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**By: Delegates Morhaim, Harrison, and Muse (Task Force to Examine the State's Cemetery and Funeral Industry) and Delegates Pitkin, Frank, Finifter, Holt, and DeCarlo**

Introduced and read first time: January 29, 1997

Assigned to: Economic Matters

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## A BILL ENTITLED

1 AN ACT concerning

2 **Office of Cemetery Oversight**

3 FOR the purpose of creating the Office of Cemetery Oversight; requiring the Secretary of  
4 State to establish an advisory board; specifying the membership of the advisory  
5 board; providing for a Director of the Office of Cemetery Oversight; providing for  
6 the powers and duties of the director; authorizing the director to establish certain  
7 rules and fees; requiring registration in order to engage in the operation of a  
8 cemetery or in order to provide burial goods in this State; providing registration  
9 criteria; providing for the renewal of registration; providing for the denial of a  
10 registration or reprimand of a registrant; providing certain hearing procedures  
11 under certain circumstances; requiring a permit in order to engage in the operation  
12 of a cemetery or burial goods business as a corporation, limited liability company, or  
13 partnership; providing permit criteria; requiring registrants and permit holders to  
14 make certain disclosures when entering into certain contracts; providing certain  
15 penalties for practicing without a registration, providing services without a permit,  
16 and misrepresentation; providing for the termination of the Office of Cemetery  
17 Oversight; providing certain conforming changes; defining certain terms; requiring  
18 the Director of the Office of Cemetery Oversight to take certain actions by a certain  
19 date; and generally relating to the creation of the Office of Cemetery Oversight.

20 BY renumbering

21 Article - Business Regulation  
22 Section 5-201 through 5-204 and the subtitle "Subtitle 2. Cemetery Corporations";  
23 5-302 through 5-309 and the subtitle "Subtitle 3. Perpetual Care of  
24 Cemeteries"; 5-401 through 5-412 and the subtitle "Subtitle 4. Preneed Burial  
25 Contracts"; 5-501 and 5-502; and 5-601 and the subtitle "Subtitle 6.  
26 Miscellaneous Provisions", respectively  
27 to be Section 5-501 through 5-504 to be under the amended subtitle "Subtitle 5.  
28 Cemetery Property"; 5-601 through 5-608 to be under the amended subtitle  
29 "Subtitle 6. Perpetual Care"; 5-701 through 5-712 and the subtitle "Subtitle 7.  
30 Preneed Burial Contracts"; 5-505 and 5-506; and 5-802 and the subtitle  
31 "Subtitle 8. Miscellaneous Provisions", respectively  
32 Annotated Code of Maryland  
33 (1992 Volume and 1996 Supplement)

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1 BY adding to

2 Article - Business Regulation  
 3 Section 5-201 through 5-206, inclusive, to be under the new subtitle "Subtitle 2.  
 4 Office of Cemetery Oversight"; 5-301 through 5-312, inclusive, to be under  
 5 the new subtitle "Subtitle 3. Registration"; 5-401 through 5-404, inclusive, to  
 6 be under the new subtitle "Subtitle 4. Permits"; 5-801; 5-901 through 5-904,  
 7 inclusive, to be under the new subtitle "Subtitle 9. Prohibited Acts"; and  
 8 5-1001 and 5-1002 to be under the new subtitle "Subtitle 10. Short Title;  
 9 Termination of Title"  
 10 Annotated Code of Maryland  
 11 (1992 Volume and 1996 Supplement)

12 BY repealing and reenacting, with amendments,

13 Article - Business Regulation  
 14 Section 5-101  
 15 Annotated Code of Maryland  
 16 (1992 Volume and 1996 Supplement)

17 BY repealing and reenacting, with amendments,

18 Article - Business Regulation  
 19 Section 5-501 through 5-504, 5-602, 5-604 through 5-608, 5-701, 5-704(e), 5-710,  
 20 and 5-711  
 21 Annotated Code of Maryland  
 22 (1992 Volume and 1996 Supplement)  
 23 (As enacted by Section 1 of this Act)

24 BY repealing

25 Article - Business Regulation  
 26 Section 5-301; and the subtitle designation "Subtitle 5. Sale of Burial Ground for  
 27 Another Purpose" of Title 5  
 28 Annotated Code of Maryland  
 29 (1992 Volume and 1996 Supplement)

30 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
 31 MARYLAND, That Section(s) 5-201 through 5-204 and the subtitle "Subtitle 2.  
 32 Cemetery Corporations"; 5-302 through 5-309 and the subtitle "Subtitle 3. Perpetual  
 33 Care of Cemeteries"; 5-401 through 5-412 and the subtitle "Subtitle 4. Preneed Burial  
 34 Contracts"; 5-501 and 5-502; and 5-601 and the subtitle "Subtitle 6. Miscellaneous  
 35 Provisions", respectively, of Article - Business Regulation of the Annotated Code of  
 36 Maryland be renumbered to be Section(s) 5-501 through 5-504 to be under the amended  
 37 subtitle "Subtitle 5. Cemetery Property"; 5-601 through 5-608 to be under the amended  
 38 subtitle "Subtitle 6. Perpetual Care"; 5-701 through 5-712 and the subtitle "Subtitle 7.  
 39 Preneed Burial Contracts"; 5-505 and 5-506; and 5-802 and the subtitle "Subtitle 8.  
 40 Miscellaneous Provisions", respectively.

41 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland  
 42 read as follows:

3

1 **Article - Business Regulation**

2 Subtitle 1. Definitions.

3 5-101.

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

5 (b) [(1) "Burial" means all final disposition of human remains.

6 (2) "Burial" includes:

7 (i) earth burial;

8 (ii) mausoleum entombment; and

9 (iii) niche or columbarium interment.] "BURIAL GOODS BUSINESS"  
10 MEANS A BUSINESS THAT PROVIDES BURIAL GOODS.

11 (c) (1) "Cemetery" means land used or to be used for burial.

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

13 (D) "DIRECTOR" MEANS THE DIRECTOR OF THE OFFICE OF CEMETERY  
14 OVERSIGHT.

15 (E) "ENGAGE IN THE OPERATION OF A CEMETERY" MEANS OWNING,  
16 CONTROLLING, AND MAINTAINING A CEMETERY, INCLUDING PERFORMING  
17 ACTIVITIES NECESSARY FOR:

18 (1) THE ESTABLISHMENT OR IMPROVEMENT OF A CEMETERY;

19 (2) INTERMENT; AND

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

21 (F) "INTERMENT" MEANS ALL FINAL DISPOSITION OF HUMAN REMAINS,  
22 INCLUDING:

23 (1) EARTH BURIAL;

24 (2) MAUSOLEUM ENTOMBMENT; AND

25 (3) NICHE OR COLUMBARIUM INTERMENT.

26 (G) "OFFICE" MEANS THE OFFICE OF CEMETERY OVERSIGHT.

27 (H) "PERMIT" MEANS A PERMIT ISSUED BY THE DIRECTOR TO ALLOW A  
28 PARTNERSHIP, LIMITED LIABILITY COMPANY, OR CORPORATION TO OPERATE A  
29 BUSINESS THROUGH WHICH A REGISTRANT MAY ENGAGE IN THE OPERATION OF A  
30 CEMETERY OR PROVIDE BURIAL GOODS.

31 (I) "PROVIDE BURIAL GOODS" MEANS:

32 (1) TO SELL, ERECT, OR INSCRIBE BURIAL MONUMENTS;

4

1 (2) TO SELL CASKETS, VAULTS, GRAVE LINERS, OR ANY OTHER  
2 CEMETERY GOODS.

3 (J) "REGISTRATION" MEANS A REGISTRATION ISSUED BY THE DIRECTOR  
4 AUTHORIZING AN INDIVIDUAL TO OPERATE A CEMETERY OR TO PROVIDE BURIAL  
5 GOODS.

6 (K) "REGISTERED CEMETERIAN" MEANS AN INDIVIDUAL REGISTERED TO  
7 OPERATE A CEMETERY AS A SOLE PRACTITIONER OR ON BEHALF OF A PERMIT  
8 HOLDER.

9 (L) "REGISTERED SELLERS" MEANS AN INDIVIDUAL REGISTERED TO  
10 PROVIDE BURIAL GOODS AS A SOLE PRACTITIONER OR ON BEHALF OF A PERMIT  
11 HOLDER.

12 SUBTITLE 2. OFFICE OF CEMETERY OVERSIGHT.

13 5-201.

14 (A) THERE IS AN OFFICE OF CEMETERY OVERSIGHT IN THE DEPARTMENT.

15 (B) THE OFFICE EXERCISES ITS RIGHTS, POWERS, AND DUTIES SUBJECT TO  
16 THE AUTHORITY OF THE SECRETARY.

17 (C) (1) THE SECRETARY SHALL APPOINT AN ADVISORY COUNCIL ON  
18 CEMETERY OPERATIONS.

19 (2) THE ADVISORY COUNCIL SHALL CONSIST OF NINE MEMBERS AS  
20 FOLLOWS:

21 (I) ONE MEMBER REPRESENTING A NONPROFIT CEMETERY;

22 (II) ONE MEMBER REPRESENTING A FOR-PROFIT CEMETERY;

23 (III) ONE MEMBER REPRESENTING A RELIGIOUS CEMETERY;

24 (IV) ONE MEMBER REPRESENTING A MUNICIPAL CEMETERY;

25 (V) ONE MEMBER REPRESENTING A MONUMENT COMPANY; AND

26 (VI) FOUR MEMBERS WHO ARE CONSUMER REPRESENTATIVES.

27 (3) THE ADVISORY COUNCIL SHALL BE CONVENED AT LEAST ONCE A  
28 YEAR TO GIVE ADVICE TO THE SECRETARY AND THE DIRECTOR.

29 5-202.

30 (A) (1) THE SECRETARY SHALL APPOINT A DIRECTOR OF THE OFFICE WITH  
31 THE APPROVAL OF THE GOVERNOR.

32 (2) THE DIRECTOR SERVES AT THE PLEASURE OF THE SECRETARY.

33 (B) THE DIRECTOR SHALL DEVOTE FULL TIME TO THE DUTIES OF THE  
34 OFFICE.

35 (C) THE DIRECTOR IS ENTITLED TO:

5

1 (1) COMPENSATION IN ACCORDANCE WITH THE STATE BUDGET; AND

2 (2) REIMBURSEMENT FOR EXPENSES UNDER THE STANDARD STATE  
3 TRAVEL REGULATIONS, AS PROVIDED IN THE STATE BUDGET.

4 (D) THE DIRECTOR SHALL:

5 (1) ADMINISTER AND OPERATE THE OFFICE; AND

6 (2) BE RESPONSIBLE TO THE SECRETARY.

7 (E) THE DIRECTOR MAY NOT:

8 (1) HOLD ANY POSITION OR ENGAGE IN ANOTHER BUSINESS THAT  
9 INTERFERES OR CONFLICTS WITH THE POSITION OF THE DIRECTOR;

10 (2) BE A REGISTERED CEMETERIAN OR A REGISTERED SELLER;

11 (3) ENGAGE IN ANY ACT FOR WHICH A REGISTRATION IS REQUIRED  
12 UNDER THIS TITLE; OR

13 (4) IN CONNECTION WITH ANY REGISTERED CEMETERIAN,  
14 REGISTERED SELLER, PERMIT HOLDER, FUNERAL DIRECTOR, FUNERAL  
15 ESTABLISHMENT, OR RELATED DEATH CARE ENTITY, DIRECTLY OR INDIRECTLY  
16 RECEIVE OR BECOME ENTITLED TO RECEIVE ANY FEE, PERQUISITE, OR  
17 COMPENSATION.

18 5-203.

19 THE DIRECTOR MAY EMPLOY A STAFF IN ACCORDANCE WITH THE STATE  
20 BUDGET.

21 5-204.

22 (A) WITH THE ADVICE OF THE ADVISORY COUNCIL AND AFTER  
23 CONSULTATION WITH REPRESENTATIVES OF THE CEMETERY INDUSTRY, THE  
24 DIRECTOR SHALL ADOPT:

25 (1) RULES AND REGULATIONS TO CARRY OUT THIS TITLE; AND

26 (2) A CODE OF ETHICS FOR ENGAGING IN THE OPERATION OF A  
27 CEMETERY OR PROVIDING BURIAL GOODS.

28 (B) UPON RECEIPT OF A WRITTEN COMPLAINT, OR AT THE DISCRETION OF  
29 THE DIRECTOR, THE DIRECTOR MAY CONDUCT AN INVESTIGATION AND AN  
30 INSPECTION OF THE RECORDS AND SITE OF A REGISTERED CEMETERIAN,  
31 REGISTERED SELLER, AND PERMIT HOLDER.

32 (C) THE DIRECTOR MAY HOLD HEARINGS ON ANY MATTER COVERED BY  
33 THIS TITLE.

34 (D) TO ENFORCE THIS TITLE, THE DIRECTOR MAY:

35 (1) ADMINISTER OATHS;

36 (2) EXAMINE WITNESSES; AND

6

1 (3) RECEIVE EVIDENCE.

2 (E) (1) THE DIRECTOR MAY ISSUE A SUBPOENA FOR THE ATTENDANCE OF  
3 A WITNESS TO TESTIFY OR FOR THE PRODUCTION OF EVIDENCE IN CONNECTION  
4 WITH ANY INVESTIGATION OR HEARING CONDUCTED IN ACCORDANCE WITH THIS  
5 SECTION.

6 (2) IF A PERSON FAILS TO COMPLY WITH A SUBPOENA ISSUED UNDER  
7 THIS SUBSECTION, ON PETITION OF THE DIRECTOR, A CIRCUIT COURT MAY COMPEL  
8 COMPLIANCE WITH THE SUBPOENA.

9 (F) (1) THE DIRECTOR MAY SUE IN THE NAME OF THE STATE TO ENFORCE  
10 ANY PROVISION OF THIS TITLE BY INJUNCTION.

11 (2) IN SEEKING AN INJUNCTION UNDER THIS SUBSECTION, THE  
12 DIRECTOR IS NOT REQUIRED TO:

13 (I) POST BOND; OR

14 (II) ALLEGE OR PROVE EITHER THAT:

15 1. AN ADEQUATE REMEDY AT LAW DOES NOT EXIST; OR

16 2. SUBSTANTIAL OR IRREPARABLE DAMAGE WOULD  
17 RESULT FROM THE CONTINUED VIOLATION OF THE PROVISION.

18 (3) THE DIRECTOR OR STAFF MAY NOT BE HELD PERSONALLY LIABLE  
19 FOR ANY ACTION TAKEN UNDER THIS TITLE IN GOOD FAITH AND WITH  
20 REASONABLE GROUNDS.

21 (G) THE DIRECTOR MAY ISSUE A CEASE AND DESIST ORDER, IF THE  
22 DIRECTOR FINDS A VIOLATION OF THIS TITLE.

23 (H) THE DIRECTOR MAY REFER TO THE OFFICE OF THE ATTORNEY  
24 GENERAL:

25 (1) A VIOLATION OF THIS TITLE FOR ENFORCEMENT; AND

26 (2) AN ALLEGED UNFAIR OR DECEPTIVE TRADE PRACTICE UNDER  
27 TITLE 13 OF THE COMMERCIAL LAW ARTICLE.

28 (I) THE DIRECTOR SHALL MAINTAIN A LIST OF ALL REGISTRANTS AND  
29 PERMIT HOLDERS.

30 (J) (1) THE DIRECTOR SHALL DISTRIBUTE A COPY OF THE MARYLAND  
31 CEMETERY ACT, CODE OF ETHICS, AND APPLICABLE REGULATIONS TO EACH  
32 APPLICANT FOR REGISTRATION OR PERMIT.

33 (2) UPON RENEWAL OF A REGISTRATION OR PERMIT, THE DIRECTOR  
34 SHALL DISTRIBUTE ANY AMENDMENTS TO THE MARYLAND CEMETERY ACT, CODE  
35 OF ETHICS, OR APPLICABLE RULES AND REGULATIONS THAT HAVE OCCURRED  
36 SINCE THE LAST APPLICATION.

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1 (K) IN CONJUNCTION WITH THE BOARD OF MORTICIANS AND THE DIVISION  
2 OF CONSUMER PROTECTION OF THE OFFICE OF THE ATTORNEY GENERAL, THE  
3 DIRECTOR SHALL PUBLISH A CONSUMER INFORMATION PAMPHLET THAT  
4 DESCRIBES:

5 (1) THE RIGHTS OF CONSUMERS IN THE PURCHASE OF FUNERAL AND  
6 CEMETERY GOODS AND SERVICES; AND

7 (2) ANY OTHER INFORMATION THAT THE DIRECTOR CONSIDERS  
8 REASONABLY NECESSARY TO AID CONSUMERS.

9 5-205.

10 (A) (1) THE DIRECTOR SHALL ESTABLISH REASONABLE FEES FOR THE  
11 ISSUANCE AND RENEWAL OF REGISTRATIONS AND PERMITS.

12 (2) IN ESTABLISHING THE FEES, THE DIRECTOR SHALL CONSIDER THE  
13 SIZE OF THE BUSINESS, THE VOLUME OF BUSINESS CONDUCTED, AND THE TYPE OF  
14 SERVICES PROVIDED, INCLUDING THE PERCENTAGE OF PRENEED CONTRACTS  
15 WRITTEN.

16 (B) THE FEES CHARGED SHALL BE SET SO AS TO APPROXIMATE THE DIRECT  
17 AND INDIRECT COST OF MAINTAINING THE OFFICE.

18 (C) THE DIRECTOR SHALL PAY ALL FUNDS COLLECTED UNDER THIS TITLE  
19 TO THE COMPTROLLER WHO SHALL DISTRIBUTE THE FEES TO THE CEMETERY  
20 OVERSIGHT FUND.

21 (D) (1) THE FUND SHALL BE USED TO COVER THE ACTUAL DOCUMENTED  
22 DIRECT AND INDIRECT COSTS OF FULFILLING THE STATUTORY AND REGULATORY  
23 DUTIES OF THE OFFICE.

24 (2) THE FUND IS A CONTINUING NONLAPSING FUND, NOT SUBJECT TO §  
25 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

26 (3) ANY UNSPENT PORTIONS OF THE FUND MAY NOT REVERT OR BE  
27 TRANSFERRED TO THE GENERAL FUND OF THE STATE, BUT SHALL REMAIN IN THE  
28 FUND TO BE USED FOR THE PURPOSES SPECIFIED IN THIS TITLE.

29 (4) NO OTHER STATE MONEY MAY BE USED TO SUPPORT THE FUND.

30 (E) (1) THE DIRECTOR SHALL ADMINISTER THE FUND.

31 (2) MONEYS IN THE FUND MAY BE EXPENDED FOR ANY LAWFUL  
32 PURPOSE AUTHORIZED UNDER THE PROVISIONS OF THIS TITLE.

33 (F) THE LEGISLATIVE AUDITOR SHALL AUDIT THE ACCOUNTS AND  
34 TRANSACTIONS OF THE FUND AS PROVIDED IN § 2-1215 OF THE STATE GOVERNMENT  
35 ARTICLE.

36 5-206.

37 A PERSON SHALL HAVE THE IMMUNITY FROM LIABILITY DESCRIBED UNDER §  
38 5-388 OF THE COURTS AND JUDICIAL PROCEEDINGS ARTICLE FOR GIVING

8

1 INFORMATION TO THE DIRECTOR OR OTHERWISE PARTICIPATING IN THE  
2 ACTIVITIES OF THE OFFICE.

3 [5-301.

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

5 (b) "Cemetery owner" means a person who owns, operates, or develops a  
6 cemetery.

7 (c) "Trust fund" means a perpetual care trust fund under this subtitle.]

8 SUBTITLE 3. REGISTRATION.

9 5-301.

10 AN INDIVIDUAL SHALL REGISTER WITH THE OFFICE BEFORE:

11 (1) ENGAGING IN THE OPERATION OF A CEMETERY IN THIS STATE; OR

12 (2) PROVIDING BURIAL GOODS IN THIS STATE.

13 5-302.

14 (A) IN ORDER TO REGISTER, AN APPLICANT SHALL MEET THE  
15 REQUIREMENTS OF THIS SECTION.

16 (B) THE APPLICANT MUST BE AT LEAST 18 YEARS OLD.

17 (C) THE APPLICANT MUST BE OF GOOD CHARACTER AND REPUTATION.

18 (D) THE CEMETERY OR BURIAL GOODS BUSINESS WITH WHICH THE  
19 APPLICANT IS AFFILIATED MUST BE FINANCIALLY STABLE IN ACCORDANCE WITH §  
20 5-304 OF THIS SUBTITLE.

21 5-303.

22 (A) AN APPLICANT SHALL REGISTER BY:

23 (1) SUBMITTING TO THE DIRECTOR AN APPLICATION ON THE FORM  
24 THAT THE DIRECTOR PROVIDES; AND

25 (2) PAYING A NONREFUNDABLE APPLICATION FEE SET BY THE  
26 DIRECTOR.

27 (B) THE APPLICATION SHALL STATE:

28 (1) THE NAME, DATE OF BIRTH, AND RESIDENCE ADDRESS OF THE  
29 APPLICANT;

30 (2) THE NAME AND FIXED ADDRESS OF THE AFFILIATED CEMETERY OR  
31 BURIAL MONUMENT BUSINESS;

32 (3) WHETHER THE CEMETERY OR BURIAL GOODS BUSINESS WITH  
33 WHICH THE APPLICANT IS AFFILIATED IS OWNED OR CONTROLLED BY A  
34 PARTNERSHIP, LIMITED LIABILITY COMPANY, OR CORPORATION;



9

1 (4) THE NAME AND RESIDENCE ADDRESS OF EACH EMPLOYEE WHO  
2 SELLS CEMETERY GOODS OR SERVICES TO THE PUBLIC FOR THE APPLICANT WHILE  
3 ENGAGING IN THE OPERATION OF A CEMETERY OR BURIAL GOODS BUSINESS; AND

4 (5) ANY OTHER REASONABLE INFORMATION THAT THE DIRECTOR  
5 DETERMINES IS NECESSARY TO CARRY OUT THIS TITLE.

6 5-304.

7 (A) EACH APPLICANT SHALL DEMONSTRATE THE FINANCIAL STABILITY OF  
8 THE CEMETERY OR BURIAL GOODS BUSINESS WITH WHICH THE APPLICANT IS  
9 AFFILIATED BY PROVIDING THE DIRECTOR WITH A FINANCIAL STATEMENT WITH  
10 THE APPLICATION FOR REGISTRATION.

11 (B) THE FINANCIAL STATEMENT SHALL:

12 (1) BE ON THE FORM THAT THE DIRECTOR REQUIRES;

13 (2) CONTAIN A STATEMENT BY A CERTIFIED PUBLIC ACCOUNTANT  
14 EMPLOYED BY THE APPLICANT, DETAILING THE ASSETS AND LIABILITIES OF THE  
15 CEMETERY OR BURIAL GOODS BUSINESS FOR THE LAST FISCAL YEAR; AND

16 (3) CONTAIN AN OPINION BY THE CERTIFIED PUBLIC ACCOUNTANT AS  
17 TO THE FINANCIAL STABILITY OF THE CEMETERY OR BURIAL GOODS BUSINESS.

18 (C) THE DIRECTOR SHALL MAKE A DETERMINATION OF THE FINANCIAL  
19 STABILITY OF EACH APPLICANT BASED ON CRITERIA ESTABLISHED BY THE  
20 DIRECTOR.

21 5-305.

22 (A) THE DIRECTOR SHALL ISSUE A REGISTRATION TO AN APPLICANT WHO  
23 MEETS THE REQUIREMENTS OF THIS TITLE.

24 (B) A REGISTRATION ISSUED BY THE DIRECTOR UNDER THIS TITLE IS NOT  
25 TRANSFERABLE.

26 5-306.

27 (A) WHILE A REGISTRATION IS IN EFFECT, IT AUTHORIZES THE REGISTRANT  
28 TO ENGAGE IN THE OPERATION OF A CEMETERY OR BURIAL GOODS BUSINESS.

29 (B) THIS TITLE DOES NOT LIMIT THE RIGHT OF A PERSON TO PRACTICE  
30 FUNERAL DIRECTION OR MORTUARY SCIENCE, IF THE PERSON IS LICENSED OR  
31 OTHERWISE AUTHORIZED UNDER TITLE 7 OF THE HEALTH OCCUPATIONS ARTICLE.

32 5-307.

33 (A) UNLESS A REGISTRATION IS RENEWED AS PROVIDED IN THIS SECTION,  
34 THE REGISTRATION EXPIRES ON THE SECOND ANNIVERSARY OF ITS EFFECTIVE  
35 DATE.

36 (B) AT LEAST 90 DAYS BEFORE A LICENSE EXPIRES, THE DIRECTOR SHALL  
37 MAIL TO THE REGISTRANT, AT THE LAST KNOWN ADDRESS OF THE REGISTRANT:

10

1 (1) A RENEWAL APPLICATION FORM; AND

2 (2) A NOTICE THAT STATES:

3 (I) THE DATE ON WHICH THE CURRENT REGISTRATION EXPIRES;

4 (II) THE DATE BY WHICH THE DIRECTOR MUST RECEIVE THE  
5 RENEWAL APPLICATION FOR THE RENEWAL TO BE ISSUED AND MAILED BEFORE  
6 THE REGISTRATION EXPIRES; AND

7 (III) THE AMOUNT OF THE RENEWAL FEE.

8 (C) BEFORE A REGISTRATION EXPIRES, THE REGISTRANT PERIODICALLY  
9 MAY RENEW IT FOR AN ADDITIONAL 2-YEAR TERM, IF THE REGISTRANT:

10 (1) IS OTHERWISE ENTITLED TO BE REGISTERED;

11 (2) MEETS THE QUALIFICATIONS SET FORTH FOR AN ORIGINAL  
12 REGISTRATION;

13 (3) PAYS THE RENEWAL FEE SET BY THE DIRECTOR; AND

14 (4) SUBMITS TO THE DIRECTOR A RENEWAL APPLICATION ON THE  
15 FORM THAT THE DIRECTOR PROVIDES.

16 (D) THE DIRECTOR SHALL RENEW THE REGISTRATION OF EACH  
17 REGISTRANT WHO MEETS THE REQUIREMENTS OF THIS SECTION.

18 5-308.

19 WITHIN 1 WEEK AFTER THE EFFECTIVE DATE OF THE CHANGE, A REGISTRANT  
20 OR PERMIT HOLDER SHALL SUBMIT TO THE DIRECTOR AN APPLICATION FORM  
21 THAT SHOWS A CHANGE IN THE:

22 (1) CEMETERY OR BURIAL GOODS BUSINESS WITH WHICH A  
23 REGISTRANT IS AFFILIATED;

24 (2) REGISTERED CEMETERIAN OR REGISTERED SELLER DESIGNATED  
25 AS RESPONSIBLE FOR THE CEMETERY OPERATIONS OR FOR PROVIDING BURIAL  
26 GOODS FOR THE PERMIT HOLDER;

27 (3) EMPLOYEES OF THE PERMIT HOLDER WHO ENGAGE IN THE SALE OF  
28 GOODS OR SERVICES TO THE PUBLIC;

29 (4) OFFICERS, DIRECTORS, MEMBERS, OR AGENTS OF THE PERMIT  
30 HOLDER; OR

31 (5) NAME OR ADDRESS OF THE REGISTRANT OR PERMIT HOLDER.

32 5-309.

33 EACH REGISTRANT SHALL DISPLAY THE REGISTRATION CONSPICUOUSLY AT  
34 THE BUSINESS ADDRESS OF THE REGISTRANT.

11

1 5-310.

2 (A) SUBJECT TO THE HEARING PROVISIONS OF § 5-312 OF THIS SUBTITLE, THE  
3 DIRECTOR MAY DENY A REGISTRATION OR PERMIT TO AN APPLICANT, REPRIMAND  
4 A REGISTRANT OR PERMIT HOLDER, OR SUSPEND OR REVOKE A REGISTRATION OR  
5 PERMIT, IF AN APPLICANT, REGISTRANT, OR PERMIT HOLDER, OR AN AGENT,  
6 EMPLOYEE, OFFICER, DIRECTOR, OR PARTNER OF THE APPLICANT, REGISTRANT,  
7 OR PERMIT HOLDER:

8 (1) FRAUDULENTLY OR DECEPTIVELY OBTAINS OR ATTEMPTS TO  
9 OBTAIN A REGISTRATION OR PERMIT;

10 (2) FRAUDULENTLY OR DECEPTIVELY USES A REGISTRATION OR  
11 PERMIT;

12 (3) IS CONVICTED OF A FELONY, THEFT OFFENSE, OR CRIME OF MORAL  
13 TURPITUDE;

14 (4) FAILS TO PROVIDE OR MISREPRESENTS ANY INFORMATION  
15 REQUIRED TO BE PROVIDED UNDER THIS TITLE;

16 (5) VIOLATES THIS TITLE;

17 (6) VIOLATES THE CODE OF ETHICS ADOPTED BY THE DIRECTOR;

18 (7) VIOLATES A REGULATION ADOPTED UNDER THIS TITLE;

19 (8) FAILS TO ADEQUATELY SUPERVISE AGENTS, EMPLOYEES,  
20 OFFICERS, DIRECTORS, OR PARTNERS AFFILIATED WITH A CEMETERY OR BURIAL  
21 GOODS BUSINESS;

22 (9) REFUSES TO ALLOW AN INSPECTION REQUIRED BY THIS TITLE;

23 (10) FAILS TO COMPLY WITH AN ORDER OF THE DIRECTOR;

24 (11) FAILS TO COMPLY WITH ANY TERMS OF SETTLEMENT UNDER A  
25 BINDING ARBITRATION AGREEMENT; OR

26 (12) IS FOUND GUILTY BY A COURT IN THIS STATE OF VIOLATING AN  
27 UNFAIR AND DECEPTIVE TRADE PRACTICES PROVISION UNDER TITLE 13 OF THE  
28 COMMERCIAL LAW ARTICLE.

29 (B) (1) IF A REGISTRANT OR PERMIT HOLDER IS CHARGED WITH A  
30 VIOLATION OF THIS TITLE THAT COULD RESULT IN SUSPENSION OR REVOCATION  
31 OF THE REGISTRATION OR PERMIT, THE DIRECTOR MAY SEEK AN IMMEDIATE  
32 RESTRAINING ORDER IN A CIRCUIT COURT IN THIS STATE TO PROHIBIT THE  
33 REGISTRANT OR PERMIT HOLDER FROM ENGAGING IN THE OPERATION OF ANY  
34 CEMETERY OR BURIAL GOODS BUSINESS.

35 (2) THE RESTRAINING ORDER IS IN EFFECT UNTIL:

36 (I) THE COURT LIFTS THE ORDER; OR

37 (II) THE CHARGES ARE ADJUDICATED OR DISMISSED.

12

1 (C) IF A REGISTRANT OR PERMIT HOLDER IS CHARGED WITH A VIOLATION  
2 OF THIS TITLE THAT COULD RESULT IN SUSPENSION OR REVOCATION OF THE  
3 REGISTRATION OR PERMIT, THE DIRECTOR MAY PETITION A COURT TO:

4 (1) APPOINT A RECEIVER OR TRUSTEE TO TAKE CHARGE OF THE  
5 ASSETS AND OPERATE THE BUSINESS OF THE PERSON WHOSE REGISTRATION OR  
6 PERMIT IS SUSPENDED OR REVOKED; AND

7 (2) TAKE OTHER ACTIONS AS ARE APPROPRIATE TO PROTECT THE  
8 PUBLIC INTEREST.

9 (D) INSTEAD OF OR IN ADDITION TO SUSPENDING OR REVOKING A  
10 REGISTRATION, THE DIRECTOR MAY IMPOSE A CIVIL PENALTY:

11 (1) NOT TO EXCEED \$5,000 FOR EACH VIOLATION OF THIS TITLE OR AN  
12 ORDER OF THE DIRECTOR UNDER THIS TITLE; AND

13 (2) NOT TO EXCEED \$500 FOR EACH DAY A VIOLATION CONTINUES PAST  
14 THE TIME SET FOR ITS CORRECTION.

15 (E) TO DETERMINE THE AMOUNT OF THE PENALTY IMPOSED UNDER THIS  
16 SUBSECTION, THE DIRECTOR SHALL CONSIDER:

17 (1) THE SERIOUSNESS OF THE VIOLATION;

18 (2) THE HARM CAUSED BY THE VIOLATION;

19 (3) THE GOOD FAITH EFFORTS OF THE REGISTRANT OR PERMIT  
20 HOLDER; AND

21 (4) ANY HISTORY OF PREVIOUS VIOLATIONS BY THE REGISTRANT OR  
22 PERMIT HOLDER.

23 (F) ANY CIVIL PENALTIES COLLECTED UNDER THIS SECTION SHALL BE PAID  
24 INTO THE GENERAL FUND OF THE STATE.

25 5-311.

26 (A) SUBJECT TO THE PROVISIONS OF THIS SECTION, THE DIRECTOR SHALL  
27 COMMENCE PROCEEDINGS ON A COMPLAINT MADE BY ANY PERSON TO THE  
28 DIRECTOR.

29 (B) A COMPLAINT SHALL:

30 (1) BE IN WRITING;

31 (2) STATE SPECIFICALLY THE FACTS ON WHICH THE COMPLAINT IS  
32 BASED; AND

33 (3) BE MADE UNDER OATH BY THE PERSON WHO SUBMITS THE  
34 COMPLAINT.

35 (C) THE DIRECTOR SHALL REVIEW EACH COMPLAINT AND SHALL ATTEMPT  
36 TO MEDIATE THE COMPLAINT BETWEEN THE COMPLAINANT AND THE REGISTRANT  
37 OR PERMIT HOLDER.

13

1 (D) IF THE DIRECTOR IS UNABLE TO MEDIATE THE COMPLAINT, THE  
2 DIRECTOR MAY:

3 (1) AT THE REQUEST OF EITHER PARTY, REFER THE COMPLAINT TO  
4 THE OFFICE OF THE ATTORNEY GENERAL FOR BINDING ARBITRATION, IF BOTH  
5 PARTIES AGREE TO BINDING ARBITRATION;

6 (2) INITIATE AN INVESTIGATION; OR

7 (3) DISMISS THE COMPLAINT.

8 (E) IF, AFTER INVESTIGATION, THE DIRECTOR DETERMINES THAT THERE IS  
9 A REASONABLE BASIS TO BELIEVE THAT THERE ARE GROUNDS FOR DISCIPLINARY  
10 ACTION UNDER § 5-310 OF THIS TITLE, THE CASE SHALL BE SET FOR A HEARING  
11 UNDER § 5-312 OF THIS SUBTITLE.

12 (F) (1) IF A COMPLAINT IS NOT SET FOR A HEARING AFTER BEING  
13 INVESTIGATED BY THE DIRECTOR, THE COMPLAINT SHALL BE DISMISSED.

14 (2) ANY PARTY AGGRIEVED BY THE DISMISSAL MAY TAKE A JUDICIAL  
15 APPEAL IN ACCORDANCE WITH THE PROVISIONS OF TITLE 10 OF THE STATE  
16 GOVERNMENT ARTICLE.

17 (G) (1) ONCE A COMPLAINT HAS BEEN REFERRED FOR BINDING  
18 ARBITRATION, THE REGISTRANT OR PERMIT HOLDER SHALL COMPLY WITH THE  
19 TERMS OF THE SETTLEMENT.

20 (2) IF A REGISTRANT OR PERMIT HOLDER HAS FAILED TO COMPLY  
21 WITH THE TERMS OF THE ARBITRATION SETTLEMENT, THE DIRECTOR SHALL,  
22 AFTER THE APPEAL PERIOD HAS PASSED, CONDUCT A HEARING IN ACCORDANCE  
23 WITH § 5-312 OF THIS SUBTITLE.

24 (H) (1) THE DIRECTOR SHALL ADOPT GUIDELINES THAT ESTABLISH A  
25 SCHEDULE FOR THE PROMPT AND TIMELY PROCESSING AND RESOLUTION OF EACH  
26 COMPLAINT MADE TO THE DIRECTOR.

27 (2) ON OR BEFORE DECEMBER 31 OF EACH YEAR, THE DIRECTOR SHALL  
28 REPORT TO THE GENERAL ASSEMBLY ON THE NUMBER OF COMPLAINTS RESOLVED  
29 WITHIN THE SCHEDULE ADOPTED UNDER PARAGRAPH (1) OF THIS SUBSECTION.

30 5-312.

31 (A) EXCEPT AS OTHERWISE PROVIDED IN TITLE 10, SUBTITLE 4 OF THE STATE  
32 GOVERNMENT ARTICLE, BEFORE THE DIRECTOR TAKES A FINAL ACTION UNDER  
33 THIS SUBTITLE, THE DIRECTOR SHALL PROVIDE THE INDIVIDUAL AGAINST WHOM  
34 THE ACTION IS CONTEMPLATED AN OPPORTUNITY FOR A HEARING BEFORE THE  
35 DIRECTOR.

36 (B) THE DIRECTOR SHALL PROVIDE NOTICE AND CONDUCT A HEARING IN  
37 ACCORDANCE WITH TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE.

38 (C) THE DIRECTOR MAY ADMINISTER OATHS IN CONNECTION WITH A  
39 PROCEEDING UNDER THIS SECTION.

14

1 (D) THE HEARING NOTICE PROVIDED TO THE INDIVIDUAL SHALL BE SENT BY  
2 CERTIFIED MAIL TO THE LAST KNOWN ADDRESS OF THE INDIVIDUAL AT LEAST 10  
3 DAYS BEFORE THE HEARING.

4 (E) THE INDIVIDUAL MAY BE REPRESENTED AT THE HEARING BY COUNSEL.

5 (F) (1) THE DIRECTOR MAY ISSUE SUBPOENAS IN CONNECTION WITH A  
6 PROCEEDING UNDER THIS SECTION.

7 (2) IF A PERSON FAILS TO COMPLY WITH A SUBPOENA ISSUED UNDER  
8 THIS SUBSECTION, ON PETITION OF THE DIRECTOR, A CIRCUIT COURT MAY COMPEL  
9 COMPLIANCE WITH THE SUBPOENA.

10 (G) IF, AFTER DUE NOTICE, THE INDIVIDUAL AGAINST WHOM THE ACTION IS  
11 CONTEMPLATED FAILS OR REFUSES TO APPEAR, THE DIRECTOR MAY HEAR AND  
12 DETERMINE THE MATTER.

13 (H) IF, AFTER A HEARING, THE PROPOSED ACTION BY THE DIRECTOR IS  
14 UPHELD, THE CHALLENGER SHALL PAY THE HEARING COSTS.

15 SUBTITLE 4. PERMITS.

16 5-401.

17 (A) SUBJECT TO THE PROVISIONS OF THIS SECTION, A REGISTERED  
18 CEMETERIAN OR REGISTERED SELLER MAY ENGAGE IN THE OPERATION OF A  
19 CEMETERY OR BURIAL GOODS BUSINESS THROUGH:

20 (1) A CORPORATION AS AN OFFICER, DIRECTOR, EMPLOYEE, OR AGENT  
21 OF THE CORPORATION;

22 (2) A LIMITED LIABILITY COMPANY AS A MEMBER, EMPLOYEE, OR  
23 AGENT OF THE LIMITED LIABILITY COMPANY; OR

24 (3) A PARTNERSHIP AS A PARTNER, EMPLOYEE, OR AGENT OF THE  
25 PARTNERSHIP.

26 (B) SUBJECT TO THE PROVISIONS OF THIS TITLE, A CORPORATION, LIMITED  
27 LIABILITY COMPANY, OR PARTNERSHIP MAY ENGAGE IN THE OPERATION OF A  
28 CEMETERY OR BURIAL GOODS BUSINESS THROUGH A REGISTERED CEMETERIAN  
29 OR REGISTERED SELLER.

30 (C) (1) A REGISTERED CEMETERIAN WHO ENGAGES IN THE OPERATION OF  
31 A CEMETERY THROUGH A CORPORATION, LIMITED LIABILITY COMPANY, OR  
32 PARTNERSHIP UNDER THIS TITLE IS SUBJECT TO ALL OF THE PROVISIONS OF THIS  
33 TITLE THAT RELATE TO ENGAGING IN THE OPERATION OF A CEMETERY.

34 (2) A REGISTERED SELLER WHO ENGAGES IN THE OPERATION OF A  
35 BURIAL GOODS BUSINESS THROUGH A CORPORATION, LIMITED LIABILITY  
36 COMPANY, OR PARTNERSHIP UNDER THIS TITLE IS SUBJECT TO ALL OF THE  
37 PROVISIONS OF THIS TITLE THAT RELATE TO PROVIDING BURIAL GOODS SERVICES.

15

1 (D) (1) A CORPORATION, LIMITED LIABILITY COMPANY, OR PARTNERSHIP  
2 THAT ENGAGES IN THE OPERATION OF A CEMETERY OR BURIAL GOODS BUSINESS  
3 UNDER THIS TITLE IS NOT, BY ITS COMPLIANCE WITH THIS TITLE, RELIEVED OF ANY  
4 RESPONSIBILITY THAT THE CORPORATION, LIMITED LIABILITY COMPANY, OR  
5 PARTNERSHIP MAY HAVE FOR AN ACT OR AN OMISSION BY ITS OFFICER, DIRECTOR,  
6 MEMBER, PARTNER, EMPLOYEE, OR AGENT.

7 (2) AN INDIVIDUAL WHO ENGAGES IN THE OPERATION OF A CEMETERY  
8 OR BURIAL GOODS BUSINESS THROUGH A CORPORATION, LIMITED LIABILITY  
9 COMPANY, OR PARTNERSHIP IS NOT, BY REASON OF THE INDIVIDUAL'S  
10 EMPLOYMENT OR OTHER RELATIONSHIP WITH THE CORPORATION, LIMITED  
11 LIABILITY COMPANY, OR PARTNERSHIP, RELIEVED OF ANY INDIVIDUAL  
12 RESPONSIBILITY THAT THE INDIVIDUAL MAY HAVE REGARDING THAT PRACTICE.

13 5-402.

14 A CORPORATION, LIMITED LIABILITY COMPANY, OR PARTNERSHIP SHALL  
15 OBTAIN A PERMIT ISSUED BY THE DIRECTOR, BEFORE THE CORPORATION, LIMITED  
16 LIABILITY COMPANY, OR PARTNERSHIP MAY ENGAGE IN THE OPERATION OF A  
17 CEMETERY OR BURIAL GOODS BUSINESS IN THE STATE.

18 5-403.

19 TO QUALIFY FOR A PERMIT, A CORPORATION, LIMITED LIABILITY COMPANY,  
20 OR PARTNERSHIP SHALL:

21 (1) DESIGNATE A SEPARATE REGISTERED CEMETERIAN OR  
22 REGISTERED SELLER AS THE INDIVIDUAL RESPONSIBLE FOR THE OPERATIONS OF  
23 EACH AFFILIATED CEMETERY OR BURIAL GOODS BUSINESS;

24 (2) PROVIDE THE NAME AND BUSINESS ADDRESS OF EACH AFFILIATED  
25 CEMETERY OR BURIAL GOODS BUSINESS; AND

26 (3) PROVIDE A LIST OF THE OFFICERS, DIRECTORS, MEMBERS,  
27 PARTNERS, AGENTS, AND EMPLOYEES OF THE ENTITY APPLYING FOR THE PERMIT.

28 5-404.

29 AN APPLICANT FOR A PERMIT SHALL SUBMIT TO THE DIRECTOR:

30 (1) AN APPLICATION ON THE FORM THAT THE DIRECTOR PROVIDES;  
31 AND

32 (2) AN APPLICATION FEE AS SET BY THE DIRECTOR.

33 [Subtitle 5. Sale of Burial Ground for Another Purpose.]

34 Subtitle 5. Cemetery [Corporations] PROPERTY.

35 5-501.

36 (a) Except as otherwise provided in this section, a [cemetery corporation]  
37 REGISTERED CEMETERIAN OR PERMIT HOLDER may not buy, hold, or use, for burial:

16

1 (1) more than 100 acres in the State; or

2 (2) any land within the limits of a municipal corporation in the State, unless  
3 authorized to do so by the municipal corporation.

4 (b) (1) In the Spauldings Election District of Prince George's County, a  
5 [cemetery corporation] REGISTERED CEMETERIAN OR PERMIT HOLDER may buy,  
6 hold, or use, for burial, up to 125 acres in 1 tract.

7 (2) In the Laurel Election District of Prince George's County, a [cemetery  
8 corporation] REGISTERED CEMETERIAN OR PERMIT HOLDER that operated on June 1,  
9 1955, may buy, hold, or use, for burial, up to 200 acres in 1 tract.

10 (c) In Frederick County, a [cemetery corporation] REGISTERED CEMETERIAN  
11 OR PERMIT HOLDER may buy, hold, or use, for burial, up to 150 acres in 1 tract.

12 5-502.

13 (a) An alley, canal, road, or other public thoroughfare may not be opened through  
14 property of a cemetery [corporation] if that property is used or to be used for burial.

15 (b) This section does not authorize a [cemetery corporation] REGISTERED  
16 CEMETERIAN OR PERMIT HOLDER to obstruct:

17 (1) a public road in use when the cemetery [corporation] is formed; or

18 (2) the site of a future public road that, when the cemetery [corporation]  
19 is formed, is shown on a plat made by authority of the State, a county, or a municipal  
20 corporation.

21 5-503.

22 (a) [In this section, "cemetery" includes an incorporated, unincorporated,  
23 religious, or secular memorial park and memorial garden.

24 (b) Each burial lot and each crypt sold or conveyed in a cemetery shall be held by  
25 the owner only for the purpose of burial.

26 [(c)] (B) The interest of an owner of a burial lot or crypt that is held for the burial  
27 of the owner or others and not held as an investment is not:

28 (1) considered property;

29 (2) subject to attachment or execution for debt;

30 (3) subject to the insolvency laws of the State;

31 (4) to be inventoried in the estate of the owner; or

32 (5) subject to inheritance taxes.

33 [(d)] (C) The interest of an owner of a burial lot or crypt that is held as an  
34 investment and not held for the burial of the owner or others is:

35 (1) considered personal property;



17

1 (2) subject to attachment or execution for debt;

2 (3) subject to the insolvency laws of the State;

3 (4) to be inventoried in the estate of the owner; and

4 (5) subject to inheritance taxes.

5 [(e)] (D) Subject to the rules of the cemetery owner and to the terms of any  
6 contract made with the cemetery owner, the interest of an owner of a burial lot or crypt:

7 (1) may be disposed of during the lifetime of the owner of the burial lot or  
8 crypt with the consent of the cemetery owner;

9 (2) may be disposed of by specific reference in the will of the owner; and

10 (3) otherwise passes to the heirs of the owner, as defined in § 1-101(f) of  
11 the Estates and Trusts Article.

12 5-504.

13 A certificate, under seal of a [cemetery corporation] REGISTERED CEMETERIAN  
14 OR PERMIT HOLDER, of ownership of a burial lot or crypt has the same effect as a  
15 conveyance of real property that is executed, acknowledged, and recorded as required by  
16 law.

17 5-602.

18 (a) In this section, "developed land area" means land in a cemetery:

19 (1) that is available for burial;

20 (2) where roads, paths, or buildings have been laid out or built; or

21 (3) where burial lots have been outlined on a plat or in a record or sales  
22 brochure.

23 (b) (1) Each [cemetery owner] REGISTERED CEMETERIAN OR PERMIT  
24 HOLDER who sells or offers to sell to the public a burial lot or burial right in a cemetery  
25 as to which perpetual care is stated or implied shall have a perpetual care trust fund.

26 (2) A separate PERPETUAL CARE trust fund shall be established for each  
27 cemetery to which this section applies.

28 (c) Each [cemetery owner] REGISTERED CEMETERIAN OR PERMIT HOLDER  
29 initially shall deposit in the PERPETUAL CARE trust fund at least:

30 (1) \$10,000, if the developed land area of the cemetery is 10 acres or less; or

31 (2) \$25,000, if the developed land area of the cemetery is more than 10  
32 acres.

33 (d) (1) The deposits required by this subsection are in addition to the deposits  
34 required by subsection (c) of this section.

18

1 (2) Except as provided in paragraph (3) of this subsection, within 30 days  
2 after the end of the month when the buyer of a burial lot, above-ground crypt, niche, or  
3 burial right makes a final payment, the [ cemetery owner] REGISTERED CEMETERIAN  
4 OR PERMIT HOLDER shall pay in cash to the trustee for deposit in the PERPETUAL  
5 CARE trust fund at least the greater of:

6 (i) 10% of the selling price of each burial lot, above-ground crypt,  
7 niche, or burial right sold; or

8 (ii) 35 cents for each square foot of land burial space.

9 (3) This subsection does not apply to the resale of a burial lot,  
10 above-ground crypt, niche, or burial right for which the cemetery already has paid into  
11 the PERPETUAL CARE trust fund the deposit required by this subsection.

12 (e) The income from the PERPETUAL CARE trust fund:

13 (1) shall be used only for the perpetual care of the cemetery, including:

14 (i) the maintenance, administration, supervision, and embellishment  
15 of the cemetery and its grounds, roads, and paths; and

16 (ii) the repair and renewal of buildings, including columbaria and  
17 mausoleums, and the property of the cemetery; and

18 (2) may not be used to care for memorials or monuments.

19 5-604.

20 (a) The terms of a trust to provide for perpetual care shall be designated in a  
21 written agreement between the [cemetery owner] REGISTERED CEMETERIAN OR  
22 PERMIT HOLDER and trustee.

23 (b) The terms of the trust agreement:

24 (1) shall conform to this subtitle; and

25 (2) may include provisions about:

26 (i) payment of income;

27 (ii) accumulation of income;

28 (iii) reinvestment of income;

29 (iv) administration of the trust fund; and

30 (v) powers of the trustee as to investments.

31 (c) (1) A trust agreement shall be irrevocable.

32 (2) However, a trust agreement may:

33 (i) give the [cemetery owner] REGISTERED CEMETERIAN OR  
34 PERMIT HOLDER the right to remove the trustee and appoint another qualified trustee;  
35 and

19

1 (ii) provide for the appointment of individuals as cotrustees and  
2 successor cotrustees with a corporate trustee.

3 5-605.

4 (a) (1) Each [cemetery owner] REGISTERED CEMETERIAN OR PERMIT  
5 HOLDER subject to the trust requirements of this subtitle shall keep detailed records of  
6 all sales of burial lots or burial rights in a cemetery and money received.

7 (2) The records of each [cemetery owner] REGISTERED CEMETERIAN OR  
8 PERMIT HOLDER and of each trustee appointed by the [cemetery owner] REGISTERED  
9 CEMETERIAN OR PERMIT HOLDER are subject to examination by:

10 (i) THE DIRECTOR;

11 (II) the Attorney General or an authorized representative of the  
12 Attorney General; and

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

15 (b) (1) Each [cemetery owner] REGISTERED CEMETERIAN OR PERMIT  
16 HOLDER subject to the trust requirements of this subtitle shall submit a report to the  
17 Secretary of State within 120 days after the close of each calendar or other fiscal year  
18 chosen by the [cemetery owner] REGISTERED CEMETERIAN OR PERMIT HOLDER.

19 (2) The report shall:

20 (i) be on the form that the [Secretary of State] DIRECTOR requires;

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

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

23 (iv) include:

24 1. the name of the [cemetery owner] REGISTERED  
25 CEMETERIAN OR PERMIT HOLDER;

26 2. each location of the [cemetery owner] REGISTERED  
27 CEMETERIAN OR PERMIT HOLDER;

28 3. the amount of money in each PERPETUAL CARE trust fund  
29 at the beginning of the calendar or other fiscal year chosen by the [ cemetery owner]  
30 REGISTERED CEMETERIAN OR PERMIT HOLDER;

31 4. the amount of money that the [cemetery owner]  
32 REGISTERED CEMETERIAN OR PERMIT HOLDER received during that year that is  
33 subject to the trust requirements of this subtitle;

34 5. the amount of money actually deposited into each  
35 PERPETUAL CARE trust fund in that year;



21

1 (c) If a [corporation] PERMIT HOLDER violates this subtitle, [each officer who  
2 is responsible for the violation] THE PERMIT HOLDER OR THE REGISTERED  
3 CEMETERIAN DESIGNATED AS THE PERSON RESPONSIBLE FOR THE OPERATIONS OF  
4 THE CEMETERY UNDER § 5-403 OF THIS TITLE is guilty of a misdemeanor and, on  
5 conviction, is subject to a fine not exceeding \$1,000 or imprisonment not exceeding 1 year  
6 or both.

7 Subtitle 7. Preneed Burial Contracts.

8 5-701.

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

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

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

13 (c) "Buyer" means a person who buys preneed goods or preneed services.

14 (d) "Preneed burial contract" means a written instrument under which preneed  
15 goods or preneed services are to be sold and delivered or performed.

16 (e) (1) "Preneed goods" means goods that are sold:

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

18 (ii) in connection with burial.

19 (2) "Preneed goods" includes:

20 (I) A CASKET;

21 [(i)] (II) a grave liner;

22 [(ii)] (III) a memorial;

23 [(iii)] (IV) a monument;

24 [(iv)] (V) a scroll;

25 [(v)] (VI) an urn;

26 [(vi)] (VII) a vase; and

27 [(vii)] (VIII) a vault.

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

29 (f) (1) "Preneed services" means services that are sold:

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

31 (ii) in connection with burial.

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

22

1 (g) "Seller" means a [person] REGISTERED CEMETERIAN, REGISTERED  
2 SELLER, OR ANY OTHER PERSON who sells preneed goods or preneed services.

3 (h) "Specific funds" means money that is identified to a specific preneed burial  
4 contract.

5 (i) "Trust account" means a preneed trust account.

6 5-704.

7 (e) (1) Except as otherwise provided in this subsection, a preneed burial  
8 contract may not provide for interest or a finance charge.

9 (2) A cemetery that makes a preneed burial contract may impose interest or  
10 a finance charge on preneed goods delivered before death or preneed services performed  
11 before death.

12 (3) A [cemetery] REGISTERED CEMETERIAN OR PERMIT HOLDER may  
13 sell a preneed burial contract to a commercial lending institution if the preneed burial  
14 contract signed by the original buyer of the preneed goods or preneed services contains  
15 the following language in 12-point or larger type:

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

19 5-710.

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

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

24 (i) the Attorney General or an authorized representative of the  
25 Attorney General; and

26 (ii) the State's Attorney for the county where the seller does business.

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

30 (2) The report shall:

31 (i) be on the form that the [Secretary of State] DIRECTOR requires;

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

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

34 (iv) include:

35 1. the name of the seller;

36 2. each location of the seller;



24

1 (B) THE DISCLOSURES SHALL BE CONSPICUOUSLY INCORPORATED IN THE  
2 CONTRACT IN 12 POINT TYPE.

3 (C) THE DISCLOSURE MUST BE SIGNED AND DATED BY THE CONSUMER.

4 (D) THE CONSUMER MUST BE PROVIDED WITH A COPY OF THE CONTRACT AT  
5 THE TIME OF PURCHASING THE BURIAL GOODS OR SERVICES.

6 (E) THE DISCLOSURE SHALL OCCUR:

7 (1) NOT LATER THAN THE FIRST SCHEDULED FACE-TO-FACE CONTACT  
8 WITH THE PURCHASER OR PARTY REPRESENTING THE PURCHASER; OR

9 (2) IF NO FACE-TO-FACE CONTACT OCCURS, AT THE TIME OF THE  
10 EXECUTION OF THE CONTRACT BY THE PURCHASER OR PARTY REPRESENTING THE  
11 PURCHASER.

12 (F) THE DIRECTOR MAY BY REGULATION PRESCRIBE THE FORM AND  
13 WORDING OF THE DISCLOSURE.

14 (G) IF THE PURCHASE BY THE CONSUMER INCLUDES A CEMETERY PLOT, THE  
15 REGISTERED CEMETERIAN OR PERMIT HOLDER SHALL PROVIDE THE CONSUMER  
16 WITH A COPY OF A LOCATION SURVEY, PERFORMED BY A LICENSED LAND  
17 SURVEYOR, WHICH INDICATES THE LOCATION OF THE PURCHASED PLOT WITHIN  
18 THE CEMETERY, OR BY ANY OTHER MEANS APPROVED BY THE DIRECTOR.

19 SUBTITLE 9. PROHIBITED ACTS.

20 5-901.

21 (A) EXCEPT AS OTHERWISE PROVIDED IN THIS TITLE, AN INDIVIDUAL MAY  
22 NOT ENGAGE IN CEMETERY OPERATIONS, ATTEMPT TO ENGAGE IN CEMETERY  
23 OPERATIONS, OR OFFER TO PROVIDE CEMETERY GOODS AND SERVICES UNLESS  
24 THE INDIVIDUAL IS A REGISTERED CEMETERIAN.

25 (B) EXCEPT AS OTHERWISE PROVIDED IN THIS TITLE, AN INDIVIDUAL MAY  
26 NOT ENGAGE IN A BURIAL GOODS BUSINESS OR ATTEMPT TO PROVIDE BURIAL  
27 GOODS UNLESS THE INDIVIDUAL IS A REGISTERED SELLER.

28 5-902.

29 EXCEPT FOR A REGISTERED CEMETERIAN OR REGISTERED SELLER WHO  
30 OPERATES A BUSINESS AS A SOLE PRACTITIONER, A PERSON MAY NOT ENGAGE IN  
31 THE OPERATION OF A CEMETERY OR BURIAL GOODS BUSINESS UNLESS:

32 (1) THE BUSINESS IS A CORPORATION, LIMITED LIABILITY COMPANY,  
33 OR PARTNERSHIP; AND

34 (2) THE CORPORATION, LIMITED LIABILITY COMPANY, OR  
35 PARTNERSHIP HOLDS A PERMIT ISSUED UNDER THIS TITLE.



25

1 5-903.

2 UNLESS A PERSON IS A REGISTERED CEMETERIAN OR REGISTERED SELLER, A  
3 PERSON MAY NOT REPRESENT TO THE PUBLIC, BY USE OF A TITLE, INCLUDING  
4 CEMETERIAN, REGISTERED CEMETERIAN, BURIAL GOODS SELLER, OR REGISTERED  
5 SELLER, BY DESCRIPTION OF SERVICES, METHODS, OR PROCEDURES, OR  
6 OTHERWISE, THAT THE PERSON IS AUTHORIZED TO ENGAGE IN THE OPERATION OF  
7 A CEMETERY OR PROVIDE BURIAL GOODS.

8 5-904.

9 A PERSON WHO VIOLATES §§ 5-902 AND 5-903 OF THIS SUBTITLE IS GUILTY OF A  
10 MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING \$3,000  
11 OR IMPRISONMENT NOT EXCEEDING 1 YEAR OR BOTH.

12 SUBTITLE 10. SHORT TITLE; TERMINATION OF TITLE.

13 5-1001.

14 THIS TITLE MAY BE CITED AS THE "MARYLAND CEMETERY ACT".

15 5-1002.

16 SUBJECT TO THE EVALUATION AND REESTABLISHMENT PROVISIONS OF THE  
17 MARYLAND PROGRAM EVALUATION ACT, THE OFFICE OF CEMETERY OVERSIGHT,  
18 THE PROVISIONS IN THIS TITLE RELATING TO THE OFFICE, AND ALL REGULATIONS  
19 ADOPTED BY THE OFFICE SHALL TERMINATE AND BE OF NO EFFECT AFTER JULY 1,  
20 2007.

21 SECTION 3. AND BE IT FURTHER ENACTED, That the Director of the Office  
22 of Cemetery Oversight shall:

23 (1) In conjunction with the State Board of Morticians, conduct a study to  
24 determine the feasibility of combining the Office of Cemetery Oversight and the State  
25 Board of Morticians;

26 (2) Conduct a study regarding the illegal recycling of graves;

27 (3) Conduct a study regarding the historic preservation of graves; and

28 (4) Issue findings and recommendations of the studies to the General Assembly  
29 by July 1, 1999.

30 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect  
31 October 1, 1997.