) "PERFORMANCE" MEANS THAT THE SPECIFIC PRENEED BURIAL SERVICE
36 HAS BEEN COMPLETED AND THE BUYER HAS RECEIVED THE BENEFIT OF THE
37 SERVICE.

4

1 [(d)] (H) "Preneed burial contract" means a written instrument underwhich
2 preneed goods or preneed services are to be sold and delivered or performed.

3 [(e)] (I) (1) "Preneed goods" means goods that are sold:

4 (i) before the buyer's death; and

5 (ii) in connection with burial.

6 (2) "Preneed goods" includes:

7 (i) a grave liner;

8 (ii) a memorial;

9 (iii) a monument;

10 (iv) a scroll;

11 (v) an urn;

12 (vi) a vase; and

13 (vii) a vault.

14 (3) "Preneed goods" does not include burial space.

15 [(f)] (J) (1) "Preneed services" means services that are sold:

16 (i) before the buyer's death; and

17 (ii) in connection with burial.

18 (2) "Preneed services" includes opening and closing a grave.

19 [(g)] (K) "Seller" means a person who sells preneed goods or preneed services.

20 [(h)] (L) "Specific funds" means money that is identified to a specific preneed
21 burial contract.

22 [(i)] (M) "Trust account" means a preneed trust account.

23 5-404.

24 (a) A preneed burial contract shall contain:

25 (1) the name of the buyer;

26 (2) the name of the seller;

27 (3) the name of each individual, other than the buyer, as to whom the
28 preneed goods or preneed services are to be furnished;

29 (4) a description of the preneed goods or preneed services; [and]

30 (5) the amount of the buyer's financial obligation;

5

1 (6) THE TRUST DISCLOSURES REQUIRED BY § 5-405 OF THIS SUBTITLE;
2 AND

3 (7) THE CANCELLATION DISCLOSURES REQUIRED BY § 5-409 OF THIS
4 SUBTITLE.

5 (b) (1) A preneed burial contract shall be dated and executed in duplicate by
6 the buyer and seller.

7 (2) The seller shall give the buyer a duplicate original of the preneed burial
8 contract.

9 [(c) (1) A preneed burial contract may provide for delivery of identified preneed
10 goods by providing for the seller to:

11 (i) transfer physical possession of the preneed goods to the buyer or
12 designee of the buyer;

13 (ii) attach the preneed goods to a designated burial space;

14 (iii) pay for and suitably store the preneed goods until needed, at a
15 cemetery or other location of the seller, if the preneed goods are marked with the name
16 of the buyer and the sale is supported by a verifiable record; or

17 (iv) have the supplier of the preneed goods:

18 1. cause title to be transferred to the buyer or designee of the
19 buyer; and

20 2. agree in writing to ship the preneed goods at the direction of
21 the buyer or designee of the buyer.

22 (2) If a preneed burial contract does not provide for the manner of delivery
23 of preneed goods, compliance with paragraph (1)(i) or (ii) of this subsection is delivery in
24 accordance with this subtitle.

25 (d) Notwithstanding any provision in a preneed burial contract, identified
26 preneed services are not considered to have been performed until performance actually
27 occurs.]

28 [(e)] (C) (1) Except as otherwise provided in this subsection, a preneed burial
29 contract may not [provide for] INCLUDE interest or a finance charge.

30 (2) A cemetery that makes a preneed burial contract may impose interest or
31 a finance charge on preneed goods [delivered before death or preneed services
32 performed before death] ONLY AFTER DELIVERY OF SUCH GOODS HAS TAKEN
33 PLACE.

34 [(3) A cemetery may sell a preneed burial contract to a commercial lending
35 institution if the preneed burial contract signed by the original buyer of the preneed
36 goods or preneed services contains the following language in 12-point or larger type:

6

1 "Notice to consumers: This contract of sale may be sold to a commercial lending
2 institution. After the sale, the commercial lending institution may impose interest or a
3 finance charge on the remaining balance due".]

4 [(f)] (D) A provision of a preneed burial contract that purports to waive any
5 provision of this subtitle is void.

6 5-405.

7 (a) A seller shall put in trust [the second 50% of] 55% OF THE PORTION OF
8 EACH PAYMENT ATTRIBUTABLE TO BURIAL GOODS NOT DELIVERED AND BURIAL
9 SERVICES NOT PERFORMED MADE PURSUANT TO the [total] preneed burial contract
10 [price as the seller receives payments from the buyer] WITHIN 30 DAYS AFTER
11 RECEIPT.

12 [(b) Within 30 days after receipt of the last payment, the seller shall deposit an
13 additional amount to make the balance in the trust account equal to 55% of the total
14 contract price.]

15 (B) EACH PRENEED BURIAL CONTRACT SHALL CONTAIN THE FOLLOWING
16 DISCLOSURE IN 12-POINT TYPE OR LARGER:

17 "NOTICE TO BUYER: UNDER MARYLAND LAW, THE SELLER OF PRENEED
18 BURIAL GOODS AND SERVICES MUST DEPOSIT 55% OF EACH PAYMENT YOU MAKE
19 FOR UNDELIVERED GOODS AND SERVICES IN A TRUST ACCOUNT WITHIN 30 DAYS
20 OF RECEIPT OF THAT PAYMENT. TRUST DEPOSITS WILL BE MADE ON YOUR BEHALF
21 TO (NAME OF TRUSTEE AND FINANCIAL INSTITUTION). IF YOU WISH TO VERIFY
22 THAT TRUST DEPOSITS ARE BEING MADE ON YOUR BEHALF, YOU MAY CONTACT
23 THE TRUSTEE AT (ADDRESS AND PHONE NUMBER OF TRUSTEE)."

24 [(c) This section does not apply to:

25 (1) a preneed burial contract under which all preneed goods and preneed
26 services, other than dates, scrolls, and other additions that represent not more than 10%
27 of the total contract price, must be delivered or performed within 120 days after receipt of
28 50% of the total contract price; or

29 (2) money that a seller receives for preneed goods or preneed services to be
30 delivered or performed within 120 days after receipt of any payment on account of the
31 sale, if the buyer's obligation for these preneed goods or preneed services is separately
32 itemized.]

33 5-409.

34 [(a) (1) A buyer may cancel a preneed burial contract as to preneed goods not
35 delivered or preneed services not performed if the buyer:

36 (i) permanently moves more than 75 miles from the cemetery
37 specified in the preneed burial contract; and

38 (ii) gives to the seller written notice, under oath, of the move and
39 includes the buyer's new permanent address.

40 (2) In that event:

7

1 (i) the seller shall certify to the trustee:

2 1. the cancellation of the preneed burial contract;

3 2. the amount of the remaining specific funds applicable to the
4 preneed burial contract; and

5 3. the name and address of the buyer; and

6 (ii) the trustee shall then pay to the buyer the remainingspecific funds
7 and accrued interest.]

8 (A) (1) IF A BUYER PROVIDES THE SELLER WITH A WRITTEN NOTICE OF
9 CANCELLATION WITHIN 3 DAYS OF THE CONTRACT DATE, THE SELLER, WITHIN 30
10 DAYS AFTER RECEIPT OF THE NOTICE, SHALL RETURN 100% OF ALL PAYMENTS
11 MADE BY THE BUYER.

12 (2) IF A BUYER PROVIDES THE SELLER WITH A WRITTEN NOTICE OF
13 CANCELLATION AT ANY TIME AFTER THE INITIAL 3-DAY PERIOD, THE SELLER,
14 WITHIN 30 DAYS AFTER RECEIPT OF THE NOTICE, SHALL RETURN TO THE BUYER
15 ALL MONEYS PAID UNDER THE CONTRACT FOR GOODS AND SERVICES NOT
16 DELIVERED OR PERFORMED AND ALL INTEREST ACCRUED IN THE TRUST
17 ACCOUNT, LESS A LIQUIDATED DAMAGES FEE CALCULATED AS FOLLOWS:

18 (I) DURING THE FIRST 10 YEARS THAT THE CONTRACT IS IN
19 EFFECT, THE LIQUIDATED DAMAGES FEE SHALL BE NO MORE THAN 10% OF THE
20 AMOUNT ALREADY PAID BY THE BUYER TO THE SELLER; AND

21 (II) FOR EACH SUBSEQUENT YEAR THEREAFTER, THE INITIAL
22 LIQUIDATED DAMAGES FEE MAY BE INCREASED BY 1%.

23 (3) EACH PRENEED BURIAL CONTRACT SHALL CONTAIN THE
24 FOLLOWING CANCELLATION DISCLOSURE IN 12-POINT TYPE OR LARGER:

25 "NOTICE TO BUYER: YOU HAVE THE RIGHT TO CANCEL THIS CONTRACT AT
26 ANY TIME AS STATED BELOW:

27 DURING THE INITIAL 3-DAY PERIOD AFTER YOUR EXECUTION OF THE
28 CONTRACT, YOU MAY CANCEL BY GIVING WRITTEN NOTICE OF CANCELLATION TO
29 THE SELLER. WITHIN 30 DAYS AFTER THE SELLER'S RECEIPT OF SUCH NOTICE, THE
30 SELLER WILL RETURN TO YOU 100% OF THE MONEY YOU PAID.

31 AFTER THE EXPIRATION OF THE INITIAL 3-DAY PERIOD, YOU MAY CANCEL
32 YOUR PURCHASE OF GOODS AND SERVICES NOT DELIVERED OR PERFORMED BY
33 GIVING WRITTEN NOTICE OF CANCELLATION TO THE SELLER. WITHIN 30 DAYS
34 AFTER THE SELLER'S RECEIPT OF SUCH NOTICE, THE SELLER WILL MAKE THE
35 FOLLOWING REFUND TO YOU:

36 FOR 10 YEARS FROM THE DATE OF YOUR CONTRACT, THE SELLER WILL
37 RETURN TO YOU ALL OF THE MONEY YOU PAID FOR GOODS AND SERVICES NOT
38 DELIVERED OR PERFORMED, PLUS INTEREST EARNED, LESS A LIQUIDATED
39 DAMAGES FEE THAT MAY NOT BE MORE THAN 10% OF THE AMOUNT YOU HAVE
40 PAID FOR SUCH GOODS AND SERVICES.

8

1 FOR EACH YEAR THEREAFTER, THE INITIAL LIQUIDATED DAMAGES FEE MAY
2 BE INCREASED BY 1%."

3 (b) If a buyer defaults on a preneed burial contract and, as a result, the seller
4 terminates the preneed burial contract:

5 (1) the seller shall certify to the trustee:

6 (i) the default and termination of the preneed burial contract;

7 (ii) the amount of the specific funds; and

8 (iii) the reasonable expenses of the seller; and

9 (2) the trustee shall then pay:

10 (i) to the buyer, those specific funds and accrued interest, less the
11 reasonable expenses of the seller; and

12 (ii) to the seller, the reasonable expenses of the seller.

13 (c) If specific funds on deposit in a trust account have been dormant for at least
14 50 years since the date of the last deposit or disbursement and the seller cannot locate the
15 buyer:

16 (1) the seller shall certify to the trustee:

17 (i) that the trust account is dormant and the buyer cannot be located;
18 and

19 (ii) the amount of the specific funds; and

20 (2) the trustee shall then pay to the seller those specific funds and accrued
21 interest.

22 5-413.

23 A VIOLATION OF ANY PROVISION OF THIS SUBTITLE IS AN UNFAIR AND
24 DECEPTIVE TRADE PRACTICE UNDER TITLE 13 OF THE COMMERCIAL LAW ARTICLE.

25 SUBTITLE 7. LICENSING.

26 5-701.

27 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
28 INDICATED.

29 (B) "BOARD" MEANS THE STATE BOARD OF CEMETERIES.

30 (C) "BUSINESS OF A CEMETERY" MEANS THE ACTIVITY NECESSARY FOR OR
31 INCIDENT TO:

32 (1) ESTABLISHING, MAINTAINING, OPERATING, OR IMPROVING A
33 CEMETERY;

34 (2) BURIAL; AND

9

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

2 (D) (1) "CEMETERY COMPANY" MEANS A PERSON THAT OWNS OR
3 CONTROLS A CEMETERY OR CONDUCTS THE BUSINESS OF A CEMETERY.

4 (2) "CEMETERY COMPANY" DOES NOT INCLUDE:

5 (I) A BROKER OR A SALESPERSON; OR

6 (II) A PERSON THAT OWNS OR CONTROLS LESS THAN 1 ACRE
7 AVAILABLE FOR BURIAL.

8 (E) "FIRM" MEANS A PARTNERSHIP, CORPORATION, OR OTHER LEGAL
9 ENTITY.

10 (F) "LICENSE" MEANS A LICENSE ISSUED BY THE BOARD TO OWN OR
11 CONTROL A CEMETERY OR CONDUCT THE BUSINESS OF A CEMETERY.

12 (G) "LICENSEE" MEANS THE HOLDER OF A LICENSE.

13 (H) "LICENSED CEMETERY COMPANY" MEANS A PERSON WHO IS LICENSED
14 BY THE BOARD AS A CEMETERY COMPANY.

15 5-702.

16 THE GENERAL ASSEMBLY FINDS THAT IT IS IN THE PUBLIC INTEREST TO
17 REGULATE CEMETERIES TO ENSURE THAT SOUND BUSINESS PRACTICES ARE
18 FOLLOWED BY ALL CEMETERY COMPANIES.

19 5-703.

20 THERE IS A STATE BOARD OF CEMETERIES IN THE DEPARTMENT.

21 5-704.

22 (A) (1) THE BOARD CONSISTS OF SEVEN MEMBERS.

23 (2) OF THE SEVEN MEMBERS OF THE BOARD:

24 (I) ONE SHALL BE THE SECRETARY OF STATE;

25 (II) THREE SHALL BE OWNERS, OPERATORS, OR
26 REPRESENTATIVES OF A LICENSED CEMETERY COMPANY, APPOINTED BY THE
27 GOVERNOR; AND

28 (III) THREE SHALL BE CONSUMER MEMBERS, APPOINTED BY THE
29 GOVERNOR.

30 (3) THE GOVERNOR SHALL APPOINT THE MEMBERS WITH THE ADVICE
31 OF THE SECRETARY AND THE ADVICE AND CONSENT OF THE SENATE.

32 (4) THE GOVERNOR SHALL APPOINT THE LICENSED MEMBERS FROM A
33 LIST SUBMITTED TO THE GOVERNOR BY THE MARYLAND CEMETERY ASSOCIATION.
34 THE NUMBER OF NAMES ON THE LIST SHALL BE THREE TIMES THE NUMBER OF
35 VACANCIES.

10

1 (B) EACH MEMBER SHALL BE A RESIDENT OF THE STATE.

2 (C) EACH CONSUMER MEMBER OF THE BOARD:

3 (1) SHALL BE A MEMBER OF THE GENERAL PUBLIC;

4 (2) MAY NOT BE A LICENSEE OR OTHERWISE BE SUBJECT TO
5 REGULATION BY THE BOARD;

6 (3) MAY NOT BE REQUIRED TO MEET THE QUALIFICATIONS FOR THE
7 LICENSED MEMBERS OF THE BOARD; AND

8 (4) MAY NOT, WITHIN 1 YEAR BEFORE APPOINTMENT, HAVE HAD A
9 FINANCIAL INTEREST IN OR HAVE RECEIVED COMPENSATION FROM A PERSON
10 REGULATED BY THE BOARD.

11 (D) WHILE A MEMBER OF THE BOARD, A CONSUMER MEMBER MAY NOT
12 HAVE A FINANCIAL INTEREST IN OR RECEIVE COMPENSATION FROM A PERSON
13 REGULATED BY THE BOARD.

14 (E) (1) EXCEPT FOR THE SECRETARY OF STATE, THE TERM OF A MEMBER IS
15 5 YEARS AND BEGINS ON OCTOBER 1.

16 (2) THE TERMS OF APPOINTED MEMBERS ARE STAGGERED AS
17 REQUIRED BY THE TERMS PROVIDED FOR MEMBERS OF THE BOARD ON OCTOBER 1,
18 1996.

19 (3) AT THE END OF A TERM, A MEMBER CONTINUES TO SERVE UNTIL A
20 SUCCESSOR IS APPOINTED AND QUALIFIES.

21 (4) A MEMBER WHO IS APPOINTED AFTER A TERM HAS BEGUN SERVES
22 ONLY FOR THE REST OF THE TERM AND UNTIL A SUCCESSOR IS APPOINTED AND
23 QUALIFIES.

24 (F) THE GOVERNOR MAY REMOVE A MEMBER FOR INCOMPETENCE OR
25 MISCONDUCT.

26 5-705.

27 (A) THE SECRETARY OF STATE SHALL BE THE CHAIRMAN OF THE BOARD.

28 (B) EXCEPT FOR THE CHAIRMAN, THE MANNER OF ELECTION OF OFFICERS
29 SHALL BE AS THE BOARD DETERMINES.

30 5-706.

31 (A) A MAJORITY OF THE MEMBERS THEN SERVING ON THE BOARD IS A
32 QUORUM.

33 (B) THE BOARD SHALL DETERMINE THE TIMES AND PLACES OF ITS
34 MEETINGS.

35 (C) EACH MEMBER OF THE BOARD IS ENTITLED TO REIMBURSEMENT FOR
36 EXPENSES UNDER THE STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN
37 THE STATE BUDGET.

11

1 (D) THE BOARD MAY EMPLOY A STAFF IN ACCORDANCE WITH THE STATE
2 BUDGET.

3 5-707.

4 (A) IN ADDITION TO ANY POWERS SET FORTH ELSEWHERE, THE BOARD MAY:

5 (1) ADOPT BYLAWS, RULES, AND REGULATIONS TO CARRY OUT THIS
6 SUBTITLE;

7 (2) ADOPT A SEAL;

8 (3) EXCEPT FOR A VIOLATION SPECIFIED IN § 5-718(A)(4) OR (9) OF THIS
9 SUBTITLE, SUE TO ENFORCE ANY PROVISION OF THIS SUBTITLE AGAINST A
10 LICENSEE; AND

11 (4) REFER ANY VIOLATION OF THIS SUBTITLE TO THE STATE'S
12 ATTORNEY FOR ENFORCEMENT.

13 (B) IN ADDITION TO ANY DUTIES SET FORTH ELSEWHERE, THE BOARD
14 SHALL:

15 (1) INVESTIGATE ANY ALLEGED VIOLATION OF THIS SUBTITLE;

16 (2) REFER TO THE ATTORNEY GENERAL ANY ALLEGED UNFAIR OR
17 DECEPTIVE TRADE PRACTICES DEFINED BY TITLE 13 OF THE COMMERCIAL LAW
18 ARTICLE;

19 (3) REFER TO THE SECRETARY OF STATE ANY ALLEGED VIOLATIONS
20 OF THE PERPETUAL CARE TRUST PROVISIONS OR PRENEED BURIAL CONTRACT
21 PROVISIONS UNDER THIS TITLE;

22 (4) KEEP A LIST OF ALL LICENSEES; AND

23 (5) SUBMIT AN ANNUAL REPORT TO THE DEPARTMENT.

24 5-708.

25 (A) SUBJECT TO SUBSECTION (B) OF THIS SECTION, THE BOARD SHALL SET
26 REASONABLE FEES FOR THE ISSUANCE AND RENEWAL OF LICENSES AND FOR ITS
27 OTHER SERVICES.

28 (B) THE FEES SET BY THE BOARD SHALL BE SET IN A MANNER THAT WILL
29 PRODUCE FUNDS SUFFICIENT TO COVER THE ACTUAL DIRECT AND INDIRECT COST
30 OF REGULATING THE CEMETERY INDUSTRY IN THE STATE IN ACCORDANCE WITH
31 THE PROVISIONS OF THIS SUBTITLE.

32 (C) THE BOARD SHALL PAY ALL MONEY COLLECTED UNDER THIS SUBTITLE
33 INTO THE GENERAL FUND OF THE STATE.

34 5-709.

35 (A) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBTITLE:

12

1 (1) AN INDIVIDUAL SHALL BE LICENSED BY THE BOARD BEFORE THE
2 INDIVIDUAL MAY OWN OR CONTROL A CEMETERY OR CONDUCT THE BUSINESS OF A
3 CEMETERY IN THE STATE; AND

4 (2) A FIRM SHALL BE LICENSED BY THE BOARD BEFORE THE FIRM MAY
5 OWN OR CONTROL A CEMETERY OR CONDUCT THE BUSINESS OF A CEMETERY IN
6 THE STATE.

7 (B) THE BOARD SHALL ISSUE AN INITIAL LICENSE TO A CEMETERY COMPANY
8 THAT EXISTS ON OR BEFORE OCTOBER 1, 1996.

9 (C) A CEMETERY COMPANY ISSUED AN INITIAL LICENSE UNDER SUBSECTION
10 (B) OF THIS SECTION SHALL BE OPERATED IN ACCORDANCE WITH THE PROVISIONS
11 OF THIS SUBTITLE AND SUBJECT TO ALL LICENSING REQUIREMENTS AT THE TIME
12 OF LICENSE RENEWAL.

13 5-710.

14 (A) TO QUALIFY FOR A LICENSE, AN APPLICANT SHALL MEET THE
15 REQUIREMENTS OF THIS SECTION.

16 (B) IF THE APPLICANT IS AN INDIVIDUAL, THE APPLICANT SHALL BE:

17 (1) OF GOOD MORAL CHARACTER AND REPUTATION; AND

18 (2) AT LEAST 18 YEARS OLD.

19 (C) IF THE APPLICANT IS A FIRM, EACH PARTNER, OFFICER, OR DIRECTOR OF
20 THE FIRM SHALL BE:

21 (1) OF GOOD MORAL CHARACTER AND REPUTATION; AND

22 (2) AT LEAST 18 YEARS OLD.

23 (D) AN APPLICANT SHALL MEET ANY OTHER QUALIFICATIONS OR
24 REQUIREMENTS THAT THE BOARD ESTABLISHES FOR LICENSE APPLICANTS.

25 5-711.

26 (A) THE APPLICATION SHALL REQUIRE:

27 (1) INFORMATION THAT IDENTIFIES THE FORM OF LEGAL ENTITY THAT
28 WILL CONDUCT THE BUSINESS OF A CEMETERY AND THE PROPOSED FINANCIAL
29 STRUCTURE OF THAT ENTITY;

30 (2) EVIDENCE OF THE ESTABLISHMENT OF A PERPETUAL CARE TRUST
31 FUND AS REQUIRED BY SUBTITLE 3 OF THIS TITLE;

32 (3) A PLAT OF THE LAND THAT IS USED OR WILL BE USED FOR THE
33 CEMETERY, SHOWING THE COUNTY OR MUNICIPAL CORPORATION IN WHICH THE
34 CEMETERY IS LOCATED OR WILL BE LOCATED AND THE NAMES OF THE ROADS,
35 ACCESS STREETS, OR WAYS THAT RUN OR WILL RUN THROUGH THE CEMETERY;

36 (4) DESIGNATION, BY THE INDIVIDUAL OR FIRM OWNING OR
37 CONTROLLING A CEMETERY OR CONDUCTING THE BUSINESS OF A CEMETERY OR

13

1 SEEKING TO OWN OR CONTROL A CEMETERY OR CONDUCT THE BUSINESS OF A
2 CEMETERY, OF A GENERAL MANAGER WHO MUST BE AN INDIVIDUAL WITH NO LESS
3 THAN 2 YEARS EXPERIENCE IN A CEMETERY BUSINESS;

4 (5) FOR A PROPOSED CEMETERY, DEVELOPMENT PLANS SUFFICIENT TO
5 ENSURE THE COMMUNITY THAT THE PROPOSED CEMETERY WILL PROVIDE
6 ADEQUATE SERVICES AND THAT THE PROPOSED CEMETERY PROPERTY IS
7 SUITABLE FOR USE AS A CEMETERY;

8 (6) IF THE APPLICANT IS AN INDIVIDUAL:

9 (I) THE NAME OF THE APPLICANT;

10 (II) THE AGE OF THE APPLICANT; AND

11 (III) THE ADDRESS OF THE APPLICANT;

12 (7) IF THE APPLICANT IS A FIRM:

13 (I) A LIST OF ALL OF THE PARTNERS, OFFICERS, OR DIRECTORS
14 OF THE FIRM; AND

15 (II) FOR EACH PARTNER, OFFICER, OR DIRECTOR, THE SAME
16 INFORMATION REQUIRED FOR AN INDIVIDUAL APPLICANT UNDER ITEM (6) OF THIS
17 SUBSECTION; AND

18 (8) ANY OTHER INFORMATION THAT THE BOARD CONSIDERS
19 APPROPRIATE.

20 (B) (1) IF THE APPLICANT IS AN INDIVIDUAL, THE APPLICATION FORM
21 SHALL BE SIGNED, UNDER OATH, BY THE INDIVIDUAL.

22 (2) IF THE APPLICANT IS A FIRM, THE APPLICATION FORM SHALL BE
23 SIGNED, UNDER OATH, BY ALL OF THE PARTNERS, OFFICERS, OR DIRECTORS OF
24 THE FIRM.

25 5-712.

26 AN APPLICANT FOR A LICENSE SHALL:

27 (1) SUBMIT TO THE BOARD AN APPLICATION ON THE FORM THAT THE
28 BOARD REQUIRES; AND

29 (2) PAY TO THE BOARD A REASONABLE APPLICATION FEE SET BY THE
30 BOARD.

31 5-713.

32 (A) THE BOARD SHALL ISSUE A LICENSE TO EACH APPLICANT THAT MEETS
33 THE REQUIREMENTS OF THIS SUBTITLE.

34 (B) THE BOARD SHALL INCLUDE ON EACH LICENSE THAT THE BOARD ISSUES:

35 (1) THE FULL NAME OF THE CEMETERY COMPANY;

14

1 (2) THE LOCATION OF THE PRINCIPAL OFFICE OF THE CEMETERY
2 COMPANY;

3 (3) THE DATE ON WHICH THE BOARD ISSUED THE LICENSE; AND

4 (4) THE DATE ON WHICH THE LICENSE EXPIRES.

5 5-714.

6 WHILE A LICENSE IS IN EFFECT, IT AUTHORIZES THE LICENSEE TO OWN OR
7 CONTROL A CEMETERY OR CONDUCT THE BUSINESS OF A CEMETERY.

8 5-715.

9 (A) UNLESS A LICENSE IS RENEWED FOR A 2-YEAR TERM AS PROVIDED IN
10 THIS SECTION, THE LICENSE EXPIRES ON THE SECOND SEPTEMBER 30 AFTER ITS
11 EFFECTIVE DATE.

12 (B) AT LEAST 1 MONTH BEFORE A LICENSE EXPIRES, THE BOARD SHALL MAIL
13 TO THE LICENSEE, AT THE LAST KNOWN ADDRESS OF THE LICENSEE, A RENEWAL
14 APPLICATION FORM AND A NOTICE THAT STATES:

15 (1) THE DATE ON WHICH THE CURRENT LICENSE EXPIRES;

16 (2) THE DATE BY WHICH THE BOARD MUST RECEIVE THE RENEWAL
17 APPLICATION FOR THE RENEWAL TO BE ISSUED AND MAILED BEFORE THE LICENSE
18 EXPIRES; AND

19 (3) THE AMOUNT OF THE RENEWAL FEE.

20 (C) BEFORE A LICENSE EXPIRES, THE LICENSEE PERIODICALLY MAY RENEW
21 IT FOR AN ADDITIONAL 2-YEAR TERM, IF THE LICENSEE:

22 (1) IS OTHERWISE ENTITLED TO BE LICENSED;

23 (2) PAYS TO THE BOARD A RENEWAL FEE SET BY THE BOARD; AND

24 (3) SUBMITS TO THE BOARD:

25 (I) A RENEWAL APPLICATION ON THE FORM THAT THE BOARD
26 REQUIRES; AND

27 (II) SATISFACTORY EVIDENCE OF COMPLIANCE WITH THE
28 REQUIREMENTS SET UNDER THIS SECTION FOR LICENSE RENEWAL.

29 (D) THE BOARD SHALL RENEW THE LICENSE OF EACH LICENSED CEMETERY
30 COMPANY THAT MEETS THE REQUIREMENTS OF THIS SECTION.

31 5-716.

32 (A) THE BOARD, IN ACCORDANCE WITH ANY REGULATIONS OF THE BOARD,
33 MAY REINSTATE THE LICENSE OF A LICENSEE THAT HAS FAILED TO RENEW THE
34 LICENSE FOR ANY REASON IF THE LICENSEE:

35 (1) IS OTHERWISE ENTITLED TO BE LICENSED UNDER THIS SUBTITLE;

15

1 (2) MEETS THE RENEWAL REQUIREMENTS OF § 5-715 OF THIS SUBTITLE;

2 (3) PAYS TO THE BOARD A REASONABLE REINSTATEMENT FEE, SET BY
3 THE BOARD, IN ADDITION TO THE RENEWAL FEE REQUIRED UNDER § 5-715 OF THIS
4 SUBTITLE; AND

5 (4) SUBMITS TO THE BOARD SATISFACTORY EVIDENCE OF COMPLIANCE
6 WITH THE REQUIREMENTS ESTABLISHED UNDER THIS SUBTITLE FOR LICENSE
7 REINSTATEMENTS.

8 (B) THE BOARD SHALL REINSTATE THE LICENSE OF EACH LICENSEE WHO
9 MEETS THE REQUIREMENTS OF THIS SECTION.

10 5-717.

11 (A) EACH LICENSEE SHALL DISPLAY THE LICENSE CONSPICUOUSLY IN THE
12 OFFICE OR PLACE OF BUSINESS OF THE LICENSEE.

13 (B) EACH LICENSEE SHALL RECORD THE LICENSE WITH THE SECRETARY OF
14 STATE.

15 (C) EACH LICENSEE SHALL GIVE THE BOARD WRITTEN NOTICE OF ANY
16 CHANGE OF ADDRESS OF THE BUSINESS OFFICE OF THE CEMETERY.

17 5-718.

18 (A) SUBJECT TO THE HEARING PROVISIONS OF § 5-719 OF THIS SUBTITLE, THE
19 BOARD, ON THE AFFIRMATIVE VOTE OF A MAJORITY OF ITS MEMBERS THEN
20 SERVING, MAY DENY A LICENSE TO ANY APPLICANT, REPRIMAND ANY LICENSEE,
21 OR REVOKE A LICENSE IF THE APPLICANT OR LICENSEE:

22 (1) FRAUDULENTLY OR DECEPTIVELY OBTAINS OR ATTEMPTS TO
23 OBTAIN A LICENSE FOR THE APPLICANT OR LICENSEE OR FOR ANOTHER;

24 (2) FRAUDULENTLY OR DECEPTIVELY USES A LICENSE;

25 (3) COMMITS FRAUD OR HAS ENGAGED IN UNETHICAL PRACTICES IN
26 THE OPERATION OF THE CEMETERY BUSINESS;

27 (4) VIOLATES THE UNFAIR AND DECEPTIVE TRADE PRACTICES
28 PROVISIONS UNDER TITLE 13 OF THE COMMERCIAL LAW ARTICLE;

29 (5) IS CONVICTED OF OR PLEADS GUILTY OR NOLO CONTENDERE TO A
30 FELONY OR TO A CRIME INVOLVING MORAL TURPITUDE, WHETHER OR NOT ANY
31 APPEAL OR OTHER PROCEEDING IS PENDING TO HAVE THE CONVICTION OR PLEA
32 SET ASIDE;

33 (6) ADVERTISES FALSELY OR IN A MISLEADING MANNER;

34 (7) HAS ENGAGED IN THE OFFENSIVE TREATMENT OF A DEAD HUMAN
35 BODY;

36 (8) DIRECTLY OR INDIRECTLY OFFERS TO PAY TO OBTAIN CEMETERY
37 BUSINESS;

16

1 (9) VIOLATES THE PERPETUAL CARE TRUST PROVISIONS OR PRENEED
2 BURIAL CONTRACT PROVISIONS UNDER SUBTITLE 3 OF THIS TITLE;

3 (10) VIOLATES A RULE OR REGULATION ADOPTED BY THE BOARD; OR

4 (11) VIOLATES A PROVISION OF THIS SUBTITLE.

5 (B) (1) INSTEAD OF OR IN ADDITION TO SUSPENDING OR REVOKING A
6 LICENSE, THE BOARD MAY IMPOSE A PENALTY NOT EXCEEDING \$2,000 FOR EACH
7 VIOLATION.

8 (2) TO DETERMINE THE AMOUNT OF THE PENALTY IMPOSED UNDER
9 THIS SUBSECTION, THE BOARD SHALL CONSIDER:

10 (I) THE SERIOUSNESS OF THE VIOLATION;

11 (II) THE HARM CAUSED BY THE VIOLATION;

12 (III) THE GOOD FAITH OF THE LICENSEE; AND

13 (IV) ANY HISTORY OF PREVIOUS VIOLATIONS BY THE LICENSEE.

14 (3) THE BOARD SHALL PAY ANY PENALTY COLLECTED UNDER THIS
15 SUBSECTION INTO THE GENERAL FUND OF THE STATE.

16 (C) FOR PURPOSES OF THIS SECTION, AN ACT OR OMISSION OF ANY
17 PRINCIPAL, AGENT, OR EMPLOYEE OF AN APPLICANT OR A LICENSEE MAY BE
18 CONSTRUED TO BE THE ACT OR OMISSION OF THE APPLICANT OR LICENSEE, AS
19 WELL AS OF THE PRINCIPAL, AGENT, OR EMPLOYEE.

20 5-719.

21 (A) EXCEPT AS OTHERWISE PROVIDED IN TITLE 10, SUBTITLE 4 OF THE STATE
22 GOVERNMENT ARTICLE, BEFORE THE BOARD TAKES ANY FINAL ACTION UNDER §
23 5-718 OF THIS SUBTITLE, IT SHALL GIVE THE PERSON AGAINST WHOM THE ACTION IS
24 CONTEMPLATED AN OPPORTUNITY FOR A HEARING BEFORE THE BOARD.

25 (B) THE BOARD SHALL GIVE NOTICE AND HOLD THE HEARING IN
26 ACCORDANCE WITH TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE.

27 (C) THE BOARD MAY ADMINISTER OATHS IN CONNECTION WITH ANY
28 PROCEEDINGS UNDER THIS SECTION.

29 (D) THE HEARING NOTICE TO BE GIVEN TO THE PERSON SHALL BE SENT BY
30 CERTIFIED MAIL TO THE LAST KNOWN ADDRESS OF THE PERSON AT LEAST 10 DAYS
31 BEFORE THE HEARING.

32 (E) THE PERSON MAY BE REPRESENTED AT THE HEARING BY COUNSEL.

33 (F) (1) THE BOARD MAY ISSUE SUBPOENAS IN CONNECTION WITH ANY
34 PROCEEDING UNDER THIS SECTION.

35 (2) IF A PERSON FAILS TO COMPLY WITH A SUBPOENA ISSUED UNDER
36 THIS SUBSECTION, ON PETITION OF THE BOARD, A CIRCUIT COURT MAY COMPEL
37 COMPLIANCE WITH THE SUBPOENA.

17

1 (G) IF, AFTER DUE NOTICE, THE PERSON AGAINST WHOM THE ACTION IS
2 CONTEMPLATED FAILS OR REFUSES TO APPEAR, THE BOARD MAY HEAR AND
3 DETERMINE THE MATTER.

4 5-720.

5 ANY PERSON AGGRIEVED BY A FINAL DECISION OF THE BOARD IN A
6 CONTESTED CASE, AS DEFINED IN § 10-202 OF THE STATE GOVERNMENT ARTICLE,
7 MAY TAKE AN APPEAL AS ALLOWED IN §§ 10-222 AND 10-223 OF THE STATE
8 GOVERNMENT ARTICLE.

9 5-721.

10 (A) WHENEVER THE BOARD SUSPENDS OR REVOKES THE LICENSE OF A
11 LICENSEE UNDER § 5-718(A) OF THIS SUBTITLE, THE BOARD SHALL MAIL NOTICE OF
12 THE SUSPENSION OR REVOCATION:

13 (1) IF THE LICENSEE IS AN INDIVIDUAL, TO THE LICENSEE; AND

14 (2) IF THE LICENSEE IS A FIRM, TO EACH PARTNER, OFFICER, OR
15 DIRECTOR OF THE FIRM.

16 (B) WHENEVER THE BOARD IMPOSES A PENALTY UNDER § 5-718(B) OF THIS
17 SUBTITLE, THE BOARD SHALL MAIL NOTICE OF THE PENALTY:

18 (1) IF THE LICENSEE IS AN INDIVIDUAL, TO THE LICENSEE; AND

19 (2) IF THE LICENSEE IS A FIRM, TO EACH PARTNER, OFFICER, OR
20 DIRECTOR OF THE FIRM.

21 5-722.

22 EXCEPT AS OTHERWISE PROVIDED IN THIS SUBTITLE, A PERSON MAY NOT OWN
23 OR CONTROL A CEMETERY OR CONDUCT THE BUSINESS OF A CEMETERY IN THE
24 STATE UNLESS LICENSED BY THE BOARD.

25 5-723.

26 UNLESS AUTHORIZED UNDER THIS SUBTITLE TO OWN OR CONTROL A
27 CEMETERY OR CONDUCT THE BUSINESS OF A CEMETERY, A PERSON MAY NOT
28 REPRESENT TO THE PUBLIC THAT THE PERSON IS AUTHORIZED TO OWN OR
29 CONTROL A CEMETERY OR CONDUCT THE BUSINESS OF A CEMETERY IN THE STATE.

30 5-724.

31 A CEMETERY COMPANY MAY NOT REQUIRE A MONUMENT DEALER OR AN
32 INDIVIDUAL WHO OWNS A LOT IN A CEMETERY TO:

33 (1) CONTRIBUTE TO A TRUST FUND FOR THE CARE OF A MEMORIAL OR
34 MONUMENT; OR

35 (2) PAY A FEE FOR THE CARE OF A MEMORIAL OR MONUMENT.

18

1 5-725.

2 (A) (1) A CEMETERY COMPANY MAY NOT CHARGE A FEE FOR SUPERVISING
3 A MONUMENT DEALER WHEN THE DEALER PLACES A FOUNDATION.

4 (2) A CEMETERY COMPANY SHALL ESTABLISH RULES CONCERNING THE
5 PLACEMENT OF FOUNDATIONS THAT ARE IN ACCORDANCE WITH ACCEPTED
6 INDUSTRY GUIDELINES. THE COMPANY MAY NOT IMPOSE REQUIREMENTS ON A
7 MONUMENT DEALER RELATING TO PLACING A FOUNDATION THAT THE COMPANY
8 DOES NOT IMPOSE ON ITSELF.

9 (3) A CEMETERY COMPANY MAY NOT CHARGE A FEE GREATER THAN
10 \$25 FOR STAKING OUT THE AREA WHERE A FOUNDATION WILL BE PLACED.

11 (B) A CEMETERY COMPANY MAY NOT CHARGE A MONUMENT DEALER A FEE
12 TO INSPECT THE DEALER'S WORK.

13 5-726.

14 (A) (1) EXCEPT AS NECESSARY, A CEMETERY COMPANY MAY NOT REQUIRE
15 AN INDIVIDUAL WHO OWNS A LOT IN A CEMETERY TO VISIT THE CEMETERY WITHIN
16 48 HOURS BEFORE A FUNERAL. THE COMPANY MAY NOT SOLICIT PRODUCTS OR
17 SERVICES FROM AN INDIVIDUAL WHO VISITS THE CEMETERY DURING THIS TIME
18 PERIOD.

19 (2) A CEMETERY COMPANY MAY NOT SOLICIT PRODUCTS OR SERVICES
20 FROM AN INDIVIDUAL WHO ATTENDS A FUNERAL UNTIL THE 15TH DAY AFTER THE
21 FUNERAL.

22 (B) (1) A CEMETERY COMPANY MAY NOT GIVE PREFERENTIAL
23 TREATMENT TO ITS COMPANY'S PRODUCTS OR SERVICES.

24 (2) A CEMETERY COMPANY MAY NOT RESTRICT AREAS IN THE
25 CEMETERY TO MEMORIALS THAT CAN BE PURCHASED ONLY FROM THE COMPANY.

26 (3) A CEMETERY COMPANY MAY NOT ESTABLISH RULES AND
27 PROCEDURES THAT RESTRICT AN OWNER OF A LOT IN THE CEMETERY FROM
28 PURCHASING ITEMS, INCLUDING MEMORIALS, VAULTS, AND FLOWERS, FROM
29 OTHER PERSONS.

30 (C) A CEMETERY COMPANY MAY NOT IMPOSE AN ADDITIONAL CHARGE FOR
31 A PRENEED MEMORIAL.

32 (D) BEFORE A CEMETERY COMPANY ENTERS INTO A CONTRACT FOR THE
33 SALE OF A MEMORIAL, MARKER, MONUMENT, STONE, OR SIMILAR STRUCTURE, THE
34 COMPANY SHALL INFORM THE CONSUMER IN WRITING THAT THE CONSUMER MAY
35 PURCHASE THE ITEM FROM ANOTHER PERSON.

36 5-727.

37 (A) A CEMETERY COMPANY SHALL PROVIDE A COPY OF ITS RULES AND
38 PROCEDURES TO MONUMENT DEALERS ON REQUEST.

19

1 (B) A CEMETERY COMPANY MAY NOT APPLY A RULE OR PROCEDURE
2 RETROACTIVELY.

3 (C) A CEMETERY COMPANY SHALL DISCLOSE ITS RULES AND PROCEDURES
4 TO A CONSUMER. THE DISCLOSURE SHALL:

5 (1) BE IN WRITING;

6 (2) BE MADE BEFORE THE CONSUMER AND THE COMPANY EXECUTE A
7 CONTRACT;

8 (3) BE SIGNED BY THE CONSUMER AND THE COMPANY; AND

9 (4) INCLUDE THE PHONE NUMBER AND ADDRESS OF THE BOARD.

10 (D) A CEMETERY COMPANY SHALL FILE A COPY OF ITS RULES AND
11 PROCEDURES WITH THE BOARD. THE COMPANY SHALL NOTIFY THE BOARD IN
12 WRITING OF CHANGES IN ITS RULES OR PROCEDURES AT LEAST 60 DAYS BEFORE
13 THEY BECOME EFFECTIVE.

14 5-728.

15 (A) IN THIS SECTION "LAND REMAINING" MEANS THE NUMBER OF ACRES
16 REMAINING IN A CEMETERY AFTER SUBTRACTING THE NUMBER OF ACRES THAT
17 HAVE BEEN SOLD AND THE NUMBER OF ACRES THAT HAVE BEEN USED FROM THE
18 NUMBER OF ORIGINAL ACRES.

19 (B) A CEMETERY COMPANY SHALL CALCULATE THE LAND REMAINING
20 IN THE CEMETERY AT THE END OF EACH CALENDAR YEAR. THE COMPANY SHALL
21 REPORT THIS FIGURE TO THE BOARD EACH YEAR ON OR BEFORE THE FIRST DAY OF
22 FEBRUARY.

23 5-729.

24 A CEMETERY COMPANY SHALL BE RESPONSIBLE FOR DAMAGES THE COMPANY
25 CAUSES TO A MEMORIAL IN THE CEMETERY.

26 5-730.

27 A CEMETERY COMPANY MAY NOT DISCRIMINATE AGAINST A RACIAL, ETHNIC,
28 OR RELIGIOUS GROUP.

29 5-731.

30 A PERSON THAT VIOLATES ANY PROVISION OF THIS SUBTITLE IS GUILTY OF A
31 MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING \$1,000
32 OR IMPRISONMENT NOT EXCEEDING 1 YEAR OR BOTH.

33 5-732.

34 SUBJECT TO THE EVALUATION AND REESTABLISHMENT PROVISIONS OF THE
35 MARYLAND PROGRAM EVALUATION ACT, THIS SUBTITLE AND ALL REGULATIONS
36 ADOPTED UNDER THIS SUBTITLE SHALL TERMINATE AND BE OF NO EFFECT AFTER
37 JULY 1, 2006.

21

1 (ii) sells only donated articles;

2 (iii) contributes the profits from sales to the hospital with which the
3 shop is associated; and

4 (iv) is not operated in conjunction with a gift shop or another retail
5 establishment; or

6 (4) a vending facility operated under the Maryland Vending Program for the
7 Blind if:

8 (i) the facility is located on property held or acquired by or for the use
9 of the United States for any military or naval purpose; and

10 (ii) a post exchange or other tax exempt concession is located and
11 operated on the same property.

12 (c) To qualify as an organization to which a sale is exempt under subsection
13 [(a)(3) or (5)] (A)(2) OR (A)(4) of this section, the organization shall file an application
14 for an exemption certificate with the Comptroller.

15 (d) The Comptroller may treat the possession of an effective determination letter
16 of status under § 501(c)(3) [or (13)] of the Internal Revenue Code from the Internal
17 Revenue Service as evidence that an organization qualifies under subsection [(a)(3) or
18 (5) or (1)] (A)(2) OR (4) of this [section, respectively] SECTION.

19 SECTION 2. AND BE IT FURTHER ENACTED, That the terms of the initial
20 members of the State Board of Cemeteries shall expire as follows:

21 (1) 2 members in 2001;

22 (2) 2 members in 2002; and

23 (3) 2 members in 2003.

24 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
25 October 1, 1996.