
By: Senators Hafer, Madden, and Trotter (Task Force to Examine the State's Cemetery and Funeral Industry)

Introduced and read first time: February 10, 1997

Assigned to: Rules

A BILL ENTITLED

1 AN ACT concerning

2 **Death Care Industry Regulation**

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; requiring the Director of the
18 Office of Cemetery Oversight to take certain actions by a certain date; altering the
19 trust and escrow requirements for certain sellers of preneed contracts for funeral
20 and cemetery goods and services; providing that a buyer of a preneed burial
21 contract may receive a refund at any time; providing for the distribution of accrued
22 income between the buyer and seller of a preneed contract; requiring sellers of
23 preneed contracts to provide certain disclosures and price lists to buyers; specifying
24 reporting requirements for certain sellers of preneed contracts; requiring that a
25 certain title be transferred to a buyer of preneed goods under certain circumstances;
26 providing that the State budget shall provide the necessary expenses to transport a
27 victim of homicide from the site of the autopsy or examination to a location in the
28 State specified by the victim's family; altering certain definitions; defining certain
29 terms; providing for the application of certain provisions of this Act; and generally
30 relating to the creation of the Office of Cemetery Oversight and altering certain
31 preneed contract trust and escrow requirements.

32 BY renumbering

33 Article - Business Regulation

34 Section 5-201 through 5-204 and the subtitle "Subtitle 2. Cemetery Corporations";

2

1 5-302 through 5-309 and the subtitle "Subtitle 3. Perpetual Care of
 2 Cemeteries"; 5-401 through 5-412 and the subtitle "Subtitle 4. Preneed Burial
 3 Contracts"; 5-501 and 5-502; and 5-601 and the subtitle "Subtitle 6.
 4 Miscellaneous Provisions", respectively
 5 to be Section 5-501 through 5-504 to be under the amended subtitle "Subtitle 5.
 6 Cemetery Property"; 5-601 through 5-608 to be under the amended subtitle
 7 "Subtitle 6. Perpetual Care"; 5-701 through 5-712 and the subtitle "Subtitle 7.
 8 Preneed Burial Contracts"; 5-505 and 5-506; and 5-802 and the subtitle
 9 "Subtitle 8. Miscellaneous Provisions", respectively
 10 Annotated Code of Maryland
 11 (1992 Volume and 1996 Supplement)

12 BY adding to

13 Article - Business Regulation
 14 Section 5-201 through 5-206, inclusive, to be under the new subtitle "Subtitle 2.
 15 Office of Cemetery Oversight"; 5-301 through 5-312, inclusive, to be under
 16 the new subtitle "Subtitle 3. Registration"; 5-401 through 5-404, inclusive, to
 17 be under the new subtitle "Subtitle 4. Permits"; 5-801; 5-901 through 5-904,
 18 inclusive, to be under the new subtitle "Subtitle 9. Prohibited Acts"; and
 19 5-1001 and 5-1002 to be under the new subtitle "Subtitle 10. Short Title;
 20 Termination of Title"
 21 Annotated Code of Maryland
 22 (1992 Volume and 1996 Supplement)

23 BY repealing and reenacting, with amendments,

24 Article - Business Regulation
 25 Section 5-101
 26 Annotated Code of Maryland
 27 (1992 Volume and 1996 Supplement)

28 BY repealing and reenacting, with amendments,

29 Article - Business Regulation
 30 Section 5-501 through 5-504, 5-602, 5-604 through 5-608, 5-701, 5-704(c) and (e),
 31 5-705, 5-709, 5-710, and 5-711
 32 Annotated Code of Maryland
 33 (1992 Volume and 1996 Supplement)
 34 (As enacted by Section 1 of this Act)

35 BY repealing

36 Article - Business Regulation
 37 Section 5-301; and the subtitle designation "Subtitle 5. Sale of Burial Ground for
 38 Another Purpose" of Title 5
 39 Annotated Code of Maryland
 40 (1992 Volume and 1996 Supplement)

41 BY repealing and reenacting, with amendments,

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1 Article - Health - General
2 Section 5-305(g)
3 Annotated Code of Maryland
4 (1994 Replacement Volume and 1996 Supplement)

5 BY repealing and reenacting, with amendments,
6 Article - Health Occupations
7 Section 7-405(d)
8 Annotated Code of Maryland
9 (1994 Replacement Volume and 1996 Supplement)

10 BY adding to
11 Article - Health Occupations
12 Section 7-405(g) through (i)
13 Annotated Code of Maryland
14 (1994 Replacement Volume and 1996 Supplement)

15 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
16 MARYLAND, That Section(s) 5-201 through 5-204 and the subtitle "Subtitle 2.
17 Cemetery Corporations"; 5-302 through 5-309 and the subtitle "Subtitle 3. Perpetual
18 Care of Cemeteries"; 5-401 through 5-412 and the subtitle "Subtitle 4. Preneed Burial
19 Contracts"; 5-501 and 5-502; and 5-601 and the subtitle "Subtitle 6. Miscellaneous
20 Provisions", respectively, of Article - Business Regulation of the Annotated Code of
21 Maryland be renumbered to be Section(s) 5-501 through 5-504 to be under the amended
22 subtitle "Subtitle 5. Cemetery Property"; 5-601 through 5-608 to be under the amended
23 subtitle "Subtitle 6. Perpetual Care"; 5-701 through 5-712 and the subtitle "Subtitle 7.
24 Preneed Burial Contracts"; 5-505 and 5-506; and 5-802 and the subtitle "Subtitle 8.
25 Miscellaneous Provisions", respectively.

26 %SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland
27 read as follows:

28 **Article - Business Regulation**

29 Subtitle 1. Definitions.

30 5-101.

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

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

33 (2) "Burial" includes:

34 (i) earth burial;

35 (ii) mausoleum entombment; and

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

4

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

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

3 (D) "DIRECTOR" MEANS THE DIRECTOR OF THE OFFICE OF CEMETERY
4 OVERSIGHT.

5 (E) "ENGAGE IN THE OPERATION OF A CEMETERY" MEANS OWNING,
6 CONTROLLING, AND MAINTAINING A CEMETERY, INCLUDING PERFORMING
7 ACTIVITIES NECESSARY FOR:

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

9 (2) INTERMENT; AND

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

11 (F) "INTERMENT" MEANS ALL FINAL DISPOSITION OF HUMAN REMAINS,
12 INCLUDING:

13 (1) EARTH BURIAL;

14 (2) MAUSOLEUM ENTOMBMENT; AND

15 (3) NICHE OR COLUMBARIUM INTERMENT.

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

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

21 (I) "PROVIDE BURIAL GOODS" MEANS:

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

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

25 (J) "REGISTRATION" MEANS A REGISTRATION ISSUED BY THE DIRECTOR
26 AUTHORIZING AN INDIVIDUAL TO OPERATE A CEMETERY OR TO PROVIDE BURIAL
27 GOODS.

28 (K) "REGISTERED CEMETERIAN" MEANS AN INDIVIDUAL REGISTERED TO
29 OPERATE A CEMETERY AS A SOLE PRACTITIONER OR ON BEHALF OF A PERMIT
30 HOLDER.

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

5

1 SUBTITLE 2. OFFICE OF CEMETERY OVERSIGHT.

2 5-201.

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

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

6 (C) (1) THE SECRETARY SHALL APPOINT AN ADVISORY COUNCIL ON
7 CEMETERY OPERATIONS.

8 (2) THE ADVISORY COUNCIL SHALL CONSIST OF NINE MEMBERS AS
9 FOLLOWS:

10 (I) ONE MEMBER REPRESENTING A NONPROFIT CEMETERY;

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

12 (III) ONE MEMBER REPRESENTING A RELIGIOUS CEMETERY;

13 (IV) ONE MEMBER REPRESENTING A MUNICIPAL CEMETERY;

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

15 (VI) FOUR MEMBERS WHO ARE CONSUMER REPRESENTATIVES.

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

18 5-202.

19 (A) (1) THE SECRETARY SHALL APPOINT A DIRECTOR OF THE OFFICE WITH
20 THE APPROVAL OF THE GOVERNOR.

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

22 (B) THE DIRECTOR SHALL DEVOTE FULL TIME TO THE DUTIES OF THE
23 OFFICE.

24 (C) THE DIRECTOR IS ENTITLED TO:

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

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

28 (D) THE DIRECTOR SHALL:

29 (1) ADMINISTER AND OPERATE THE OFFICE; AND

30 (2) BE RESPONSIBLE TO THE SECRETARY.

31 (E) THE DIRECTOR MAY NOT:

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

6

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

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

4 (4) IN CONNECTION WITH ANY REGISTERED CEMETERIAN,
5 REGISTERED SELLER, PERMIT HOLDER, FUNERAL DIRECTOR, FUNERAL
6 ESTABLISHMENT, OR RELATED DEATH CARE ENTITY, DIRECTLY OR INDIRECTLY
7 RECEIVE OR BECOME ENTITLED TO RECEIVE ANY FEE, PERQUISITE, OR
8 COMPENSATION.

9 5-203.

10 THE DIRECTOR MAY EMPLOY A STAFF IN ACCORDANCE WITH THE STATE
11 BUDGET.

12 5-204.

13 (A) WITH THE ADVICE OF THE ADVISORY COUNCIL AND AFTER
14 CONSULTATION WITH REPRESENTATIVES OF THE CEMETERY INDUSTRY, THE
15 DIRECTOR SHALL ADOPT:

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

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

19 (B) UPON RECEIPT OF A WRITTEN COMPLAINT, OR AT THE DISCRETION OF
20 THE DIRECTOR, THE DIRECTOR MAY CONDUCT AN INVESTIGATION AND AN
21 INSPECTION OF THE RECORDS AND SITE OF A REGISTERED CEMETERIAN,
22 REGISTERED SELLER, AND PERMIT HOLDER.

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

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

26 (1) ADMINISTER OATHS;

27 (2) EXAMINE WITNESSES; AND

28 (3) RECEIVE EVIDENCE.

29 (E) (1) THE DIRECTOR MAY ISSUE A SUBPOENA FOR THE ATTENDANCE OF
30 A WITNESS TO TESTIFY OR FOR THE PRODUCTION OF EVIDENCE IN CONNECTION
31 WITH ANY INVESTIGATION OR HEARING CONDUCTED IN ACCORDANCE WITH THIS
32 SECTION.

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

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

7

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

3 (I) POST BOND; OR

4 (II) ALLEGE OR PROVE EITHER THAT:

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

6 2. SUBSTANTIAL OR IRREPARABLE DAMAGE WOULD
7 RESULT FROM THE CONTINUED VIOLATION OF THE PROVISION.

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

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

13 (H) THE DIRECTOR MAY REFER TO THE OFFICE OF THE ATTORNEY
14 GENERAL:

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

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

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

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

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

27 (K) IN CONJUNCTION WITH THE BOARD OF MORTICIANS AND THE DIVISION
28 OF CONSUMER PROTECTION OF THE OFFICE OF THE ATTORNEY GENERAL, THE
29 DIRECTOR SHALL PUBLISH A CONSUMER INFORMATION PAMPHLET THAT
30 DESCRIBES:

31 (1) THE RIGHTS OF CONSUMERS IN THE PURCHASE OF FUNERAL AND
32 CEMETERY GOODS AND SERVICES; AND

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

35 5-205.

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

8

1 (2) IN ESTABLISHING THE FEES, THE DIRECTOR SHALL CONSIDER THE
2 SIZE OF THE BUSINESS, THE VOLUME OF BUSINESS CONDUCTED, AND THE TYPE OF
3 SERVICES PROVIDED, INCLUDING THE PERCENTAGE OF PRENEED CONTRACTS
4 WRITTEN.

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

7 (C) THE DIRECTOR SHALL PAY ALL FUNDS COLLECTED UNDER THIS TITLE
8 TO THE COMPTROLLER WHO SHALL DISTRIBUTE THE FEES TO THE CEMETERY
9 OVERSIGHT FUND.

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

13 (2) THE FUND IS A CONTINUING NONLAPSING FUND, NOT SUBJECT TO §
14 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

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

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

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

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

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

25 5-206.

26 A PERSON SHALL HAVE THE IMMUNITY FROM LIABILITY DESCRIBED UNDER §
27 5-388 OF THE COURTS AND JUDICIAL PROCEEDINGS ARTICLE FOR GIVING
28 INFORMATION TO THE DIRECTOR OR OTHERWISE PARTICIPATING IN THE
29 ACTIVITIES OF THE OFFICE.

30 SUBTITLE 3. REGISTRATION.

31 [5-301.

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

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

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

9

1 5-301.

2 AN INDIVIDUAL SHALL REGISTER WITH THE OFFICE BEFORE:

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

4 (2) PROVIDING BURIAL GOODS IN THIS STATE.

5 5-302.

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

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

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

10 (D) THE CEMETERY OR BURIAL GOODS BUSINESS WITH WHICH THE
11 APPLICANT IS AFFILIATED MUST BE FINANCIALLY STABLE IN ACCORDANCE WITH §
12 5-304 OF THIS SUBTITLE.

13 5-303.

14 (A) AN APPLICANT SHALL REGISTER BY:

15 (1) SUBMITTING TO THE DIRECTOR AN APPLICATION ON THE FORM
16 THAT THE DIRECTOR PROVIDES; AND

17 (2) PAYING A NONREFUNDABLE APPLICATION FEE SET BY THE
18 DIRECTOR.

19 (B) THE APPLICATION SHALL STATE:

20 (1) THE NAME, DATE OF BIRTH, AND RESIDENCE ADDRESS OF THE
21 APPLICANT;

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

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

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

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

32 5-304.

33 (A) EACH APPLICANT SHALL DEMONSTRATE THE FINANCIAL STABILITY OF
34 THE CEMETERY OR BURIAL GOODS BUSINESS WITH WHICH THE APPLICANT IS
35 AFFILIATED BY PROVIDING THE DIRECTOR WITH A FINANCIAL STATEMENT WITH
36 THE APPLICATION FOR REGISTRATION.

10

1 (B) THE FINANCIAL STATEMENT SHALL:

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

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

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

8 (C) THE DIRECTOR SHALL MAKE A DETERMINATION OF THE FINANCIAL
9 STABILITY OF EACH APPLICANT BASED ON CRITERIA ESTABLISHED BY THE
10 DIRECTOR.

11 5-305.

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

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

16 5-306.

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

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

22 5-307.

23 (A) UNLESS A REGISTRATION IS RENEWED AS PROVIDED IN THIS SECTION,
24 THE REGISTRATION EXPIRES ON THE SECOND ANNIVERSARY OF ITS EFFECTIVE
25 DATE.

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

28 (1) A RENEWAL APPLICATION FORM; AND

29 (2) A NOTICE THAT STATES:

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

31 (II) THE DATE BY WHICH THE DIRECTOR MUST RECEIVE THE
32 RENEWAL APPLICATION FOR THE RENEWAL TO BE ISSUED AND MAILED BEFORE
33 THE REGISTRATION EXPIRES; AND

34 (III) THE AMOUNT OF THE RENEWAL FEE.

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

11

- 1 (1) IS OTHERWISE ENTITLED TO BE REGISTERED;
- 2 (2) MEETS THE QUALIFICATIONS SET FORTH FOR AN ORIGINAL
- 3 REGISTRATION;
- 4 (3) PAYS THE RENEWAL FEE SET BY THE DIRECTOR; AND
- 5 (4) SUBMITS TO THE DIRECTOR A RENEWAL APPLICATION ON THE
- 6 FORM THAT THE DIRECTOR PROVIDES.

7 (D) THE DIRECTOR SHALL RENEW THE REGISTRATION OF EACH

8 REGISTRANT WHO MEETS THE REQUIREMENTS OF THIS SECTION.

9 5-308.

10 WITHIN 1 WEEK AFTER THE EFFECTIVE DATE OF THE CHANGE, A REGISTRANT

11 OR PERMIT HOLDER SHALL SUBMIT TO THE DIRECTOR AN APPLICATION FORM

12 THAT SHOWS A CHANGE IN THE:

- 13 (1) CEMETERY OR BURIAL GOODS BUSINESS WITH WHICH A
- 14 REGISTRANT IS AFFILIATED;
- 15 (2) REGISTERED CEMETERIAN OR REGISTERED SELLER DESIGNATED
- 16 AS RESPONSIBLE FOR THE CEMETERY OPERATIONS OR FOR PROVIDING BURIAL
- 17 GOODS FOR THE PERMIT HOLDER;
- 18 (3) EMPLOYEES OF THE PERMIT HOLDER WHO ENGAGE IN THE SALE OF
- 19 GOODS OR SERVICES TO THE PUBLIC;
- 20 (4) OFFICERS, DIRECTORS, MEMBERS, OR AGENTS OF THE PERMIT
- 21 HOLDER; OR
- 22 (5) NAME OR ADDRESS OF THE REGISTRANT OR PERMIT HOLDER.

23 5-309.

24 EACH REGISTRANT SHALL DISPLAY THE REGISTRATION CONSPICUOUSLY AT

25 THE BUSINESS ADDRESS OF THE REGISTRANT.

26 5-310.

27 (A) SUBJECT TO THE HEARING PROVISIONS OF § 5-312 OF THIS SUBTITLE, THE

28 DIRECTOR MAY DENY A REGISTRATION OR PERMIT TO AN APPLICANT, REPRIMAND

29 A REGISTRANT OR PERMIT HOLDER, OR SUSPEND OR REVOKE A REGISTRATION OR

30 PERMIT, IF AN APPLICANT, REGISTRANT, OR PERMIT HOLDER OR AN AGENT,

31 EMPLOYEE, OFFICER, DIRECTOR, OR PARTNER OF THE APPLICANT, REGISTRANT,

32 OR PERMIT HOLDER:

33 (1) FRAUDULENTLY OR DECEPTIVELY OBTAINS OR ATTEMPTS TO

34 OBTAIN A REGISTRATION OR PERMIT;

35 (2) FRAUDULENTLY OR DECEPTIVELY USES A REGISTRATION OR

36 PERMIT;

12

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

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

5 (5) VIOLATES THIS TITLE;

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

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

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

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

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

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

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

18 (B) (1) IF A REGISTRANT OR PERMIT HOLDER IS CHARGED WITH A
19 VIOLATION OF THIS TITLE THAT COULD RESULT IN SUSPENSION OR REVOCATION
20 OF THE REGISTRATION OR PERMIT, THE DIRECTOR MAY SEEK AN IMMEDIATE
21 RESTRAINING ORDER IN A CIRCUIT COURT IN THIS STATE TO PROHIBIT THE
22 REGISTRANT OR PERMIT HOLDER FROM ENGAGING IN THE OPERATION OF ANY
23 CEMETERY OR BURIAL GOODS BUSINESS.

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

25 (I) THE COURT LIFTS THE ORDER; OR

26 (II) THE CHARGES ARE ADJUDICATED OR DISMISSED.

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

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

33 (2) TAKE OTHER ACTIONS AS ARE APPROPRIATE TO PROTECT THE
34 PUBLIC INTEREST.

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

13

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

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

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

7 (1) THE SERIOUSNESS OF THE VIOLATION;

8 (2) THE HARM CAUSED BY THE VIOLATION;

9 (3) THE GOOD FAITH EFFORTS OF THE REGISTRANT OR PERMIT
10 HOLDER; AND

11 (4) ANY HISTORY OF PREVIOUS VIOLATIONS BY THE REGISTRANT OR
12 PERMIT HOLDER.

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

15 5-311.

16 (A) SUBJECT TO THE PROVISIONS OF THIS SECTION, THE DIRECTOR SHALL
17 COMMENCE PROCEEDINGS ON A COMPLAINT MADE BY ANY PERSON TO THE
18 DIRECTOR.

19 (B) A COMPLAINT SHALL:

20 (1) BE IN WRITING;

21 (2) STATE SPECIFICALLY THE FACTS ON WHICH THE COMPLAINT IS
22 BASED; AND

23 (3) BE MADE UNDER OATH BY THE PERSON WHO SUBMITS THE
24 COMPLAINT.

25 (C) THE DIRECTOR SHALL REVIEW EACH COMPLAINT AND SHALL ATTEMPT
26 TO MEDIATE THE COMPLAINT BETWEEN THE COMPLAINANT AND THE REGISTRANT
27 OR PERMIT HOLDER.

28 (D) IF THE DIRECTOR IS UNABLE TO MEDIATE THE COMPLAINT, THE
29 DIRECTOR MAY:

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

33 (2) INITIATE AN INVESTIGATION; OR

34 (3) DISMISS THE COMPLAINT.

35 (E) IF, AFTER INVESTIGATION, THE DIRECTOR DETERMINES THAT THERE IS
36 A REASONABLE BASIS TO BELIEVE THAT THERE ARE GROUNDS FOR DISCIPLINARY

14

1 ACTION UNDER § 5-310 OF THIS SUBTITLE, THE CASE SHALL BE SET FOR A HEARING
2 UNDER § 5-312 OF THIS SUBTITLE.

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

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

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

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

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

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

21 5-312.

22 (A) EXCEPT AS OTHERWISE PROVIDED IN TITLE 10, SUBTITLE 4 OF THE STATE
23 GOVERNMENT ARTICLE, BEFORE THE DIRECTOR TAKES A FINAL ACTION UNDER
24 THIS SUBTITLE, THE DIRECTOR SHALL PROVIDE THE INDIVIDUAL AGAINST WHOM
25 THE ACTION IS CONTEMPLATED AN OPPORTUNITY FOR A HEARING BEFORE THE
26 DIRECTOR.

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

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

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

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

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

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

15

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

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

6 SUBTITLE 4. PERMITS.

7 5-401.

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

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

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

15 (3) A PARTNERSHIP AS A PARTNER, EMPLOYEE, OR AGENT OF THE
16 PARTNERSHIP.

17 (B) SUBJECT TO THE PROVISIONS OF THIS TITLE, A CORPORATION, LIMITED
18 LIABILITY COMPANY, OR PARTNERSHIP MAY ENGAGE IN THE OPERATION OF A
19 CEMETERY OR BURIAL GOODS BUSINESS THROUGH A REGISTERED CEMETERIAN
20 OR REGISTERED SELLER.

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

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

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

35 (2) AN INDIVIDUAL WHO ENGAGES IN THE OPERATION OF A CEMETERY
36 OR BURIAL GOODS BUSINESS THROUGH A CORPORATION, LIMITED LIABILITY
37 COMPANY, OR PARTNERSHIP IS NOT, BY REASON OF THE INDIVIDUAL'S
38 EMPLOYMENT OR OTHER RELATIONSHIP WITH THE CORPORATION, LIMITED
39 LIABILITY COMPANY, OR PARTNERSHIP, RELIEVED OF ANY INDIVIDUAL
40 RESPONSIBILITY THAT THE INDIVIDUAL MAY HAVE REGARDING THAT PRACTICE.

16

1 5-402.

2 A CORPORATION, LIMITED LIABILITY COMPANY, OR PARTNERSHIP SHALL
3 OBTAIN A PERMIT ISSUED BY THE DIRECTOR BEFORE THE CORPORATION, LIMITED
4 LIABILITY COMPANY, OR PARTNERSHIP MAY ENGAGE IN THE OPERATION OF A
5 CEMETERY OR BURIAL GOODS BUSINESS IN THE STATE.

6 5-403.

7 TO QUALIFY FOR A PERMIT, A CORPORATION, LIMITED LIABILITY COMPANY,
8 OR PARTNERSHIP SHALL:

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

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

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

16 5-404.

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

18 (1) AN APPLICATION ON THE FORM THAT THE DIRECTOR PROVIDES;
19 AND

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

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

22 Subtitle 5. Cemetery [Corporations] PROPERTY.

23 5-501.

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

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

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

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

32 (2) In the Laurel Election District of Prince George's County, a [cemetery
33 corporation] REGISTERED CEMETERIAN OR PERMIT HOLDER that operated on June 1,
34 1955, may buy, hold, or use, for burial, up to 200 acres in 1 tract.

17

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

3 5-502.

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

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

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

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

12 5-503.

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

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

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

19 (1) considered property;

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

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

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

23 (5) subject to inheritance taxes.

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

26 (1) considered personal property;

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

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

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

30 (5) subject to inheritance taxes.

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

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

18

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

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

4 5-504.

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

9 Subtitle 6. Perpetual Care [of Cemeteries].

10 5-602.

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

12 (1) that is available for burial;

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

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

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

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

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

23 (1) \$10,000, if the developed land area of the cemetery is 10 acres or less; or

24 (2) \$25,000, if the developed land area of the cemetery is more than 10
25 acres.

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

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

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

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

19

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

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

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

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

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

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

11 5-604.

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

15 (b) The terms of the trust agreement:

16 (1) shall conform to this subtitle; and

17 (2) may include provisions about:

18 (i) payment of income;

19 (ii) accumulation of income;

20 (iii) reinvestment of income;

21 (iv) administration of the trust fund; and

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

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

24 (2) However, a trust agreement may:

25 (i) give the [cemetery owner] REGISTERED CEMETERIAN OR
26 PERMIT HOLDER the right to remove the trustee and appoint another qualified trustee;
27 and

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

30 5-605.

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

20

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

4 (i) THE DIRECTOR;

5 (II) the Attorney General or an authorized representative of the
 6 Attorney General; and

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

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

13 (2) The report shall:

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

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

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

17 (iv) include:

18 1. the name of the [cemetery owner] REGISTERED
 19 CEMETERIAN OR PERMIT HOLDER;

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

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

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

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

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

33 7. the name and address of each trustee.

34 (3) A [cemetery owner] REGISTERED CEMETERIAN OR PERMIT HOLDER
 35 who stops selling burial lots or burial rights in a cemetery as to which perpetual care is
 36 stated or implied shall notify the [Secretary of State] DIRECTOR in the required report
 37 for the year in which sales stop.

21

1 (c) The [Secretary of State] DIRECTOR may adopt regulations:

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

3 (2) for determining whether [cemetery owners] REGISTERED
4 CEMETERIANS AND PERMIT HOLDERS are complying with this subtitle.

5 5-606.

6 (a) If the [Secretary of State] DIRECTOR finds that a [cemetery owner]
7 REGISTERED CEMETERIAN OR PERMIT HOLDER subject to the trust requirements of
8 this subtitle has violated this subtitle or a regulation adopted under this subtitle, the
9 [Secretary of State] DIRECTOR may refer the matter to:

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

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

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

13 (1) injunctive or other equitable relief;

14 (2) imposition of a civil penalty not exceeding \$5,000; or

15 (3) both.

16 5-607.

17 A [cemetery owner] REGISTERED CEMETERIAN OR PERMIT HOLDER may not
18 sell or offer to sell to a member of the public a burial lot or burial right in a cemetery and
19 represent to the public in any way, express or implied, that the cemetery or the burial lot
20 or burial right in the cemetery will have perpetual care unless the [cemetery owner]
21 REGISTERED CEMETERIAN OR PERMIT HOLDER has provided adequately for that
22 perpetual care.

23 5-608.

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

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

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

22

1 Subtitle 7. Preneed Burial Contracts.

2 5-701.

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

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

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

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

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

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

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

12 (ii) in connection with burial.

13 (2) "Preneed goods" includes:

14 (I) A CASKET;

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

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

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

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

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

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

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

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

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

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

25 (ii) in connection with burial.

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

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

29 (2) "SELLER" INCLUDES A PERSON WHO IS NOT AFFILIATED WITH A
30 CEMETERY.

31 (h) "Specific funds" means money that is identified to a specific preneed burial

32 contract.

23

1 (i) "Trust account" means [a] AN INTEREST BEARING preneed ESCROW OR
2 trust account WITH:

3 (1) A BANKING INSTITUTION THAT IS INSURED BY AN AGENCY OF THE
4 FEDERAL GOVERNMENT; OR

5 (2) A SAVINGS AND LOAN ASSOCIATION THAT IS INSURED BY AN
6 AGENCY OF THE FEDERAL GOVERNMENT.

7 5-704.

8 (c) (1) A preneed burial contract may provide for delivery of identified preneed
9 goods by providing for the seller to:

10 (i) transfer physical possession of the preneed goods to the buyer or
11 designee of the buyer;

12 (ii) attach the preneed goods to a designated burial space;

13 (iii) pay for and suitably store the preneed goods until needed, at a
14 cemetery or other location of the seller, if:

15 1. the preneed goods are marked with the name of the buyer
16 and the sale is supported by a verifiable record; AND

17 2. TITLE HAS BEEN TRANSFERRED TO THE BUYER OR
18 DESIGNEE OF THE BUYER; or

19 (iv) have the supplier of the preneed goods:

20 1. cause title to be transferred to the buyer or designee of the
21 buyer; and

22 2. agree in writing to ship the preneed goods at the direction of
23 the buyer or designee of the buyer.

24 (2) If a preneed burial contract does not provide for the manner of delivery
25 of preneed goods, compliance with paragraph (1)(i) or (ii) of this subsection is delivery in
26 accordance with this subtitle.

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

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

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

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

24

1 5-705.

2 (a) [A seller shall put in trust the second 50% of the total preneed burial contract
3 price as the seller receives payments from the buyer.] WITHIN 10 DAYS AFTER
4 RECEIVING A PAYMENT UNDER A PRENEED BURIAL CONTRACT, THE SELLER SHALL
5 DEPOSIT INTO A TRUST ACCOUNT:

6 (1) 100% OF THE PAYMENT THAT IS FOR PRENEED SERVICES; AND

7 (2) 80% OF THE PAYMENT THAT IS FOR PRENEED GOODS.

8 (b) [Within 30 days after receipt of the last payment, the seller shall deposit an
9 additional amount to make the balance in the trust account equal to 55% of the total
10 contract price.

11 (c) This section does not apply to:

12 (1) a preneed burial contract under which all preneed goods and preneed
13 services, other than dates, scrolls, and other additions that represent not more than 10%
14 of the total contract price, must be delivered or performed within 120 days after receipt of
15 50% of the total contract price; or

16 (2) money that a seller receives for preneed goods or preneed services to be
17 delivered or performed within 120 days after receipt of any payment on account of the
18 sale, if the buyer's obligation for these preneed goods or preneed services is separately
19 itemized.

20 5-709.

21 (a) [(1)] A buyer may cancel a preneed burial contract as to preneed goods not
22 delivered or preneed services not performed [if the buyer:

23 (i) permanently moves more than 75 miles from the cemetery
24 specified in the preneed burial contract; and

25 (ii) gives to the seller written notice, under oath, of the move and
26 includes the buyer's new permanent address] AT ANY TIME.

27 (B) [(2)] In that event:

28 [(i)] (1) the seller shall certify to the trustee:

29 [1.] (I) the cancellation of the preneed burial contract;

30 [2. the amount of the remaining specific funds applicable to the
31 preneed burial contract;] and

32 [3.] (II) the name and address of the buyer; [and]

33 [(ii)] (2) the trustee shall then pay to the buyer [the remaining
34 specific funds and accrued interest.] 100% OF THE MONEY PAID FOR THE PRENEED
35 BURIAL CONTRACT; AND

25

1 (3) (I) IF THE CONTRACT HAS NOT BEEN PAID IN FULL AT THE TIME
2 OF CANCELLATION, THE TRUSTEE SHALL PAY TO THE SELLER ALL OF THE ACCRUED
3 INTEREST ON THE TRUST ACCOUNT; OR

4 (II) IF THE CONTRACT HAS BEEN PAID IN FULL AT THE TIME OF
5 CANCELLATION, THE TRUSTEE SHALL DIVIDE THE ACCRUED INTEREST EVENLY
6 BETWEEN THE BUYER AND SELLER.

7 [(b) If a buyer defaults on a preneed burial contract and, as a result, the seller
8 terminates the preneed burial contract:

9 (1) the seller shall certify to the trustee:

10 (i) the default and termination of the preneed burial contract;

11 (ii) the amount of the specific funds; and

12 (iii) the reasonable expenses of the seller; and

13 (2) the trustee shall then pay:

14 (i) to the buyer, those specific funds and accrued interest, less the
15 reasonable expenses of the seller; and

16 (ii) to the seller, the reasonable expenses of the seller.

17 (c) If specific funds on deposit in a trust account have been dormant for at least
18 50 years since the date of the last deposit or disbursement and the seller cannot locate the
19 buyer:

20 (1) the seller shall certify to the trustee:

21 (i) that the trust account is dormant and the buyer cannot be located;

22 and

23 (ii) the amount of the specific funds; and

24 (2) the trustee shall then pay to the seller those specific funds and accrued
25 interest.]

26 5-710.

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

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

31 (i) the Attorney General or an authorized representative of the
32 Attorney General; and

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

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

26

1 (2) The report shall:

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

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

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

5 (iv) include:

6 1. the name of the seller;

7 2. each location of the seller;

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

10 4. the amount of money actually deposited into trust accounts
11 in that year; [and]

12 5. the name and address of the trustee;

13 6. AN UNQUALIFIED AUDIT BY A CERTIFIED PUBLIC
14 ACCOUNTANT; AND

15 7. IF THE PRENEED BURIAL CONTRACT PROVIDES FOR
16 DELIVERY OF GOODS PRIOR TO DEATH, A REPORT STATING THAT THE GOODS HAVE
17 BEEN DELIVERED OR THAT TITLE HAS BEEN TRANSFERRED TO THE BUYER AND
18 THE LOCATION OF WHERE THE GOODS ARE STORED FOR THE BUYER.

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

22 (C) A SELLER OF A PRENEED BURIAL CONTRACT SHALL PROVIDE EACH
23 BUYER OR PROSPECTIVE BUYER WITH A GENERAL PRICE LIST FOR THE BUYER OR
24 PROSPECTIVE BUYER TO KEEP WHICH SHALL INCLUDE:

25 (1) SPECIFIC PRICES FOR:

26 (I) GROUND OPENING AND CLOSING;

27 (II) EXTRA DEPTH INTERMENT;

28 (III) INTERMENT OF CREMATED REMAINS; AND

29 (IV) MAUSOLEUM ENTOMBMENT;

30 (2) GENERAL PRICE RANGES FOR:

31 (I) PLOTS;

32 (II) MAUSOLEUMS;

33 (III) MEMORIALIZATIONS; AND

34 (IV) URNS; AND

27

1 (3) IF THE AT-NEED PRICES FOR GOODS AND SERVICES OFFERED BY A
2 SELLER DIFFER FROM THE PRENEED PRICES OFFERED BY THAT SELLER, THE
3 GENERAL PRICE LIST SHALL PROVIDE A SIDE-BY-SIDE COMPARISON BETWEEN THE
4 AT-NEED AND PRENEED PRICES.

5 (D) A SELLER OF A PRENEED BURIAL CONTRACT SHALL DISCLOSE TO THE
6 BUYER:

7 (1) ALL GOODS AND SERVICES THAT ARE REQUIRED AT THE TIME OF
8 NEED THAT ARE NOT INCLUDED IN THE PRENEED BURIAL CONTRACT;

9 (2) THE BUYER'S CANCELLATION AND REFUND RIGHTS UNDER § 5-709
10 OF THIS SUBTITLE;

11 (3) THE PERSON RESPONSIBLE FOR INSTALLATION OF THE GOODS SOLD
12 AND ANY WARRANTIES FOR THE GOODS SOLD; AND

13 (4) IF THE PRENEED CONTRACT PROVIDES FOR GOODS OR SERVICES
14 TO BE DELIVERED OR PERFORMED BEFORE DEATH:

15 (I) THAT INTEREST OR FINANCE CHARGES WILL BE IMPOSED;

16 (II) THAT INTEREST OR FINANCE CHARGES ARE NOT ALLOWED ON
17 OTHER PRENEED BURIAL CONTRACTS THAT DO NOT PROVIDE FOR GOODS OR
18 SERVICES TO BE DELIVERED OR PERFORMED BEFORE DEATH;

19 (III) THE MANNER OF DELIVERY OF GOODS INCLUDING WHERE
20 THE GOODS ARE STORED; AND

21 (IV) THE BUYER'S REMEDY IF DELIVERED GOODS ARE DAMAGED
22 OR DESTROYED.

23 [(c)] (E) The [Secretary of State] DIRECTOR may adopt regulations:

24 (1) to administer this section; and

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

26 5-711.

27 (a) If the [Secretary of State] DIRECTOR finds that a seller has violated this
28 subtitle or a regulation adopted under this subtitle, the [Secretary of State] DIRECTOR
29 may refer the matter to:

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

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

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

33 (1) injunctive or other equitable relief;

34 (2) imposition of a civil penalty not exceeding \$5,000; or

35 (3) both.

28

1 Subtitle 8. Miscellaneous Provisions.

2 5-801.

3 (A) AT THE TIME OF ENTERING INTO A CONTRACT WITH A CONSUMER FOR
4 THE SALE OF BURIAL GOODS OR SERVICES REGISTRANTS AND PERMIT HOLDERS
5 SHALL MAKE THE FOLLOWING WRITTEN DISCLOSURES:

6 (1) THE ITEMIZED COST FOR EACH SERVICE PERFORMED UNDER THE
7 CONTRACT;

8 (2) A LIST OF SERVICES INCIDENTAL TO BURIAL THAT ARE NOT
9 COVERED BY THE CONTRACT;

10 (3) A STATEMENT REGARDING THE CEMETERY'S POLICY ON THE USE
11 OF INDEPENDENT MONUMENT COMPANIES; AND

12 (4) THE NAME, ADDRESS, AND TELEPHONE NUMBER FOR THE STATE
13 OFFICE OF CEMETERY OVERSIGHT.

14 (B) THE DISCLOSURES SHALL BE CONSPICUOUSLY INCORPORATED IN THE
15 CONTRACT IN 12-POINT TYPE.

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

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

19 (E) THE DISCLOSURE SHALL OCCUR:

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

22 (2) IF NO FACE-TO-FACE CONTACT OCCURS, AT THE TIME OF THE
23 EXECUTION OF THE CONTRACT BY THE PURCHASER OR PARTY REPRESENTING THE
24 PURCHASER.

25 (F) THE DIRECTOR MAY BY REGULATION PRESCRIBE THE FORM AND
26 WORDING OF THE DISCLOSURE.

27 (G) IF THE PURCHASE BY THE CONSUMER INCLUDES A CEMETERY PLOT, THE
28 REGISTERED CEMETERIAN OR PERMIT HOLDER SHALL PROVIDE THE CONSUMER
29 WITH A COPY OF A LOCATION SURVEY, PERFORMED BY A LICENSED LAND
30 SURVEYOR, WHICH INDICATES THE LOCATION OF THE PURCHASED PLOT WITHIN
31 THE CEMETERY, OR BY ANY OTHER MEANS APPROVED BY THE DIRECTOR.

32 SUBTITLE 9. PROHIBITED ACTS.

33 5-901.

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

29

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

4 5-902.

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

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

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

12 5-903.

13 UNLESS A PERSON IS A REGISTERED CEMETERIAN OR REGISTERED SELLER, A
14 PERSON MAY NOT REPRESENT TO THE PUBLIC, BY USE OF A TITLE, INCLUDING
15 CEMETERIAN, REGISTERED CEMETERIAN, BURIAL GOODS SELLER, OR REGISTERED
16 SELLER, BY DESCRIPTION OF SERVICES, METHODS, OR PROCEDURES, OR
17 OTHERWISE, THAT THE PERSON IS AUTHORIZED TO ENGAGE IN THE OPERATION OF
18 A CEMETERY OR PROVIDE BURIAL GOODS.

19 5-904.

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

23 SUBTITLE 10. SHORT TITLE; TERMINATION OF TITLE.

24 5-1001.

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

26 5-1002.

27 SUBJECT TO THE EVALUATION AND REESTABLISHMENT PROVISIONS OF THE
28 MARYLAND PROGRAM EVALUATION ACT, THE OFFICE OF CEMETERY OVERSIGHT,
29 THE PROVISIONS IN THIS TITLE RELATING TO THE OFFICE, AND ALL REGULATIONS
30 ADOPTED BY THE OFFICE SHALL TERMINATE AND BE OF NO EFFECT AFTER JULY 1,
31 2007.

32 **Article - Health - General**

33 5-305.

34 (g) The State budget shall include an appropriation to carry out this subtitle,
35 including provisions for:

36 (1) [the] THE fee for an authorized pathologist [and];

30

1 (2) [the] THE necessary expenses for transportation of a body for
2 examination by a medical examiner or for autopsy; AND

3 (3) IN THE CASE OF A VICTIM OF HOMICIDE, THE NECESSARY EXPENSES
4 FOR TRANSPORTATION OF THE BODY FROM THE SITE OF THE AUTOPSY OR
5 EXAMINATION TO A LOCATION WITHIN THE STATE SPECIFIED BY THE VICTIM'S
6 FAMILY.

7 **Article - Health Occupations**

8 7-405.

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

12 (I) 100% OF THE PAYMENT THAT IS FOR SERVICES; AND

13 (II) 80% OF THE PAYMENT THAT IS FOR MERCHANDISE.

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

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

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

20 [(2)] (3) A seller need not have a separate escrow or trust account for each
21 pre-need contract.

22 [(3)] (4) (i) [Any interest or dividends earned by the escrow or trust
23 account prior to service being rendered belong to the buyers of the pre-need contracts.]
24 IF THE PRE-NEED CONTRACT HAS NOT BEEN PAID IN FULL AT THE TIME OF
25 CANCELLATION, 100% OF THE ACCRUED INTEREST ON THE ACCOUNT BELONGS TO
26 THE SELLER.

27 (II) IF THE PRE-NEED CONTRACT HAS BEEN PAID IN FULL AT THE
28 TIME OF CANCELLATION, THE ACCRUED INTEREST SHALL BE DIVIDED EVENLY
29 BETWEEN THE BUYER AND SELLER.

30 [(ii)] (5) Upon performance of the contract, any interest or dividends
31 earned by the escrow or trust account belong to the seller.

32 (G) (1) A SELLER OF A PRE-NEED CONTRACT SHALL PROVIDE THE BUYER
33 WITH A GENERAL PRICE LIST FOR THE BUYER TO KEEP OF THE GOODS AND
34 SERVICES OFFERED BY THE SELLER.

35 (2) IF THE AT-NEED PRICES FOR GOODS AND SERVICES OFFERED BY A
36 SELLER DIFFER FROM THE PRE-NEED PRICES OFFERED BY THAT SELLER, THE
37 GENERAL PRICE LIST SHALL PROVIDE A SIDE-BY-SIDE COMPARISON BETWEEN THE
38 AT-NEED AND PRE-NEED PRICES.

31

1 (H) A SELLER OF A PRE-NEED CONTRACT SHALL DISCLOSE TO THE
2 CONSUMER:

3 (1) ALL GOODS AND SERVICES THAT ARE REQUIRED AT THE TIME OF
4 NEED, BUT ARE NOT INCLUDED IN THE PRE-NEED CONTRACT; AND

5 (2) THE BUYER'S CANCELLATION AND REFUND RIGHTS UNDER
6 SUBSECTION (D) OF THIS SECTION.

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

9 (1) AN UNQUALIFIED AUDIT BY A CERTIFIED PUBLIC ACCOUNTANT;
10 AND

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

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

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

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

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

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

21 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall be construed
22 only prospectively and may not be applied or interpreted to have any effect on or
23 application to any preneed contract entered into before the effective date of this Act.

24 SECTION 5. AND BE IT FURTHER ENACTED, That this Act shall take effect
25 October 1, 1997.