

BY: Conference Committee

AMENDMENTS TO HOUSE BILL NO. 559
(Third Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 2, strike “Office of Cemetery Oversight” and substitute:

“Death Care Industry Regulation”;

in line 4, before the second “Labor” insert “the Department of”; in line 5, strike “an” and substitute “a certain”; in line 15, strike “or” and substitute “and for the denial of a permit for a permit holder or reprimand of”; in line 17, strike “registrant or a permit holder” and substitute “registration or a permit”; in line 22, strike “providing” and substitute “requiring certain persons that are exempt from registration or permitting to file certain statements with the Office of Cemetery Oversight; providing that certain registrants and permit holders in Baltimore County may buy, hold, or use, for burial a certain number of acres on a certain tract; establishing”; and in line 23, after the semicolon, insert “altering certain definitions; specifying a reporting requirement for certain sellers of preneed contracts; altering certain trust and escrow requirements for certain sellers of certain preneed goods and services;”.

On page 2, in line 6, strike “a certain report on or before a certain date” and substitute “certain reports on or before certain dates”; in line 7, after “Act;” insert “providing for the application of this Act;”; and in line 43, after “5-705,” insert “5-707(g),”.

On page 3, after line 15, insert:

“BY repealing and reenacting, with amendments,

Article - Health Occupations

Section 7-405(d)

Annotated Code of Maryland

(1994 Replacement Volume and 1996 Supplement)”.

(Over)

AMENDMENT NO. 2

On page 9, in line 20, after “(1)” insert “BY REGULATION,”.

AMENDMENT NO. 3

On page 26, in line 2, strike “A” and substitute “ANY”; in the same line, after “VAULT” insert “SOLD UNDER THE PRENEED BURIAL CONTRACT”.

On page 27, in line 23, strike “ON REQUEST,”.

On page 30, in line 35, strike “ON REQUEST,”.

AMENDMENT NO. 4

On page 31, after line 7, insert:

“(I) A SELLER SHALL ANNUALLY FILE A REPORT WITH THE BOARD WHICH INCLUDES:

(1) A CERTIFICATION BY A CERTIFIED PUBLIC ACCOUNTANT AS TO THE SELLER’S COMPLIANCE WITH THE PROVISIONS OF THIS SECTION; AND

(2) ANY OTHER INFORMATION THE BOARD DEEMS NECESSARY.”.

AMENDMENT NO. 5

On page 15, after line 25, insert:

“(3) THE DIRECTOR MAY NOT TAKE ANY ACTIONS DESCRIBED IN SUBSECTION (D)(1) AND (2) OF THIS SECTION FOR COMPLAINTS INVOLVING PERSONS EXEMPT UNDER § 5-102.”.

On page 18, in line 34, before “A” insert “EXCEPT FOR A CEMETERY IN WHICH NO BURIALS HAVE TAKEN PLACE WITHIN THE PREVIOUS 5 YEARS,”.

On page 19, after line 20, insert:

“(D) IN BALTIMORE COUNTY, A REGISTERED CEMETERIAN OR PERMIT HOLDER MAY BUY, HOLD, OR USE, FOR BURIAL, UP TO 200 ACRES IN 1 TRACT.”.

AMENDMENT NO. 6

On page 26, in line 2, strike “100%” and substitute “80%”.

On page 30, after line 34, insert:

“(d) (1) Within 10 days after receiving a payment under a pre-need contract, THE SELLER SHALL DEPOSIT INTO AN INTEREST BEARING, ESCROW OR TRUST ACCOUNT:

(I) FOR SERVICES, 100% OF THE PAYMENT UNDER THE PRE-NEED CONTRACT; AND

(II) FOR GOODS:

1. AN AMOUNT FROM THE PAYMENT THAT IS EQUAL TO 80% OF THE SELLING PRICE OF A CASKET OR CASKET VAULT UNDER THE PRE-NEED CONTRACT; AND

2. 100% OF THE PAYMENT THAT IS FOR ALL OTHER GOODS UNDER THE PRE-NEED CONTRACT.

(2) [the] THE [seller shall deposit the payment into an] interest bearing, escrow or trust account SHALL BE with:

(i) A banking institution that is insured by an agency of the federal government; or

(ii) A savings and loan association that is insured by an agency of the federal government.

[(2)] (3) A seller need not have a separate escrow or trust account for each pre-need contract.

[(3)] (4) (i) Any interest or dividends earned by the escrow or trust account prior to service being rendered belong to the buyers of the pre-need contracts.

(ii) Upon performance of the contract, any interest or dividends earned by the escrow or trust account belong to the seller.”.

AMENDMENT NO. 7

On page 31, in line 21, strike “and”; after line 21, insert:

“(4) Inventory all known burial sites in the State; and”;

in line 22, strike “(4)” and substitute “(5)”;

strike in their entirety lines 24 through 29, inclusive; in line 30, strike “5.” and substitute “4.”; in line 35, strike “6.” and substitute “5.”; and in line 30, after “requirement” insert “under § 5-201 of the Business Regulation Article”.

On page 32, after line 3, insert:

“SECTION 6. AND BE IT FURTHER ENACTED, That this Act shall be construed only prospectively and may not be applied or interpreted to have any effect on or application to:

(1) Any preneed burial contract or pre-need contract entered into before the effective date of this Act; or

(2) Any noncorporate entity that was not subject to § 5-501 or § 5-502 before the effective date of this Act.

SECTION 7. AND BE IT FURTHER ENACTED, That if any provision of this Act or the application thereof to any person or circumstance is held invalid for any reason in a court of competent jurisdiction, the invalidity does not affect other provisions or any other application of this Act which can be given effect without the invalid provision or application, and for this purpose the provisions of this Act are severable.”;

(Over)

in line 4, after “That” insert “, except as provided in Section 9 of this Act,”; after line 5, insert:

“SECTION 9. AND BE IT FURTHER ENACTED, That the provisions of this Act relating to the registration or permitting of a person that owns and operates a bona fide religious, nonprofit cemetery and sells preneed goods shall take effect on October 1, 1999.”;

and in lines 4 and 6, strike “7.” and “8.”, respectively, and substitute “8.” and “10.”, respectively.