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

Introduced and read first time: February 10, 1997

Assigned to: Rules

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Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 13, 1997

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CHAPTER \_\_\_\_\_

1 AN ACT concerning

2           **Death Care Industry Regulation**  
3           **(Rachel's Law)**

4 FOR the purpose of creating the Office of Cemetery Oversight in the Department of  
5 Labor, Licensing, and Regulation; requiring the Secretary of State the Department  
6 of Labor, Licensing, and Regulation to establish an advisory board; specifying the  
7 membership of the advisory board; providing for a Director of the Office of  
8 Cemetery Oversight; providing for the powers and duties of the Director;  
9 authorizing the Director to ~~establish~~ adopt certain rules and regulations and  
10 establish certain fees; establishing a Cemetery Oversight Fund; specifying the use of  
11 the Fund; requiring registration in order to engage in the operation of a cemetery or  
12 in order to provide burial goods in this State; providing a certain exception;  
13 ~~providing~~ establishing certain registration criteria; providing for the renewal of  
14 registration; providing for the denial of a registration or reprimand of a registrant;  
15 providing certain hearing procedures under certain circumstances; requiring a  
16 permit in order to engage in the operation of a cemetery or burial goods business as  
17 a corporation, limited liability company, or partnership; ~~providing~~ establishing  
18 certain permit criteria; requiring registrants and permit holders to make certain  
19 disclosures when entering into certain contracts; ~~providing~~ establishing certain  
20 penalties ~~for practicing without a registration, providing services without a permit,~~  
21 ~~and misrepresentation~~; providing for the evaluation and termination of the Office of  
22 Cemetery Oversight in accordance with the Maryland Program Evaluation Act;  
23 ~~providing certain conforming changes; making certain technical changes~~; requiring  
24 the Director of the Office of Cemetery Oversight to take certain actions by a certain  
25 date; altering the trust and escrow requirements for certain sellers of preneed  
26 contracts for funeral and cemetery goods and services; providing that a buyer of a

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1 preneed burial contract may receive a refund at any time; providing for the  
 2 distribution of accrued ~~income~~ interest between the buyer and seller of a preneed  
 3 contract; requiring sellers of preneed contracts to provide certain disclosures and  
 4 price lists to buyers; specifying reporting requirements for certain sellers of preneed  
 5 contracts; requiring that a certain title be transferred to a buyer of preneed goods  
 6 under certain circumstances; ~~providing that the State budget shall provide the~~  
 7 ~~necessary expenses to transport a victim of homicide from the site of the autopsy or~~  
 8 ~~examination to a location in the State specified by the victim's family; providing civil~~  
 9 immunity to certain persons under certain circumstances; altering certain  
 10 definitions; defining certain terms; providing for the application of certain  
 11 provisions of this Act; providing for the implementation of certain provisions of this  
 12 Act; and generally relating to the creation of the Office of Cemetery Oversight and  
 13 altering certain preneed contract trust and escrow requirements.

14 BY renumbering

15 Article - Business Regulation  
 16 Section 5-201 through 5-204 and the subtitle "Subtitle 2. Cemetery Corporations";  
 17 5-302 through 5-309 and the subtitle "Subtitle 3. Perpetual Care of  
 18 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.  
 20 Miscellaneous Provisions", respectively  
 21 to be Section 5-501 through 5-504 to be under the amended subtitle "Subtitle 5.  
 22 Cemetery Property"; 5-601 through 5-608 to be under the amended subtitle  
 23 "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  
 25 "Subtitle 8. Miscellaneous Provisions", respectively  
 26 Annotated Code of Maryland  
 27 (1992 Volume and 1996 Supplement)

28 BY adding to

29 Article - Business Regulation  
 30 Section 5-102 to be under the amended subtitle "Subtitle 1. Definitions; General  
 31 Provisions"; 5-201 through ~~5-206~~ 5-207, inclusive, to be under the new  
 32 subtitle "Subtitle 2. Office of Cemetery Oversight"; 5-301 through 5-312,  
 33 inclusive, to be under the new subtitle "Subtitle 3. Registration"; 5-401  
 34 through 5-404, inclusive, to be under the new subtitle "Subtitle 4. Permits";  
 35 5-801; 5-901 through 5-904, inclusive, to be under the new subtitle "Subtitle  
 36 9. Prohibited Acts"; and 5-1001 and 5-1002 to be under the new subtitle  
 37 "Subtitle 10. Short Title; Termination of Title"  
 38 Annotated Code of Maryland  
 39 (1992 Volume and 1996 Supplement)

40 BY repealing and reenacting, with amendments,

41 Article - Business Regulation  
 42 Section 5-101  
 43 Annotated Code of Maryland  
 44 (1992 Volume and 1996 Supplement)

1 BY repealing and reenacting, with amendments,  
 2 Article - Business Regulation  
 3 Section 5-501 through 5-504, 5-602, 5-604 through 5-608, 5-701, 5-704(c) and (e),  
 4 5-705, ~~5-707(g)~~, 5-709, 5-710, and 5-711  
 5 Annotated Code of Maryland  
 6 (1992 Volume and 1996 Supplement)  
 7 (As enacted by Section 1 of this Act)

8 BY repealing  
 9 Article - Business Regulation  
 10 Section 5-301; and the subtitle designation "Subtitle 5. Sale of Burial Ground for  
 11 Another Purpose" of Title 5  
 12 Annotated Code of Maryland  
 13 (1992 Volume and 1996 Supplement)

14 BY repealing and reenacting, without amendments,  
 15 Article - Business Regulation  
 16 Section 5-702  
 17 Annotated Code of Maryland  
 18 (1992 Volume and 1996 Supplement)  
 19 (As enacted by Section 1 of this Act)

20 BY adding to  
 21 Article - Courts and Judicial Proceedings  
 22 Section 5-399.8  
 23 Annotated Code of Maryland  
 24 (1995 Replacement Volume and 1996 Supplement)

25 ~~BY repealing and reenacting, with amendments,~~  
 26 ~~Article - Health - General~~  
 27 ~~Section 5-305(g)~~  
 28 ~~Annotated Code of Maryland~~  
 29 ~~(1994 Replacement Volume and 1996 Supplement)~~

30 BY repealing and reenacting, with amendments,  
 31 Article - Health Occupations  
 32 Section 7-405(d)  
 33 Annotated Code of Maryland  
 34 (1994 Replacement Volume and 1996 Supplement)

35 BY adding to  
 36 Article - Health Occupations  
 37 Section 7-405(g) through (i)  
 38 Annotated Code of Maryland

4

1 (1994 Replacement Volume and 1996 Supplement)

2 BY adding to

3 Article - State Government

4 Section 8-403(p)

5 Annotated Code of Maryland

6 (1995 Replacement Volume and 1996 Supplement)

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

18 %SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland  
19 read as follows:

20 **Article - Business Regulation**

21 Subtitle 1. Definitions; GENERAL PROVISIONS.

22 5-101.

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

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

25 (2) "Burial" includes:

26 (i) earth burial;

27 (ii) mausoleum entombment; and

28 (iii) niche or columbarium interment.] "BURIAL GOODS BUSINESS"

29 MEANS A BUSINESS THAT PROVIDES BURIAL GOODS.

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

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

32 (D) "DIRECTOR" MEANS THE DIRECTOR OF THE OFFICE OF CEMETERY  
33 OVERSIGHT.

34 (E) "ENGAGE IN THE OPERATION OF A CEMETERY" MEANS OWNING,  
35 CONTROLLING, AND MAINTAINING A CEMETERY, INCLUDING PERFORMING  
36 ACTIVITIES NECESSARY FOR:

5

- 1 (1) THE ESTABLISHMENT OR IMPROVEMENT OF A CEMETERY;
- 2 (2) INTERMENT; AND
- 3 (3) THE CARE, PRESERVATION, OR EMBELLISHMENT OF A CEMETERY.

4 (F) ~~(1)~~ "INTERMENT" MEANS ALL FINAL DISPOSITION OF HUMAN REMAINS,  
5 ~~INCLUDING:~~

6 (2) "INTERMENT" INCLUDES:

- 7 ~~(I)~~ EARTH BURIAL;
- 8 ~~(II)~~ MAUSOLEUM ENTOMBMENT; AND
- 9 ~~(III)~~ NICHE OR COLUMBARIUM INTERMENT.

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

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

15 (I) "PROVIDE BURIAL GOODS" MEANS:

- 16 (1) TO SELL, ERECT, OR INSCRIBE BURIAL MONUMENTS; OR
- 17 (2) TO SELL CASKETS, VAULTS, GRAVE LINERS, OR ANY OTHER  
18 CEMETERY GOODS.

19 (J) "REGISTRATION" MEANS A REGISTRATION ISSUED BY THE DIRECTOR  
20 AUTHORIZING AN INDIVIDUAL TO OPERATE A CEMETERY OR TO PROVIDE BURIAL  
21 GOODS.

22 (K) "REGISTERED CEMETERIAN" MEANS AN INDIVIDUAL REGISTERED TO  
23 OPERATE A CEMETERY AS A SOLE PRACTITIONER OR ON BEHALF OF A PERMIT  
24 HOLDER.

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

28 5-102.

29 THIS TITLE DOES NOT APPLY TO A PERSON THAT:

- 30 (1) OWNS OR OPERATES A BONA FIDE RELIGIOUS, NONPROFIT  
31 CEMETERY IN THIS STATE; OR
- 32 (2) PROVIDES BURIAL GOODS IN THIS STATE ON BEHALF OF A BONA  
33 FIDE RELIGIOUS, NONPROFIT ENTITY AND IN CONNECTION WITH THE OPERATION  
34 OF A BONA FIDE RELIGIOUS, NONPROFIT CEMETERY.

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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;

7

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.

8

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.

9

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 ESTABLISHED UNDER § 5-206 OF THIS SUBTITLE.

10 5-206.

11 (A) THERE IS A CEMETERY OVERSIGHT FUND.

12 ~~(B)~~ (B) (1) THE FUND SHALL BE USED TO COVER THE ACTUAL  
13 DOCUMENTED DIRECT AND INDIRECT COSTS OF FULFILLING THE STATUTORY AND  
14 REGULATORY DUTIES OF THE OFFICE.

15 (2) THE FUND IS A CONTINUING NONLAPSING FUND, NOT SUBJECT TO §  
16 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

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

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

21 ~~(C)~~ (C) (1) THE DIRECTOR SHALL ADMINISTER THE FUND.

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

24 ~~(D)~~ (D) THE LEGISLATIVE AUDITOR SHALL AUDIT THE ACCOUNTS AND  
25 TRANSACTIONS OF THE FUND AS PROVIDED IN § 2-1215 OF THE STATE GOVERNMENT  
26 ARTICLE.

27 ~~5-206.~~ 5-207.

28 A PERSON SHALL HAVE THE IMMUNITY FROM LIABILITY DESCRIBED UNDER §  
29 ~~5-388~~ § 5-399.8 OF THE COURTS AND JUDICIAL PROCEEDINGS ARTICLE FOR GIVING  
30 INFORMATION TO THE DIRECTOR OR OTHERWISE PARTICIPATING IN THE  
31 ACTIVITIES OF THE OFFICE.

32 SUBTITLE 3. REGISTRATION.

33 [5-301.

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

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

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

10

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.

11

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:

12

- 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;

13

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:

14

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

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

34 (D) IF THE DIRECTOR IS UNABLE TO MEDIATE THE COMPLAINT, THE  
35 DIRECTOR MAY:

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

15

1 (2) INITIATE AN INVESTIGATION; OR

2 (3) DISMISS THE COMPLAINT.

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

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

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

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

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

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

22 (2) BEGINNING DECEMBER 31, 1998, AND ON OR BEFORE DECEMBER 31  
23 OF EACH YEAR, THE DIRECTOR SHALL REPORT, SUBJECT TO § 2-1312 OF THE STATE  
24 GOVERNMENT ARTICLE, TO THE GENERAL ASSEMBLY ON THE NUMBER OF  
25 COMPLAINTS RESOLVED WITHIN THE SCHEDULE ADOPTED UNDER PARAGRAPH (1)  
26 OF THIS SUBSECTION AND THE NUMBER OF COMPLAINTS RECEIVED UNDER  
27 SUBSECTION (C)(2) OF THIS SECTION.

28 5-312.

29 (A) (1) EXCEPT AS OTHERWISE PROVIDED IN TITLE 10, SUBTITLE 4 § 10-226  
30 OF THE STATE GOVERNMENT ARTICLE, BEFORE THE DIRECTOR TAKES A FINAL  
31 ACTION UNDER THIS SUBTITLE, THE DIRECTOR SHALL PROVIDE THE INDIVIDUAL  
32 AGAINST WHOM THE ACTION IS CONTEMPLATED AN OPPORTUNITY FOR NOTICE OF  
33 THE DIRECTOR'S PROPOSED ACTION AND THE OPPORTUNITY TO REQUEST A  
34 HEARING BEFORE THE DIRECTOR.

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

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

16

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

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

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

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

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

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

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

19 (H) IF, AFTER A HEARING, THE PROPOSED ACTION BY THE DIRECTOR IS  
20 UPHELD, THE CHALLENGER SHALL PAY THE HEARING COSTS AS SPECIFIED BY THE  
21 DIRECTOR BY REGULATION.

22 SUBTITLE 4. PERMITS.

23 5-401.

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

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

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

31 (3) A PARTNERSHIP AS A PARTNER, EMPLOYEE, OR AGENT OF THE  
32 PARTNERSHIP.

33 (B) SUBJECT TO THE PROVISIONS OF THIS TITLE, A CORPORATION, LIMITED  
34 LIABILITY COMPANY, OR PARTNERSHIP MAY ENGAGE IN THE OPERATION OF A  
35 CEMETERY OR BURIAL GOODS BUSINESS THROUGH A REGISTERED CEMETERIAN  
36 OR REGISTERED SELLER.

37 (C) (1) A REGISTERED CEMETERIAN WHO ENGAGES IN THE OPERATION OF  
38 A CEMETERY THROUGH A CORPORATION, LIMITED LIABILITY COMPANY, OR

17

1 PARTNERSHIP UNDER THIS TITLE IS SUBJECT TO ALL OF THE PROVISIONS OF THIS  
2 TITLE THAT RELATE TO ENGAGING IN THE OPERATION OF A CEMETERY.

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

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

13 (2) AN INDIVIDUAL WHO ENGAGES IN THE OPERATION OF A CEMETERY  
14 OR BURIAL GOODS BUSINESS THROUGH A CORPORATION, LIMITED LIABILITY  
15 COMPANY, OR PARTNERSHIP IS NOT, BY REASON OF THE INDIVIDUAL'S  
16 EMPLOYMENT OR OTHER RELATIONSHIP WITH THE CORPORATION, LIMITED  
17 LIABILITY COMPANY, OR PARTNERSHIP, RELIEVED OF ANY INDIVIDUAL  
18 RESPONSIBILITY THAT THE INDIVIDUAL MAY HAVE REGARDING THAT PRACTICE.

19 5-402.

20 A CORPORATION, LIMITED LIABILITY COMPANY, OR PARTNERSHIP SHALL  
21 OBTAIN A PERMIT ISSUED BY THE DIRECTOR BEFORE THE CORPORATION, LIMITED  
22 LIABILITY COMPANY, OR PARTNERSHIP MAY ENGAGE IN THE OPERATION OF A  
23 CEMETERY OR BURIAL GOODS BUSINESS IN THE STATE.

24 5-403.

25 TO QUALIFY FOR A PERMIT, A CORPORATION, LIMITED LIABILITY COMPANY,  
26 OR PARTNERSHIP SHALL:

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

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

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

34 5-404.

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

36 (1) AN APPLICATION ON THE FORM THAT THE DIRECTOR PROVIDES;  
37 AND

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

18

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

2 Subtitle 5. Cemetery [Corporations] PROPERTY.

3 5-501.

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

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

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

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

12 (2) In the Laurel Election District of Prince George's County, a [cemetery  
13 corporation] REGISTERED CEMETERIAN OR PERMIT HOLDER that operated on June 1,  
14 1955, may buy, hold, or use, for burial, up to 200 acres in 1 tract.

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

17 5-502.

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

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

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

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

26 5-503.

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

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

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

33 (1) considered property;

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

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

19

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

2 (5) subject to inheritance taxes.

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

5 (1) considered personal property;

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

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

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

9 (5) subject to inheritance taxes.

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

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

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

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

17 5-504.

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

22 Subtitle 6. Perpetual Care [of Cemeteries].

23 5-602.

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

25 (1) that is available for burial;

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

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

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

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

20

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

3 (1) \$10,000, if the developed land area of the cemetery is 10 acres or less; or

4 (2) \$25,000, if the developed land area of the cemetery is more than 10  
5 acres.

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

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

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

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

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

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

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

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

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

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

26 5-604.

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

30 (b) The terms of the trust agreement:

31 (1) shall conform to this subtitle; and

32 (2) may include provisions about:

33 (i) payment of income;

34 (ii) accumulation of income;

35 (iii) reinvestment of income;

21

1 (iv) administration of the trust fund; and

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

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

4 (2) However, a trust agreement may:

5 (i) give the [cemetery owner] REGISTERED CEMETERIAN OR  
6 PERMIT HOLDER the right to remove the trustee and appoint another qualified trustee;  
7 and

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

10 5-605.

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

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

17 (i) THE DIRECTOR;

18 (II) the Attorney General or an authorized representative of the  
19 Attorney General; and

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

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

26 (2) The report shall:

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

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

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

30 (iv) include:

31 1. the name of the [cemetery owner] REGISTERED  
32 CEMETERIAN OR PERMIT HOLDER;

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



23

1 REGISTERED CEMETERIAN OR PERMIT HOLDER has provided adequately for that  
2 perpetual care.

3 5-608.

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

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

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

15 Subtitle 7. Preneed Burial Contracts.

16 5-701.

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

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

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

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

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

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

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

26 (ii) in connection with burial.

27 (2) "Preneed goods" includes:

28 (I) A CASKET;

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

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

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

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

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

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

24

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

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

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

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

5 (ii) in connection with burial.

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

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

9 (2) "SELLER" INCLUDES A PERSON WHO IS NOT AFFILIATED WITH A  
10 CEMETERY.

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

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

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

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

19 5-702.

20 (a) This subtitle does not apply to:

21 (1) the sale of burial space; or

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

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

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

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

33 (1) the law concerning burial; or

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

25

1 5-704.

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

4 (i) transfer physical possession of the preneed goods to the buyer or  
5 designee of the buyer;

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

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

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

11 2. TITLE HAS BEEN TRANSFERRED TO THE BUYER OR  
12 DESIGNEE OF THE BUYER; or

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

14 1. cause title to be transferred to the buyer or designee of the  
15 buyer; and

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

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

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

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

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

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

33 5-705.

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

38 (1) 100% OF THE PAYMENT THAT IS FOR PRENEED SERVICES; AND

26

1 ~~(2) 80% OF THE PAYMENT THAT IS FOR PRENEED GOODS.~~

2 (2) FOR PRENEED GOODS:

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

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

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

10 (c) This section does not apply to:

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

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

19 5-707.

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

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

26 5-709.

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

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

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

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

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

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

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

27

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

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

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

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

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

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

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

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

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

17 (2) the trustee shall then pay:

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

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

21 (c) If specific funds on deposit in a trust account have been dormant for at least  
22 50 years since the date of the last deposit or disbursement and the seller cannot locate the  
23 buyer:

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

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

26 and

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

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

30 5-710.

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

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

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

28

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

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

5 (2) The report shall:

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

7 (ii) be certified by a certified public accountant employed by the seller  
8 AS TO COMPLIANCE WITH THE REQUIREMENTS OF THIS SUBTITLE;

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

10 (iv) include:

11 1. the name of the seller;

12 2. each location of the seller;

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

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

17 5. the name and address of the trustee; AND

18 ~~6. AN UNQUALIFIED AUDIT BY A CERTIFIED PUBLIC~~  
19 ~~ACCOUNTANT; AND~~

20 ~~7. IF THE PRENEED BURIAL CONTRACT PROVIDES FOR~~  
21 ~~DELIVERY OF GOODS PRIOR TO DEATH, A REPORT STATING THAT THE GOODS HAVE~~  
22 ~~BEEN DELIVERED OR THAT TITLE HAS BEEN TRANSFERRED TO THE BUYER AND~~  
23 ~~THE LOCATION OF WHERE THE GOODS ARE STORED FOR THE BUYER.~~

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

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

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

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

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

4 (1) SPECIFIC PRICES FOR:

5 (I) GROUND OPENING AND CLOSING;

6 (II) EXTRA DEPTH INTERMENT;

7 (III) INTERMENT OF CREMATED REMAINS; AND

8 (IV) MAUSOLEUM ENTOMBMENT;

9 (2) GENERAL PRICE RANGES FOR:

10 (I) PLOTS;

11 (II) MAUSOLEUMS;

12 (III) MEMORIALIZATIONS; AND

13 (IV) URNS; AND

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

18 (D) A SELLER OF A PRENEED BURIAL CONTRACT SHALL DISCLOSE TO THE  
19 BUYER:

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

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

24 (3) THE PERSON RESPONSIBLE FOR INSTALLATION OF THE GOODS SOLD  
25 AND ANY WARRANTIES FOR THE GOODS SOLD; AND

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

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

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

32 (III) THE MANNER OF DELIVERY OF GOODS INCLUDING WHERE  
33 THE GOODS ARE STORED; AND

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

30

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

2 (1) to administer this section; and

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

4 5-711.

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

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

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

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

11 (1) injunctive or other equitable relief;

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

13 (3) both.

14 Subtitle 8. Miscellaneous Provisions.

15 5-801.

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

19 (1) THE ITEMIZED COST FOR EACH SERVICE PERFORMED UNDER THE  
20 CONTRACT;

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

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

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

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

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

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

32 (E) THE DISCLOSURE SHALL OCCUR:

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

31

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

4 (F) THE DIRECTOR MAY BY REGULATION PRESCRIBE THE FORM AND  
5 WORDING OF THE DISCLOSURE.

6 (G) IF THE PURCHASE BY THE CONSUMER INCLUDES A CEMETERY PLOT, THE  
7 REGISTERED CEMETERIAN OR PERMIT HOLDER SHALL PROVIDE THE CONSUMER  
8 WITH A COPY OF A LOCATION SURVEY, PERFORMED BY A LICENSED LAND  
9 SURVEYOR, WHICH INDICATES THE LOCATION OF THE PURCHASED PLOT WITHIN  
10 THE CEMETERY, OR BY ANY OTHER MEANS APPROVED BY THE DIRECTOR.

11 SUBTITLE 9. PROHIBITED ACTS.

12 5-901.

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

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

20 5-902.

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

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

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

28 5-903.

29 UNLESS A PERSON IS A REGISTERED CEMETERIAN OR REGISTERED SELLER, A  
30 PERSON MAY NOT REPRESENT TO THE PUBLIC, BY USE OF A TITLE, INCLUDING  
31 CEMETERIAN, REGISTERED CEMETERIAN, BURIAL GOODS SELLER, OR REGISTERED  
32 SELLER, BY DESCRIPTION OF SERVICES, METHODS, OR PROCEDURES, OR  
33 OTHERWISE, THAT THE PERSON IS AUTHORIZED TO ENGAGE IN THE OPERATION OF  
34 A CEMETERY OR PROVIDE BURIAL GOODS.

35 5-904.

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

32

1 SUBTITLE 10. SHORT TITLE; TERMINATION OF TITLE.

2 5-1001.

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

4 5-1002.

5 SUBJECT TO THE EVALUATION AND REESTABLISHMENT PROVISIONS OF THE  
6 MARYLAND PROGRAM EVALUATION ACT, THE OFFICE OF CEMETERY OVERSIGHT,  
7 THE PROVISIONS IN THIS TITLE RELATING TO THE OFFICE, AND ALL REGULATIONS  
8 ADOPTED BY THE OFFICE SHALL TERMINATE AND BE OF NO EFFECT AFTER JULY 1,  
9 2007.

10 **Article - Courts and Judicial Proceedings**

11 5-399.8.

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

18 **~~Article - Health - General~~**

19 ~~5-305.~~

20 ~~(e) The State budget shall include an appropriation to carry out this subtitle,~~  
21 ~~including provisions for:~~

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

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

25 ~~(3) IN THE CASE OF A VICTIM OF HOMICIDE, THE NECESSARY EXPENSES~~  
26 ~~FOR TRANSPORTATION OF THE BODY FROM THE SITE OF THE AUTOPSY OR~~  
27 ~~EXAMINATION TO A LOCATION WITHIN THE STATE SPECIFIED BY THE VICTIM'S~~  
28 ~~FAMILY.~~

29 **Article - Health Occupations**

30 7-405.

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

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

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

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

33

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

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

5 [(2)] (3) A seller need not have a separate escrow or trust account for each  
6 pre-need contract.

7 [(3)] (4) (i) [Any interest or dividends earned by the escrow or trust  
8 account prior to service being rendered belong to the buyers of the pre-need contracts.]  
9 IF THE PRE-NEED CONTRACT HAS NOT BEEN PAID IN FULL AT THE TIME OF  
10 CANCELLATION, 100% OF THE ACCRUED INTEREST ON THE ACCOUNT BELONGS TO  
11 THE SELLER.

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

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

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

20 (2) IF THE AT-NEED PRICES FOR GOODS AND SERVICES OFFERED BY A  
21 SELLER DIFFER FROM THE PRE-NEED PRICES OFFERED BY THAT SELLER, THE  
22 GENERAL PRICE LIST SHALL PROVIDE A SIDE-BY-SIDE COMPARISON BETWEEN THE  
23 AT-NEED AND PRE-NEED PRICES.

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

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

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

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

32 (1) ~~AN UNQUALIFIED AUDIT~~ A CERTIFICATION BY A CERTIFIED PUBLIC  
33 ACCOUNTANT AS TO THE SELLER'S COMPLIANCE WITH THE PROVISIONS OF THIS  
34 SECTION; AND

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

34

1 **Article - State Government**

2 8-403.

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

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

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

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

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

15 (4) ~~Issue~~ Subject to § 2-1312 of the State Government Article, issue findings  
16 and recommendations of the studies to the General Assembly by July 1, 1999.

17 SECTION 4. AND BE IT FURTHER ENACTED, That the provisions of this Act  
18 relating to the imposition of registration and permit fees on persons providing burial  
19 goods or engaged in the operation of a cemetery for the purpose of funding the Office of  
20 Cemetery Oversight shall be applicable to all fiscal years beginning on or after July 1,  
21 1998.

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

27 SECTION 4- 6. AND BE IT FURTHER ENACTED, That this Act shall be  
28 construed only prospectively and may not be applied or interpreted to have any effect on  
29 or application to any preneed burial contract or pre-need contract entered into before  
30 the effective date of this Act.

31 SECTION ~~5-~~ 7. AND BE IT FURTHER ENACTED, That this Act shall take effect  
32 ~~October~~ July 1, 1997.

