
By: ~~Senator Madden~~ Senators Madden and Della
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Assigned to: Finance

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Senate action: Adopted
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CHAPTER _____

1 AN ACT concerning

2 ~~For Profit Cemetery Companies~~ **State Board of Cemeteries - Licensing and Regulation**

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

21 BY repealing and reenacting, with amendments,

- 22 Article - Business Regulation
- 23 Section 5-101, 5-306, 5-307, 5-309, 5-410, and 5-411
- 24 Annotated Code of Maryland
- 25 (1992 Volume and 1995 Supplement)

26 BY adding to

2

1 Article - Business Regulation
 2 ~~Section 5A-101 through 5A-502 to be under the new title "Title 5A. For Profit~~
 3 ~~Cemetery Companies" Section 5-102; 5-1A-01 through 5-1A-08, inclusive, to~~
 4 ~~be under the new subtitle "Subtitle 1A. State Board of Cemeteries"; and~~
 5 ~~5-2A-01 through 5-2A-14, inclusive, to be under the new subtitle "Subtitle~~
 6 ~~2A. Licensing"; and 5-701 to be under the new subtitle "Subtitle 7. Prohibited~~
 7 ~~Acts; Penalties"~~
 8 Annotated Code of Maryland
 9 (1992 Volume and 1995 Supplement)

10 BY repealing and reenacting, without amendments,

11 Article - Business Regulation
 12 Section 5-412
 13 Annotated Code of Maryland
 14 (1992 Volume and 1995 Supplement)

15 BY adding to

16 Article - Courts and Judicial Proceedings
 17 Section 5-399.7
 18 Annotated Code of Maryland
 19 (1995 Replacement Volume and 1995 Supplement)

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

22 **Article - Business Regulation**

23 ~~TITLE 5A. FOR PROFIT CEMETERY COMPANIES.~~

24 ~~SUBTITLE 1. DEFINITIONS; GENERAL PROVISIONS.~~

25 ~~5A-101.~~

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

27 ~~(B) "BOARD" MEANS THE STATE BOARD OF CEMETERIES.~~

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

29 ~~(2) "BURIAL" INCLUDES:~~

30 ~~(I) EARTH BURIAL;~~

31 ~~(II) MAUSOLEUM ENTOMBMENT; AND~~

32 ~~(III) NICHE OR COLUMBARIUM INTERMENT.~~

33 ~~(D) "BUSINESS OF A CEMETERY" MEANS THE ACTIVITY NECESSARY FOR OR~~
 34 ~~INCIDENT TO:~~

1 ~~(1) ESTABLISHING, MAINTAINING, OPERATING, OR IMPROVING A~~
2 ~~CEMETERY;~~

3 ~~(2) BURIAL; AND~~

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

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

6 ~~(2) "CEMETERY" INCLUDES A STRUCTURE USED OR TO BE USED FOR~~
7 ~~BURIAL.~~

8 ~~(F) (1) "CEMETERY COMPANY" MEANS A PERSON THAT OWNS OR~~
9 ~~CONTROLS A CEMETERY OR CONDUCTS THE BUSINESS OF A CEMETERY.~~

10 ~~(2) "CEMETERY COMPANY" DOES NOT INCLUDE:~~

11 ~~(I) A BROKER OR A SALESPERSON;~~

12 ~~(II) A PERSON THAT OWNS OR CONTROLS LESS THAN 1 ACRE~~
13 ~~AVAILABLE FOR BURIAL; OR~~

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

15 ~~1. A COUNTY;~~

16 ~~2. A MUNICIPAL CORPORATION;~~

17 ~~3. A RELIGIOUS ORGANIZATION; OR~~

18 ~~4. A NOT FOR PROFIT ORGANIZATION, DESIGNATED AS~~
19 ~~TAX EXEMPT UNDER § 501(C) OF THE INTERNAL REVENUE CODE.~~

20 5-101.

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

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

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

24 (2) "Burial" includes:

25 (i) earth burial;

26 (ii) mausoleum entombment; and

27 (iii) niche or columbarium interment.

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

29 (2) "Cemetery" includes a structure used or to be used for burial.

30 ~~(G) (E) "FIRM" MEANS A PARTNERSHIP, CORPORATION, OR OTHER LEGAL~~
31 ~~ENTITY.~~

4

1 ~~(H) (F)~~ "LICENSE" MEANS A LICENSE ISSUED BY THE BOARD TO ~~OWN OR~~
2 ~~CONTROL A CEMETERY OR CONDUCT THE BUSINESS OF A CEMETERY~~ ENGAGE IN
3 OPERATING A CEMETERY.

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

5 ~~(J) "LICENSED CEMETERY COMPANY" MEANS A PERSON WHO IS LICENSED~~
6 ~~BY THE BOARD AS A CEMETERY COMPANY.~~

7 (G) "OPERATING A CEMETERY" MEANS OWNING, CONTROLLING, OR
8 MAINTAINING A CEMETERY, INCLUDING PERFORMING THE ACTIVITY NECESSARY
9 FOR OR INCIDENT TO:

10 (1) ESTABLISHING OR IMPROVING A CEMETERY;

11 (2) BURIAL; AND

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

13 ~~5A-102- 5-102.~~

14 THE GENERAL ASSEMBLY FINDS THAT IT IS IN THE PUBLIC INTEREST TO
15 REGULATE CEMETERIES TO ENSURE THAT SOUND BUSINESS PRACTICES ARE
16 FOLLOWED ~~BY ALL CEMETERY COMPANIES~~ IN THE OPERATION OF CEMETERIES.

17 SUBTITLE ~~2- 1A~~, STATE BOARD OF CEMETERIES.

18 ~~5A-201- 5-1A-01.~~

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

20 ~~5A-202- 5-1A-02.~~

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

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

23 ~~(I) ONE SHALL BE THE SECRETARY OF STATE;~~

24 ~~(H) THREE SHALL BE OWNERS, OPERATORS, OR~~
25 ~~REPRESENTATIVES OF A LICENSED CEMETERY COMPANY~~ LICENSEES, OR
26 REPRESENTATIVES OF LICENSEES, APPOINTED BY THE GOVERNOR; AND

27 ~~(H) (I) THREE~~ FOUR SHALL BE CONSUMER MEMBERS,
28 APPOINTED BY THE GOVERNOR.

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

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

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

5

1 (C) EACH CONSUMER MEMBER OF THE BOARD:

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

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

5 (3) MAY NOT BE REQUIRED TO MEET THE QUALIFICATIONS FOR THE
6 ~~LICENSED~~ MEMBERS OF THE BOARD DESCRIBED IN SUBSECTION (A)(2)(I) OF THIS
7 SECTION; 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) BEFORE TAKING OFFICE, EACH MEMBER OF THE BOARD SHALL TAKE
15 THE OATH REQUIRED BY ARTICLE I, SECTION 9 OF THE MARYLAND CONSTITUTION.

16 (F) (1) ~~EXCEPT FOR THE SECRETARY OF STATE,~~ THE TERM OF A MEMBER IS
17 5 YEARS AND BEGINS ON OCTOBER 1.

18 (2) THE TERMS OF APPOINTED MEMBERS ARE STAGGERED AS
19 REQUIRED BY THE TERMS PROVIDED FOR MEMBERS OF THE BOARD ON OCTOBER 1,
20 1996.

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

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

26 (5) A MEMBER MAY NOT SERVE MORE THAN TWO CONSECUTIVE FULL
27 TERMS.

28 ~~(F)~~ (G) (1) THE GOVERNOR MAY REMOVE A MEMBER FOR
29 INCOMPETENCE OR MISCONDUCT.

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

33 ~~5A-203- 5-1A-03.~~

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

35 ~~(B) EXCEPT FOR THE CHAIRMAN, THE MANNER OF ELECTION OF OFFICERS~~
36 ~~SHALL BE AS THE BOARD DETERMINES.~~

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

6

1 (B) THE BOARD SHALL DETERMINE:

2 (1) THE MANNER OF ELECTION OF OFFICERS;

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

4 (3) THE DUTIES OF EACH OFFICER.

5 ~~5A-204. 5-1A-04.~~

6 (A) A MAJORITY OF THE MEMBERS THEN SERVING ON THE BOARD IS A
7 QUORUM.

8 ~~(B) THE BOARD SHALL DETERMINE THE TIMES AND PLACES OF ITS~~
9 ~~MEETINGS~~ THE BOARD SHALL MEET AT LEAST ONCE A YEAR, AT THE TIMES AND
10 PLACES THAT IT SETS IN ITS BYLAWS AND RULES AND REGULATIONS.

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

14 (D) THE BOARD MAY EMPLOY A STAFF IN ACCORDANCE WITH THE STATE
15 BUDGET.

16 ~~5A-205. 5-1A-05.~~

17 ~~(A)~~ IN ADDITION TO ANY POWERS SET FORTH ELSEWHERE IN THIS TITLE,
18 THE BOARD MAY:

19 (1) ADOPT BYLAWS, RULES, AND REGULATIONS TO CARRY OUT THIS
20 TITLE;

21 (2) ADOPT A SEAL;

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

25 (4) INSPECT THE RECORDS AND SITES OF LICENSEES TO DETERMINE
26 COMPLIANCE WITH THE PROVISIONS OF THIS TITLE;

27 ~~(4) REFER ANY VIOLATION OF THIS TITLE TO THE STATE'S ATTORNEY~~
28 ~~FOR ENFORCEMENT.~~

29 ~~(B) IN ADDITION TO ANY DUTIES SET FORTH ELSEWHERE, THE BOARD~~
30 ~~SHALL:~~

31 ~~(4)~~ (5) INVESTIGATE ANY ALLEGED VIOLATION OF THIS TITLE BY A
32 LICENSEE;

33 ~~(2) REFER TO THE ATTORNEY GENERAL ANY ALLEGED UNFAIR OR~~
34 ~~DECEPTIVE TRADE PRACTICES DEFINED BY TITLE 13 OF THE COMMERCIAL LAW~~
35 ~~ARTICLE;~~

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

4 ~~(4) (6) KEEP A LIST OF ALL LICENSEES; AND~~

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

7 ~~(5) (8) SUBMIT AN ANNUAL REPORT TO THE DEPARTMENT.;~~

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

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

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

14 5-1A-06.

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

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

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

22 ~~5A-206. 5-1A-07.~~

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

26 (B) THE FEES SET BY THE BOARD SHALL BE SET IN A MANNER THAT WILL;

27 (1) PRODUCE FUNDS SUFFICIENT TO COVER THE ACTUAL DIRECT AND
28 INDIRECT COST OF REGULATING ~~THE CEMETERY INDUSTRY IN THE STATE,~~ IN
29 ACCORDANCE WITH THE PROVISIONS OF THIS TITLE, THE CEMETERIES LICENSED
30 UNDER THIS TITLE; AND

31 (2) TAKE INTO CONSIDERATION THE SIZE OF A LICENSEE, INCLUDING
32 THE LICENSEE'S REVENUES AND ANNUAL NUMBER OF BURIALS.

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

8

1 5-1A-08.

2 A PERSON SHALL HAVE THE IMMUNITY FROM LIABILITY DESCRIBED UNDER §
3 5-399.7 OF THE COURTS ARTICLE FOR GIVING INFORMATION TO THE BOARD OR
4 OTHERWISE PARTICIPATING IN ITS ACTIVITIES.

5 SUBTITLE ~~3~~; 2A. LICENSING.

6 ~~5A-301~~. 5-2A-01.

7 (A) THIS SUBTITLE DOES NOT APPLY TO A:

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

10 (2) COUNTY;

11 (3) MUNICIPAL CORPORATION;

12 (4) CHURCH;

13 (5) SYNAGOGUE;

14 (6) RELIGIOUS ORGANIZATION; OR

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

17 (B) EXCEPT AS OTHERWISE PROVIDED IN THIS TITLE:

18 ~~(1) AN INDIVIDUAL~~ A PERSON SHALL BE LICENSED BY THE BOARD
19 BEFORE THE ~~INDIVIDUAL~~ PERSON MAY ~~OWN OR CONTROL A CEMETERY OR~~
20 ~~CONDUCT THE BUSINESS OF~~ ENGAGE IN OPERATING A CEMETERY IN THE STATE;
21 ~~AND~~

22 ~~(2) A FIRM SHALL BE LICENSED BY THE BOARD BEFORE THE FIRM MAY~~
23 ~~OWN OR CONTROL A CEMETERY OR CONDUCT THE BUSINESS OF A CEMETERY IN~~
24 ~~THE STATE.~~

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

27 ~~(C) A CEMETERY COMPANY ISSUED AN INITIAL LICENSE UNDER SUBSECTION~~
28 ~~(B) OF THIS SECTION SHALL BE OPERATED IN ACCORDANCE WITH THE PROVISIONS~~
29 ~~OF THIS TITLE AND SUBJECT TO ALL LICENSING REQUIREMENTS AT THE TIME OF~~
30 ~~LICENSE RENEWAL.~~

31 ~~5A-302~~. 5-2A-02.

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

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

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

9

1 (2) AT LEAST 18 YEARS OLD.

2 (C) (1) IF THE APPLICANT IS A FIRM, EACH THE FIRM SHALL:

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

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

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

11 (3) FOR A PARTNER, OFFICER, OR DIRECTOR OF THE FIRM, IF A
12 MAJORITY OF THE WORK THAT THE INDIVIDUAL PERFORMS FOR THE FIRM IS
13 PERFORMED WITHIN THE STATE, THAT PARTNER, OFFICER, OR DIRECTOR OF THE
14 FIRM SHALL BE:

15 (I) OF GOOD MORAL CHARACTER AND REPUTATION; AND

16 (II) AT LEAST 18 YEARS OLD.

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

19 ~~5A-303- 5-2A-03.~~

20 (A) THE APPLICATION SHALL REQUIRE:

21 (1) INFORMATION THAT IDENTIFIES THE FORM OF LEGAL ENTITY THAT
22 ~~WILL CONDUCT THE BUSINESS OF~~ ENGAGE IN OPERATING A CEMETERY AND THE
23 PROPOSED FINANCIAL STRUCTURE OF THAT ENTITY;

24 (2) EVIDENCE OF THE ESTABLISHMENT OF A PERPETUAL CARE TRUST
25 ~~FUND AS TO THE EXTENT REQUIRED BY TITLE 5 OF THIS ARTICLE~~ SUBTITLE 3 OF
26 THIS TITLE;

27 ~~(3) A PLAT OF THE LAND THAT IS USED OR WILL BE USED FOR THE~~
28 ~~CEMETERY, SHOWING THE COUNTY OR MUNICIPAL CORPORATION IN WHICH~~
29 ~~CEMETERY IS LOCATED OR WILL BE LOCATED AND THE NAMES OF THE ROADS,~~
30 ~~ACCESS STREETS, OR WAYS THAT RUN OR WILL RUN THROUGH THE CEMETERY;~~

31 ~~(4) DESIGNATION, BY THE INDIVIDUAL OR FIRM OWNING OR~~
32 ~~CONTROLLING A CEMETERY OR CONDUCTING THE BUSINESS OF A CEMETERY OR~~
33 ~~SEEKING TO OWN OR CONTROL A CEMETERY OR CONDUCT THE BUSINESS OF~~
34 PERSON OPERATING OR SEEKING TO ENGAGE IN OPERATING A CEMETERY, OF A
35 GENERAL MANAGER WHO MUST BE AN INDIVIDUAL WITH NO LESS THAN 2 YEARS
36 EXPERIENCE IN A CEMETERY BUSINESS;

37 ~~(5) FOR A PROPOSED CEMETERY, DEVELOPMENT PLANS SUFFICIENT TO~~
38 ~~ENSURE THE COMMUNITY THAT THE PROPOSED CEMETERY WILL PROVIDE~~

10

1 ~~ADEQUATE SERVICES AND THAT THE PROPOSED CEMETERY PROPERTY IS~~
2 ~~SUITABLE FOR USE AS A CEMETERY;~~

3 ~~(6)~~ (4) IF THE APPLICANT IS AN INDIVIDUAL:

4 (I) THE NAME OF THE APPLICANT;

5 (II) THE AGE OF THE APPLICANT; AND

6 (III) THE ADDRESS OF THE APPLICANT;

7 ~~(7)~~ (5) IF THE APPLICANT IS A FIRM:

8 ~~(8)~~ (6) A LIST OF ALL OF THE PARTNERS, OFFICERS, OR DIRECTORS
9 OF THE FIRM; AND

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

13 ~~(8)~~ (6) ANY OTHER INFORMATION THAT THE BOARD CONSIDERS
14 APPROPRIATE.

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

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

20 ~~5A-304. 5-2A-04.~~

21 AN APPLICANT FOR A LICENSE SHALL:

22 (1) SUBMIT TO THE BOARD AN APPLICATION ON THE FORM THAT THE
23 BOARD REQUIRES; AND

24 (2) PAY TO THE BOARD A REASONABLE APPLICATION FEE SET BY THE
25 BOARD.

26 ~~5A-305. 5-2A-05.~~

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

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

30 (1) THE FULL NAME OF THE ~~CEMETERY COMPANY~~ LICENSEE;

31 (2) THE LOCATION OF THE PRINCIPAL OFFICE OF THE ~~CEMETERY~~
32 ~~COMPANY~~ LICENSEE;

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

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

11

1 ~~5A-306. 5-2A-06.~~

2 (A) WHILE A LICENSE IS IN EFFECT, IT AUTHORIZES THE LICENSEE TO OWN
3 ~~OR CONTROL A CEMETERY OR CONDUCT THE BUSINESS OF~~ ENGAGE IN OPERATING
4 A CEMETERY.

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

7 ~~5-2A-07.~~

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

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

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

16 ~~5A-307. 5-2A-08.~~

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

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

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

24 (2) THE DATE BY WHICH THE BOARD MUST RECEIVE THE RENEWAL
25 APPLICATION FOR THE RENEWAL TO BE ISSUED AND MAILED BEFORE THE LICENSE
26 EXPIRES; AND

27 (3) THE AMOUNT OF THE RENEWAL FEE.

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

30 (1) IS OTHERWISE ENTITLED TO BE LICENSED;

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

32 (3) SUBMITS TO THE BOARD:

33 ~~(H) A RENEWAL APPLICATION ON THE FORM THAT THE BOARD~~
34 ~~REQUIRES; AND~~

35 ~~(I) SATISFACTORY EVIDENCE OF COMPLIANCE WITH THE~~
36 ~~REQUIREMENTS SET UNDER THIS SECTION FOR LICENSE RENEWAL.~~

12

1 (D) THE BOARD SHALL RENEW THE LICENSE OF EACH ~~LICENSED CEMETERY~~
2 ~~COMPANY LICENSEE~~ THAT MEETS THE REQUIREMENTS OF THIS SECTION.

3 ~~5A-308. 5-2A-09.~~

4 (A) ~~THE BOARD~~, IN ACCORDANCE WITH ANY REGULATIONS OF THE BOARD,
5 ~~MAY REINSTATE THE LICENSE OF~~ A LICENSEE THAT HAS FAILED TO RENEW ~~THE A~~
6 LICENSE FOR ANY REASON MAY OBTAIN REINSTATEMENT OF THE LICENSE IF THE
7 LICENSEE:

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

9 (2) MEETS THE RENEWAL REQUIREMENTS OF ~~§ 5A-307~~ § 5-2A-08 OF THIS
10 SUBTITLE;

11 (3) PAYS TO THE BOARD A REASONABLE REINSTATEMENT FEE, SET BY
12 THE BOARD, IN ADDITION TO THE RENEWAL FEE REQUIRED UNDER ~~§ 5A-307~~ §
13 5-2A-08 OF THIS SUBTITLE; AND

14 (4) SUBMITS TO THE BOARD SATISFACTORY EVIDENCE OF COMPLIANCE
15 WITH THE REQUIREMENTS ESTABLISHED UNDER THIS SUBTITLE FOR LICENSE
16 REINSTATEMENTS.

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

19 ~~5A-309. 5-2A-10.~~

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

22 (B) ~~EACH LICENSEE SHALL RECORD THE LICENSE WITH THE SECRETARY OF~~
23 ~~STATE.~~

24 ~~(C)~~ EACH LICENSEE SHALL GIVE THE BOARD WRITTEN NOTICE OF ANY
25 CHANGE OF ADDRESS OF THE BUSINESS OFFICE OF THE ~~CEMETERY LICENSEE~~.

26 ~~5A-310. 5-2A-11.~~

27 (A) SUBJECT TO THE HEARING PROVISIONS OF ~~§ 5A-311~~ § 5-2A-12 OF THIS
28 SUBTITLE, THE BOARD, ON THE AFFIRMATIVE VOTE OF A MAJORITY OF ITS
29 MEMBERS THEN SERVING, MAY DENY A LICENSE TO ANY APPLICANT, REPRIMAND
30 ANY ~~LICENSEE LICENSEE~~, OR SUSPEND OR REVOKE A LICENSE IF THE APPLICANT OR
31 LICENSEE:

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

34 (2) FRAUDULENTLY OR DECEPTIVELY USES A LICENSE;

35 (3) COMMITS FRAUD OR MISREPRESENTATION IN OPERATING A
36 CEMETERY OR HAS ENGAGED IN UNETHICAL PRACTICES IN ~~THE OPERATION OF~~
37 ~~THE CEMETERY BUSINESS~~ OPERATING A CEMETERY;

13

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

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

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

8 (7) HAS ENGAGED IN THE OFFENSIVE TREATMENT OF A DEAD HUMAN
9 BODY;

10 (8) DIRECTLY OR INDIRECTLY OFFERS TO PAY TO OBTAIN CEMETERY
11 BUSINESS;

12 (9) VIOLATES THE PERPETUAL CARE TRUST PROVISIONS UNDER
13 SUBTITLE 3 OF THIS TITLE OR PRENEED BURIAL CONTRACT PROVISIONS UNDER
14 ~~TITLE 5 OF THIS ARTICLE;~~ OR SUBTITLE 4 OF THIS TITLE;

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

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

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

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

27 (14) WILLFULLY MAKES OR FILES A FALSE REPORT OR RECORD IN
28 OPERATING A CEMETERY;

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

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

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

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

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

37 ~~(19)~~ (20) VIOLATES A RULE OR REGULATION ADOPTED BY THE BOARD.

14

1 (B) (1) INSTEAD OF OR IN ADDITION TO SUSPENDING OR REVOKING A
2 LICENSE, THE BOARD MAY IMPOSE A PENALTY ~~NOT EXCEEDING \$2,000 FOR EACH~~
3 ~~VIOLATION AS PROVIDED IN PARAGRAPHS (2) AND (3) OF THIS SUBSECTION.~~

4 (2) THE BOARD MAY IMPOSE A CIVIL PENALTY:

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

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

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

14 (4) TO DETERMINE THE AMOUNT OF THE PENALTY IMPOSED UNDER
15 THIS SUBSECTION, THE BOARD SHALL CONSIDER:

16 (I) THE SERIOUSNESS OF THE VIOLATION;

17 (II) THE HARM CAUSED BY THE VIOLATION;

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

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

20 ~~(3)~~ (5) THE BOARD SHALL PAY ANY PENALTY COLLECTED UNDER
21 THIS SUBSECTION INTO THE GENERAL FUND OF THE STATE.

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

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

28 (2) TAKE OTHER ACTIONS AS ARE APPROPRIATE TO PROTECT THE
29 PUBLIC INTEREST.

30 ~~(D)~~ (D) FOR PURPOSES OF THIS SECTION, AN ACT OR OMISSION OF ANY
31 PRINCIPAL, AGENT, OR EMPLOYEE OF AN APPLICANT OR A LICENSEE MAY BE
32 CONSTRUED TO BE THE ACT OR OMISSION OF THE APPLICANT OR LICENSEE, AS
33 WELL AS OF THE PRINCIPAL, AGENT, OR EMPLOYEE.

34 ~~5A-311.~~ 5-2A-12.

35 (A) EXCEPT AS OTHERWISE PROVIDED IN TITLE 10, SUBTITLE 4 OF THE STATE
36 GOVERNMENT ARTICLE, BEFORE THE BOARD TAKES ANY FINAL ACTION UNDER §
37 ~~5A-310~~ § 5-1A-05(9) OF THIS TITLE OR § 5-2A-11 OF THIS SUBTITLE, IT SHALL GIVE THE

15

1 PERSON AGAINST WHOM THE ACTION IS CONTEMPLATED AN OPPORTUNITY FOR A
2 HEARING BEFORE THE BOARD.

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

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

7 (D) THE HEARING NOTICE TO BE GIVEN TO THE PERSON SHALL BE SENT BY
8 CERTIFIED MAIL TO THE LAST KNOWN ADDRESS OF THE PERSON AT LEAST ~~40~~ 30
9 DAYS BEFORE THE HEARING.

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

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

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

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

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

21 ~~5A-312.~~ 5-2A-13.

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

26 ~~5A-313.~~ 5-2A-14.

27 (A) WHENEVER THE BOARD SUSPENDS OR REVOKES THE LICENSE OF A
28 LICENSEE UNDER ~~§ 5A-310(A)~~ § 5-2A-11(A) OF THIS SUBTITLE, THE BOARD SHALL
29 MAIL NOTICE OF THE SUSPENSION OR REVOCATION:

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

31 (2) IF THE LICENSEE IS A FIRM, TO ~~EACH PARTNER, OFFICER, OR~~
32 ~~DIRECTOR OF THE FIRM~~ THE LICENSEE'S PERMANENT OFFICE IN THE STATE.

33 (B) WHENEVER THE BOARD IMPOSES A PENALTY UNDER ~~§ 5A-310(B)~~ §
34 5-2A-11(B) OF THIS SUBTITLE, THE BOARD SHALL MAIL NOTICE OF THE PENALTY:

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

36 (2) IF THE LICENSEE IS A FIRM, TO ~~EACH PARTNER, OFFICER, OR~~
37 ~~DIRECTOR OF THE FIRM~~ THE LICENSEE'S PERMANENT OFFICE IN THE STATE.

16

1 5-306.

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

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

7 (I) THE BOARD;

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

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

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

15 (2) The report shall:

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

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

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

19 (iv) include:

20 1. the name of the cemetery owner;

21 2. each location of the cemetery owner;

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

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

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

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

31 7. the name and address of each trustee.

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

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

17

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

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

4 5-307.

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

8 (1) the Attorney General for civil enforcement; or

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

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

11 (1) injunctive or other equitable relief;

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

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

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

19 (3) both.

20 5-309.

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

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

26 (c) If a corporation violates this subtitle, each officer who is responsible for the
27 violation is guilty of a misdemeanor and, on conviction, is subject to a fine not exceeding
28 [\$1,000] \$5,000 or imprisonment not exceeding 1 year or both.

29 5-410.

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

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

34 (I) THE BOARD;

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

18

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

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

6 (2) The report shall:

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

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

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

10 (iv) include:

11 1. the name of the seller;

12 2. each location of the seller;

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

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

17 5. the name and address of the trustee.

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

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

21 (1) to administer this section; and

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

23 5-411.

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

27 (1) the Attorney General for civil enforcement; or

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

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

30 (1) injunctive or other equitable relief;

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

32 (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS
33 PARAGRAPH, NOT EXCEEDING \$5,000 FOR EACH VIOLATION OF THIS SUBTITLE OR

34 AN ORDER OF THE BOARD UNDER THIS SUBTITLE; AND

19

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

4 (3) both.

5 5-412.

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

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

11 (2) If a corporation violates this section, each officer responsible for the
12 violation is guilty of a misdemeanor and, on conviction, is subject to a fine not exceeding
13 \$5,000 or imprisonment not exceeding 1 year or both.

14 SUBTITLE 7. PROHIBITED ACTS; PENALTIES.

15 5-701.

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

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

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

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

30 SUBTITLE 4. PROHIBITED ACTS; PENALTIES.

31 5A-401.

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

35 5A-402.

36 UNLESS AUTHORIZED UNDER THIS TITLE TO OWN OR CONTROL A CEMETERY
37 OR CONDUCT THE BUSINESS OF A CEMETERY, A PERSON MAY NOT REPRESENT TO

20

1 ~~THE PUBLIC THAT THE PERSON IS AUTHORIZED TO OWN OR CONTROL A CEMETERY~~
2 ~~OR CONDUCT THE BUSINESS OF A CEMETERY IN THE STATE.~~

3 ~~5A-403.~~

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

7 ~~SUBTITLE 5. SHORT TITLE; TERMINATION OF TITLE.~~

8 ~~5A-501.~~

9 ~~THIS TITLE IS THE "MARYLAND CEMETERY LICENSING ACT".~~

10 ~~5A-502.~~

11 ~~SUBJECT TO THE EVALUATION AND REESTABLISHMENT PROVISIONS OF THE~~
12 ~~MARYLAND PROGRAM EVALUATION ACT, THIS TITLE AND ALL REGULATIONS~~
13 ~~ADOPTED UNDER THIS TITLE SHALL TERMINATE AND BE OF NO EFFECT AFTER~~
14 ~~JULY 1, 2006.~~

15 **Article - Courts and Judicial Proceedings**

16 ~~5-399.7.~~

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

21 SECTION 2. AND BE IT FURTHER ENACTED, That, notwithstanding §
22 5-1A-02(f)(1) of the Business Regulation Article, as enacted by Section 1 of this Act, the
23 terms of the initial members of the State Board of Cemeteries shall expire as follows:

24 (1) ~~2 members in 2004~~ 1998;

25 (2) ~~2 members in 2002; and~~ 1999;

26 (3) ~~2 members in 2003~~ 2000; and

27 (4) 1 member in 2001.

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

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

