
By: Senator Madden

Introduced and read first time: February 1, 1996

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **For Profit Cemetery Companies - Licensing and Regulation**

3 FOR the purpose of requiring the licensure of any person that owns or controls a certain
4 kind of cemetery or conducts the business of a certain kind of cemetery; establishing
5 the State Board of Cemeteries; providing for the appointment, membership, and
6 terms of the Board members; specifying the terms of the initial Board members;
7 providing for the powers and duties of the Board; delineating the scope of the
8 licenses; establishing the application requirements for the licenses; providing for the
9 terms and renewal of the licenses, reinstatements of lapsed licenses, and
10 qualifications and duties of licensees; providing for the denial of license applications
11 under certain circumstances, the revocation or denial of licenses incertain
12 circumstances, and the imposition of fines under certain circumstances; providing
13 that the Board shall issue an initial license to certain cemeteries established on or
14 before a certain date; providing for hearings and certain rights of appeal under
15 certain circumstances; specifying certain prohibited acts; imposing certain penalties
16 for certain violations; defining certain terms; and generally relating to the licensure
17 and regulation of cemetery companies in the State.

18 BY adding to

19 Article - Business Regulation
20 Section 5A-101 through 5A-502 to be under the new title "Title 5A. For Profit
21 Cemetery Companies"
22 Annotated Code of Maryland
23 (1992 Volume and 1995 Supplement)

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

26 **Article - Business Regulation**

27 TITLE 5A. FOR PROFIT CEMETERY COMPANIES.

28 SUBTITLE 1. DEFINITIONS; GENERAL PROVISIONS.

29 5A-101.

30 (A) IN THIS TITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

2

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

2 (C) (1) "BURIAL" MEANS ALL FINAL DISPOSITION OF HUMAN REMAINS.

3 (2) "BURIAL" INCLUDES:

4 (I) EARTH BURIAL;

5 (II) MAUSOLEUM ENTOMBMENT; AND

6 (III) NICHE OR COLUMBARIUM INTERMENT.

7 (D) "BUSINESS OF A CEMETERY" MEANS THE ACTIVITY NECESSARY FOR OR
8 INCIDENT TO:

9 (1) ESTABLISHING, MAINTAINING, OPERATING, OR IMPROVING A
10 CEMETERY;

11 (2) BURIAL; AND

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

13 (E) (1) "CEMETERY" MEANS LAND USED OR TO BE USED FOR BURIAL.

14 (2) "CEMETERY" INCLUDES A STRUCTURE USED OR TO BE USED FOR
15 BURIAL.

16 (F) (1) "CEMETERY COMPANY" MEANS A PERSON THAT OWNS OR
17 CONTROLS A CEMETERY OR CONDUCTS THE BUSINESS OF A CEMETERY.

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

19 (I) A BROKER OR A SALESPERSON;

20 (II) A PERSON THAT OWNS OR CONTROLS LESS THAN 1 ACRE
21 AVAILABLE FOR BURIAL; OR

22 (III) A CEMETERY THAT IS OWNED OR CONTROLLED BY:

23 1. A COUNTY;

24 2. A MUNICIPAL CORPORATION;

25 3. A RELIGIOUS ORGANIZATION; OR

26 4. A NOT-FOR-PROFIT ORGANIZATION, DESIGNATED AS
27 TAX EXEMPT UNDER § 501(C) OF THE INTERNAL REVENUE CODE.

28 (G) "FIRM" MEANS A PARTNERSHIP, CORPORATION, OR OTHER LEGAL
29 ENTITY.

30 (H) "LICENSE" MEANS A LICENSE ISSUED BY THE BOARD TO OWN OR
31 CONTROL A CEMETERY OR CONDUCT THE BUSINESS OF A CEMETERY.

32 (I) "LICENSEE" MEANS THE HOLDER OF A LICENSE.

3

1 (J) "LICENSED CEMETERY COMPANY" MEANS A PERSON WHO IS LICENSED
2 BY THE BOARD AS A CEMETERY COMPANY.

3 5A-102.

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

7 SUBTITLE 2. STATE BOARD OF CEMETERIES.

8 5A-201.

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

10 5A-202.

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

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

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

14 (II) THREE SHALL BE OWNERS, OPERATORS, OR
15 REPRESENTATIVES OF A LICENSED CEMETERY COMPANY, APPOINTED BY THE
16 GOVERNOR; AND

17 (III) THREE SHALL BE CONSUMER MEMBERS, APPOINTED BY THE
18 GOVERNOR.

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

21 (4) THE GOVERNOR SHALL APPOINT THE LICENSED MEMBERS FROM A
22 LIST SUBMITTED TO THE GOVERNOR BY THE MARYLAND CEMETERY ASSOCIATION.
23 THE NUMBER OF NAMES ON THE LIST SHALL BE THREE TIMES THE NUMBER OF
24 VACANCIES.

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

26 (C) EACH CONSUMER MEMBER OF THE BOARD:

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

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

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

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

4

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

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

6 (2) THE TERMS OF APPOINTED MEMBERS ARE STAGGERED AS
7 REQUIRED BY THE TERMS PROVIDED FOR MEMBERS OF THE BOARD ON OCTOBER 1,
8 1996.

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

11 (4) A MEMBER WHO IS APPOINTED AFTER A TERM HAS BEGUN SERVES
12 ONLY FOR THE REST OF THE TERM AND UNTIL A SUCCESSOR IS APPOINTED AND
13 QUALIFIES.

14 (F) THE GOVERNOR MAY REMOVE A MEMBER FOR INCOMPETENCE OR
15 MISCONDUCT.

16 5A-203.

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

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

20 5A-204.

21 (A) A MAJORITY OF THE MEMBERS THEN SERVING ON THE BOARD IS A
22 QUORUM.

23 (B) THE BOARD SHALL DETERMINE THE TIMES AND PLACES OF ITS
24 MEETINGS.

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

28 (D) THE BOARD MAY EMPLOY A STAFF IN ACCORDANCE WITH THE STATE
29 BUDGET.

30 5A-205.

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

32 (1) ADOPT BYLAWS, RULES, AND REGULATIONS TO CARRY OUT THIS
33 TITLE;

34 (2) ADOPT A SEAL;

35 (3) EXCEPT FOR A VIOLATION SPECIFIED IN § 5A-310(A)(4) OR (9) OF
36 THIS TITLE, SUE TO ENFORCE ANY PROVISION OF THIS TITLE AGAINST A LICENSEE;
37 AND

5

1 (4) REFER ANY VIOLATION OF THIS TITLE TO THE STATE'S ATTORNEY
2 FOR ENFORCEMENT.

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

5 (1) INVESTIGATE ANY ALLEGED VIOLATION OF THIS TITLE;

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

9 (3) REFER TO THE SECRETARY OF STATE ANY ALLEGED VIOLATIONS
10 OF THE PERPETUAL CARE TRUST PROVISIONS OR PRENEED BURIAL CONTRACT
11 PROVISIONS UNDER TITLE 5 OF THIS ARTICLE;

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

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

14 5A-206.

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

18 (B) THE FEES SET BY THE BOARD SHALL BE SET IN A MANNER THAT WILL
19 PRODUCE FUNDS SUFFICIENT TO COVER THE ACTUAL DIRECT AND INDIRECT COST
20 OF REGULATING THE CEMETERY INDUSTRY IN THE STATE IN ACCORDANCE WITH
21 THE PROVISIONS OF THIS TITLE.

22 (C) THE BOARD SHALL PAY ALL MONEY COLLECTED UNDER THIS TITLE INTO
23 THE GENERAL FUND OF THE STATE.

24 SUBTITLE 3. LICENSING.

25 5A-301.

26 (A) EXCEPT AS OTHERWISE PROVIDED IN THIS TITLE:

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

30 (2) A FIRM SHALL BE LICENSED BY THE BOARD BEFORE THE FIRM MAY
31 OWN OR CONTROL A CEMETERY OR CONDUCT THE BUSINESS OF A CEMETERY IN
32 THE STATE.

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

35 (C) A CEMETERY COMPANY ISSUED AN INITIAL LICENSE UNDER SUBSECTION
36 (B) OF THIS SECTION SHALL BE OPERATED IN ACCORDANCE WITH THE PROVISIONS

6

1 OF THIS TITLE AND SUBJECT TO ALL LICENSING REQUIREMENTS AT THE TIME OF
2 LICENSE RENEWAL.

3 5A-302.

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

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

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

8 (2) AT LEAST 18 YEARS OLD.

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

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

12 (2) AT LEAST 18 YEARS OLD.

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

15 5A-303.

16 (A) THE APPLICATION SHALL REQUIRE:

17 (1) INFORMATION THAT IDENTIFIES THE FORM OF LEGAL ENTITY THAT
18 WILL CONDUCT THE BUSINESS OF A CEMETERY AND THE PROPOSED FINANCIAL
19 STRUCTURE OF THAT ENTITY;

20 (2) EVIDENCE OF THE ESTABLISHMENT OF A PERPETUAL CARE TRUST
21 FUND AS REQUIRED BY TITLE 5 OF THIS ARTICLE;

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

26 (4) DESIGNATION, BY THE INDIVIDUAL OR FIRM OWNING OR
27 CONTROLLING A CEMETERY OR CONDUCTING THE BUSINESS OF A CEMETERY OR
28 SEEKING TO OWN OR CONTROL A CEMETERY OR CONDUCT THE BUSINESS OF A
29 CEMETERY, OF A GENERAL MANAGER WHO MUST BE AN INDIVIDUAL WITH NO LESS
30 THAN 2 YEARS EXPERIENCE IN A CEMETERY BUSINESS;

31 (5) FOR A PROPOSED CEMETERY, DEVELOPMENT PLANS SUFFICIENT TO
32 ENSURE THE COMMUNITY THAT THE PROPOSED CEMETERY WILL PROVIDE
33 ADEQUATE SERVICES AND THAT THE PROPOSED CEMETERY PROPERTY IS
34 SUITABLE FOR USE AS A CEMETERY;

35 (6) IF THE APPLICANT IS AN INDIVIDUAL:

36 (I) THE NAME OF THE APPLICANT;

7

1 (II) THE AGE OF THE APPLICANT; AND

2 (III) THE ADDRESS OF THE APPLICANT;

3 (7) IF THE APPLICANT IS A FIRM:

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

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

9 (8) ANY OTHER INFORMATION THAT THE BOARD CONSIDERS
10 APPROPRIATE.

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

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

16 5A-304.

17 AN APPLICANT FOR A LICENSE SHALL:

18 (1) SUBMIT TO THE BOARD AN APPLICATION ON THE FORM THAT THE
19 BOARD REQUIRES; AND

20 (2) PAY TO THE BOARD A REASONABLE APPLICATION FEE SET BY THE
21 BOARD.

22 5A-305.

23 (A) THE BOARD SHALL ISSUE A LICENSE TO EACH APPLICANT THAT MEETS
24 THE REQUIREMENTS OF THIS TITLE.

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

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

27 (2) THE LOCATION OF THE PRINCIPAL OFFICE OF THE CEMETERY
28 COMPANY;

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

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

31 5A-306.

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

8

1 5A-307.

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

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

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

9 (2) THE DATE BY WHICH THE BOARD MUST RECEIVE THE RENEWAL
10 APPLICATION FOR THE RENEWAL TO BE ISSUED AND MAILED BEFORE THE LICENSE
11 EXPIRES; AND

12 (3) THE AMOUNT OF THE RENEWAL FEE.

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

15 (1) IS OTHERWISE ENTITLED TO BE LICENSED;

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

17 (3) SUBMITS TO THE BOARD:

18 (I) A RENEWAL APPLICATION ON THE FORM THAT THE BOARD
19 REQUIRES; AND

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

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

24 5A-308.

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

28 (1) IS OTHERWISE ENTITLED TO BE LICENSED UNDER THIS TITLE;

29 (2) MEETS THE RENEWAL REQUIREMENTS OF § 5A-307 OF THIS
30 SUBTITLE;

31 (3) PAYS TO THE BOARD A REASONABLE REINSTATEMENT FEE, SET BY
32 THE BOARD, IN ADDITION TO THE RENEWAL FEE REQUIRED UNDER § 5A-307 OF
33 THIS SUBTITLE; AND

34 (4) SUBMITS TO THE BOARD SATISFACTORY EVIDENCE OF COMPLIANCE
35 WITH THE REQUIREMENTS ESTABLISHED UNDER THIS SUBTITLE FOR LICENSE
36 REINSTATEMENTS.

9

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

3 5A-309.

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

6 (B) EACH LICENSEE SHALL RECORD THE LICENSE WITH THE SECRETARY OF
7 STATE.

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

10 5A-310.

11 (A) SUBJECT TO THE HEARING PROVISIONS OF § 5A-311 OF THIS SUBTITLE,
12 THE BOARD, ON THE AFFIRMATIVE VOTE OF A MAJORITY OF ITS MEMBERS THEN
13 SERVING, MAY DENY A LICENSE TO ANY APPLICANT, REPRIMAND ANY LICENSE, OR
14 REVOKE A LICENSE IF THE APPLICANT OR LICENSEE:

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

17 (2) FRAUDULENTLY OR DECEPTIVELY USES A LICENSE;

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

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

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

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

27 (7) HAS ENGAGED IN THE OFFENSIVE TREATMENT OF A DEAD HUMAN
28 BODY;

29 (8) DIRECTLY OR INDIRECTLY OFFERS TO PAY TO OBTAIN CEMETERY
30 BUSINESS;

31 (9) VIOLATES THE PERPETUAL CARE TRUST PROVISIONS OR PRENEED
32 BURIAL CONTRACT PROVISIONS UNDER TITLE 5 OF THIS ARTICLE; OR

33 (10) VIOLATES A RULE OR REGULATION ADOPTED BY THE BOARD.

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

10

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

- 3 (I) THE SERIOUSNESS OF THE VIOLATION;
- 4 (II) THE HARM CAUSED BY THE VIOLATION;
- 5 (III) THE GOOD FAITH OF THE LICENSEE; AND
- 6 (IV) ANY HISTORY OF PREVIOUS VIOLATIONS BY THE LICENSEE.

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

9 (C) FOR PURPOSES OF THIS SECTION, AN ACT OR OMISSION OF ANY
10 PRINCIPAL, AGENT, OR EMPLOYEE OF AN APPLICANT OR A LICENSEE MAY BE
11 CONSTRUED TO BE THE ACT OR OMISSION OF THE APPLICANT OR LICENSEE, AS
12 WELL AS OF THE PRINCIPAL, AGENT, OR EMPLOYEE.

13 5A-311.

14 (A) EXCEPT AS OTHERWISE PROVIDED IN TITLE 10, SUBTITLE 4 OF THE STATE
15 GOVERNMENT ARTICLE, BEFORE THE BOARD TAKES ANY FINAL ACTION UNDER §
16 5A-310 OF THIS SUBTITLE, IT SHALL GIVE THE PERSON AGAINST WHOM THE ACTION
17 IS CONTEMPLATED AN OPPORTUNITY FOR A HEARING BEFORE THE BOARD.

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

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

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

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

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

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

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

34 5A-312.

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

11

1 5A-313.

2 (A) WHENEVER THE BOARD SUSPENDS OR REVOKES THE LICENSE OF A
3 LICENSEE UNDER § 5A-310(A) OF THIS SUBTITLE, THE BOARD SHALL MAIL NOTICE OF
4 THE SUSPENSION OR REVOCATION:

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

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

8 (B) WHENEVER THE BOARD IMPOSES A PENALTY UNDER § 5A-310(B) OF THIS
9 SUBTITLE, THE BOARD SHALL MAIL NOTICE OF THE PENALTY:

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

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

13 SUBTITLE 4. PROHIBITED ACTS; PENALTIES.

14 5A-401.

15 EXCEPT AS OTHERWISE PROVIDED IN THIS TITLE, A PERSON MAY NOT OWN OR
16 CONTROL A CEMETERY OR CONDUCT THE BUSINESS OF A CEMETERY IN THE STATE
17 UNLESS LICENSED BY THE BOARD.

18 5A-402.

19 UNLESS AUTHORIZED UNDER THIS TITLE TO OWN OR CONTROL A CEMETERY
20 OR CONDUCT THE BUSINESS OF A CEMETERY, A PERSON MAY NOT REPRESENT TO
21 THE PUBLIC THAT THE PERSON IS AUTHORIZED TO OWN OR CONTROL A CEMETERY
22 OR CONDUCT THE BUSINESS OF A CEMETERY IN THE STATE.

23 5A-403.

24 A PERSON THAT VIOLATES ANY PROVISION OF THIS TITLE IS GUILTY OF A
25 MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING \$1,000
26 OR IMPRISONMENT NOT EXCEEDING 1 YEAR OR BOTH.

27 SUBTITLE 5. SHORT TITLE; TERMINATION OF TITLE.

28 5A-501.

29 THIS TITLE IS THE "MARYLAND CEMETERY LICENSING ACT".

30 5A-502.

31 SUBJECT TO THE EVALUATION AND REESTABLISHMENT PROVISIONS OF THE
32 MARYLAND PROGRAM EVALUATION ACT, THIS TITLE AND ALL REGULATIONS
33 ADOPTED UNDER THIS TITLE SHALL TERMINATE AND BE OF NO EFFECT AFTER
34 JULY 1, 2006.

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

12

1 (1) 2 members in 2001;

2 (2) 2 members in 2002; and

3 (3) 2 members in 2003.

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