

BY: Finance Committee

AMENDMENTS TO SENATE BILL NO. 819

(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in the sponsor line, after "Industry)" insert "and Senator Della".

AMENDMENT NO. 2

On page 1, after line 2, insert "(Rachel's Law)"; in line 3, after "Oversight" insert "in the Department of Labor, Licensing, and Regulation"; in line 4, strike "State" and substitute "the Department of Labor, Licensing, and Regulation"; in line 6, strike "establish" and substitute "adopt"; in line 7, after "and" insert "regulations and establish certain"; in the same line, after "fees;" insert "establishing a Cemetery Oversight Fund; specifying the use of the Fund;"; in line 8, after "State;" insert "providing a certain exception;"; in lines 8 and 13, in each instance, strike "providing" and substitute "establishing certain"; in line 14, strike "providing" and substitute "establishing"; strike beginning with "for" in line 15 down through "misrepresentation" in line 16; in line 16, after "the" insert "evaluation and"; in line 17, after "Oversight" insert "in accordance with the Maryland Program Evaluation Act"; in the same line, strike "providing certain conforming changes;" and substitute "making certain technical changes;"; in line 22, strike "income" and substitute "interest"; strike beginning with "providing" in line 26 down through "family;" in line 28 and substitute "providing civil immunity to certain persons under certain circumstances;"; and in line 29, after "Act;" insert "providing for the implementation of certain provisions of this Act;".

On page 2, in line 14, after "Section" insert "5-102 to be under the amended subtitle 'Subtitle 1. Definitions; General Provisions';"; in the same line, strike "5-206" and substitute "5-207"; in line 31, after "5-705," insert "5-707(g),"; and after line 40, insert:

"BY repealing and reenacting, without amendments,

Article - Business Regulation

Section 5-702

Annotated Code of Maryland

(Over)

(1992 Volume and 1996 Supplement)  
(As enacted by Section 1 of this Act)

BY adding to

Article - Courts and Judicial Proceedings  
Section 5-399.8  
Annotated Code of Maryland  
(1995 Replacement Volume and 1996 Supplement)”.

On pages 2 and 3, strike in their entirety the lines beginning with line 41 on page 2 through line 4 on page 3, inclusive.

On page 3, after line 14, insert:

“BY adding to

Article - State Government  
Section 8-403(p)  
Annotated Code of Maryland  
(1995 Replacement Volume and 1996 Supplement)”.

### AMENDMENT NO. 3

On page 4, in line 11, after “(F)” insert “(1)”; in lines 11 and 12, strike “, INCLUDING:” and substitute a period; after line 12, insert:

“(2) “INTERMENT” INCLUDES:”;

and in lines 13, 14, and 15, strike “(1)”, “(2)”, and “(3)”, respectively, and substitute “(I)”, “(II)”, and “(III)”, respectively.

On page 8, in line 9, after “FUND” insert “ESTABLISHED UNDER § 5-206 OF THIS SUBTITLE”; in lines 26 and 27, strike “§ 5-388” and substitute “§ 5-399.8”; after line 9, insert:

“5-206.

(A) THERE IS A CEMETERY OVERSIGHT FUND.” ;

in lines 10, 19, and 22, strike “(D)”, “(E)”, and “(F)”, respectively, and substitute “(B)”, “(C)”, and “(D)”, respectively; and in line 25, strike “5-206.” and substitute “5-207.”.

AMENDMENT NO. 4

On page 3, in line 29, after “Definitions” insert “; GENERAL PROVISIONS”.

On page 4, after line 33, insert:

“5-102.

THIS TITLE DOES NOT APPLY TO A PERSON THAT:

(1) OWNS OR OPERATES A BONA FIDE RELIGIOUS, NONPROFIT CEMETERY IN THIS STATE; OR

(2) PROVIDES BURIAL GOODS IN THIS STATE ON BEHALF OF A BONA FIDE RELIGIOUS, NONPROFIT ENTITY AND IN CONNECTION WITH THE OPERATION OF A BONA FIDE RELIGIOUS, NONPROFIT CEMETERY.”.

On page 13, in line 25, after “(C)” insert “(1)”; and after line 27, insert:

“(2) NOTWITHSTANDING § 5-102 OF THIS TITLE, THE DIRECTOR MAY RECEIVE AND ATTEMPT TO MEDIATE AND RESOLVE COMPLAINTS CONCERNING PERSONS THAT OWN OR OPERATE BONA FIDE RELIGIOUS, NONPROFIT CEMETERIES OR PROVIDE BURIAL GOODS ON BEHALF OF A BONA FIDE RELIGIOUS, NONPROFIT ENTITY AND IN CONNECTION WITH THE OPERATION OF A BONA FIDE RELIGIOUS, NONPROFIT CEMETERY.”.

On page 14, in line 20, after “SUBSECTION” insert “AND THE NUMBER OF COMPLAINTS RECEIVED UNDER SUBSECTION (C)(2) OF THIS SECTION”.

AMENDMENT NO. 5

On page 14, in line 18, after “(2)” insert “BEGINNING DECEMBER 31, 1998, AND”; in line 19, after “REPORT” insert “, SUBJECT TO § 2-1312 OF THE STATE GOVERNMENT ARTICLE.”; in line 22, after “(A)” insert “(1)”; in the same line, strike “TITLE 10, SUBTITLE 4” and substitute “§ 10-226”; in line 25, strike “AN OPPORTUNITY FOR” and substitute “NOTICE”

(Over)

OF THE DIRECTOR'S PROPOSED ACTION AND THE OPPORTUNITY TO REQUEST"; and after line 26, insert:

"(2) A PERSON SHALL FILE A REQUEST FOR A HEARING NOT LATER THAN 30 DAYS AFTER THE DATE THE NOTICE PROVIDED UNDER PARAGRAPH (1) OF THIS SUBSECTION IS MAILED."

On page 15, strike in their entirety lines 1 through 3, inclusive, and substitute:

"(G) IF A HEARING IS NOT REQUESTED WITHIN THE TIME FRAME SPECIFIED UNDER SUBSECTION (A)(2) OF THIS SECTION OR IF THE PERSON FAILS TO APPEAR FOR THE HEARING AFTER REQUESTING A HEARING, THE PROPOSED ACTION OF THE DIRECTOR SHALL BE AFFIRMED.";

and in line 5, after "COSTS" insert "AS SPECIFIED BY THE DIRECTOR BY REGULATION".  
AMENDMENT NO. 6

On page 23, after line 6, insert:

"5-702.

(a) This subtitle does not apply to:

(1) the sale of burial space; or

(2) a preneed contract made by an individual in connection with practicing funeral direction or practicing mortuary science, as those practices are defined in and regulated by the Health Occupations Article.

(b) This subtitle does not allow a person, directly or indirectly, through an agent or otherwise, to practice funeral direction or practice mortuary science, unless the person is licensed to practice funeral direction or practice mortuary science under the Health Occupations Article.

(c) A preneed burial contract made under this subtitle is not an insurance contract and does not involve the business of insurance.

(d) This subtitle does not require a cemetery to accept goods, perform services, or allow services to be performed if the goods or services are contrary to:

(1) the law concerning burial; or

(2) the rules of the cemetery concerning the quality and kind of goods or services that may be used in connection with burial in the cemetery.”.

On page 24, after line 19, insert:

“5-707.

(g) (1) Except as otherwise provided in this subsection, each trustee shall submit to the [Commissioner of Financial Regulation] DIRECTOR an annual statement of account of the money in each trust account.

(2) A savings and loan association shall submit the annual statement of account to the [State Director of the Division of Savings and Loan Associations] DIRECTOR.”.

AMENDMENT NO. 7

On page 24, strike in its entirety line 7 and substitute:

“(2) FOR PRENEED GOODS:

(I) AN AMOUNT FROM THE PAYMENT THAT IS EQUAL TO 100% OF THE SELLING PRICE OF A CASKET OR CASKET VAULT; AND

(II) 55% OF THE PAYMENT THAT IS FOR ALL OTHER PRENEED GOODS.”.

AMENDMENT NO. 8

On page 26, in line 3, after “seller” insert “AS TO COMPLIANCE WITH THE

(Over)

REQUIREMENTS OF THIS SUBTITLE"; in line 12, after "trustee;" insert "AND"; strike in their entirety lines 13 and 14, inclusive; and in line 15, strike "7." and substitute "6.".

On page 31, in line 9, strike "AN UNQUALIFIED AUDIT" and substitute "A CERTIFICATION"; and in the same line, after "ACCOUNTANT" insert "AS TO THE SELLER'S COMPLIANCE WITH THE PROVISIONS OF THIS SECTION".

AMENDMENT NO. 9

On page 26, strike in their entirety lines 19 through 21, inclusive, and substitute:

"(3) IF A SELLER OF PRENEED GOODS OR PRENEED SERVICES SELLS ITS BUSINESS, FILES A PETITION IN BANKRUPTCY, OR CEASES TO OPERATE, THE SELLER SHALL PROVIDE WRITTEN NOTICE WITHIN 15 DAYS TO:

(I) THE DIRECTOR DETAILING THE CHANGES AND THE ARRANGEMENTS THE SELLER HAS MADE FOR CARRYING OUT THE PRENEED BURIAL CONTRACTS AND THE DISBURSEMENT OF ANY MONEYS HELD IN AN ESCROW OR TRUST ACCOUNT; AND

(II) EACH BUYER OF A PRENEED BURIAL CONTRACT ADVISING THE BUYER OF THE BUYER'S OPTIONS UNDER STATE LAW IN REGARD TO THE PRENEED BURIAL CONTRACT."

AMENDMENT NO. 10

On page 29, after line 31, insert:

"Article - Courts and Judicial Proceedings

5-399.8.

A PERSON WHO ACTS IN GOOD FAITH AND WITHIN THE SCOPE OF THE DUTIES AND RESPONSIBILITIES PROVIDED TO THE OFFICE OF CEMETERY OVERSIGHT UNDER TITLE 5 OF THE BUSINESS REGULATION ARTICLE IS NOT CIVILLY LIABLE FOR GIVING INFORMATION TO THE DIRECTOR OF THE OFFICE OF CEMETERY OVERSIGHT OR OTHERWISE PARTICIPATING IN THE ACTIVITIES OF THE OFFICE OF CEMETERY

OVERSIGHT.”.

On page 31, after line 11, insert:

“Article - State Government

8-403.

(P) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (E) OF THIS SECTION, ON OR BEFORE JULY 1, 2007, AN EVALUATION SHALL BE MADE OF THE OFFICE OF CEMETERY OVERSIGHT ESTABLISHED UNDER THE TITLE 5 OF THE BUSINESS REGULATION ARTICLE AND THE REGULATIONS THAT RELATE TO THE OFFICE OF CEMETERY OVERSIGHT.”.

AMENDMENT NO. 11

On pages 29 and 30, strike in their entirety the lines beginning with line 32 on page 29 through line 6 on page 30.

AMENDMENT NO. 12

On page 31, in line 19, strike “Issue” and substitute “Subject to § 2-1312 of the State Government Article, issue”; after line 20, insert:

“SECTION 4. AND BE IT FURTHER ENACTED, That the provisions of this Act relating to the imposition of registration and permit fees on persons providing burial goods or engaged in the operation of a cemetery for the purpose of funding the Office of Cemetery Oversight shall be applicable to all fiscal years beginning on or after July 1, 1998.

SECTION 5. AND BE IT FURTHER ENACTED, That the provisions of this Act that relate to the duties and responsibilities of the Office of Cemetery Oversight and the Director of the Office of Cemetery Oversight that relate to mediating, investigating, and conducting proceedings on complaints are not required to be implemented before January 1, 1998.”;

in line 23, after “preneed” insert “burial”; in the same line, after “contract” insert “or pre-need”

(Over)

contract"; in lines 21 and 24, strike "4." and "5.", respectively, and substitute "6." and "7.", respectively; and in line 25, strike "October" and substitute "July".