

HOUSE BILL 1113

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HB 1036/01 - ECM

2002 Regular Session
2lr2383

By: **Delegates Barve and Donoghue**

Introduced and read first time: February 8, 2002

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Cemetery Corporations - Authority to Operate Funeral Establishments**

3 FOR the purpose of authorizing the State Board of Morticians to issue a corporate
4 license to operate a funeral establishment to a corporation owned or controlled
5 by a registered cemeterian or permit holder under certain circumstances;
6 requiring the registered cemeterian or permit holder to submit certain evidence
7 to the Director of the Office of Cemetery Oversight; requiring the Director to
8 certify to the State Board of Morticians that the registered cemeterian or permit
9 holder meets certain requirements; authorizing the Board to issue or renew a
10 license to a corporation to operate a mortuary science business under certain
11 circumstances; establishing certain application requirements for a corporate
12 license to operate a funeral establishment; and generally relating to cemetery
13 corporations operating funeral establishments.

14 BY adding to
15 Article - Business Regulation
16 Section 5-803
17 Annotated Code of Maryland
18 (1998 Replacement Volume and 2001 Supplement)

19 BY repealing and reenacting, with amendments,
20 Article - Health Occupations
21 Section 7-309 and 7-310
22 Annotated Code of Maryland
23 (2000 Replacement Volume and 2001 Supplement)

24 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
25 MARYLAND, That the Laws of Maryland read as follows:

1

Article - Business Regulation

2 5-803.

3 (A) A CORPORATION THAT IS OWNED OR CONTROLLED BY A REGISTERED
4 CEMETERIAN OR PERMIT HOLDER MAY BE ISSUED A CORPORATE LICENSE TO
5 OPERATE A FUNERAL ESTABLISHMENT UNDER § 7-310 OF THE HEALTH
6 OCCUPATIONS ARTICLE IF:

7 (1) THE REGISTERED CEMETERIAN OR PERMIT HOLDER HAS HAD AN
8 AVERAGE OF FEWER THAN 150 BURIALS OR ENTOMBMENTS PER YEAR CONDUCTED
9 ON ITS PREMISES FOR THE LAST 3 YEARS;

10 (2) THE FUNERAL ESTABLISHMENT IS LOCATED ON THE CEMETERY
11 PREMISES OR ON PROPERTY IMMEDIATELY ADJOINING THE CEMETERY PREMISES;
12 AND

13 (3) THE REGISTERED CEMETERIAN OR PERMIT HOLDER HAS A
14 PERPETUAL CARE TRUST FUND IN COMPLIANCE WITH SUBTITLE 6 OF THIS TITLE.

15 (B) THE REGISTERED CEMETERIAN OR PERMIT HOLDER SHALL SUBMIT TO
16 THE DIRECTOR ANY EVIDENCE REASONABLY REQUIRED BY THE DIRECTOR TO
17 ESTABLISH THAT THE REGISTERED CEMETERIAN OR PERMIT HOLDER MEETS THE
18 REQUIREMENTS OF SUBSECTION (A) OF THIS SECTION.

19 (C) IF THE REGISTERED CEMETERIAN OR PERMIT HOLDER MEETS THE
20 REQUIREMENTS OF SUBSECTION (A) OF THIS SECTION, THE DIRECTOR SHALL
21 CERTIFY TO THE STATE BOARD OF MORTICIANS THAT THE REGISTERED
22 CEMETERIAN OR PERMIT HOLDER MEETS THE REQUIREMENTS OF THIS SECTION.

23 (D) IN ADDITION TO THE REQUIREMENTS OF THIS SECTION, THE REGISTERED
24 CEMETERIAN OR PERMIT HOLDER THAT IS ISSUED A CORPORATE LICENSE TO
25 OPERATE A FUNERAL ESTABLISHMENT SHALL COMPLY WITH THE APPLICABLE
26 PROVISIONS OF §§ 7-309 AND 7-310 OF THE HEALTH OCCUPATIONS ARTICLE.

27

Article - Health Occupations

28 7-309.

29 (a) Except as PROVIDED UNDER § 5-803 OF THE BUSINESS REGULATION
30 ARTICLE OR AS otherwise provided by law, a corporation may not operate a mortuary
31 science business and the Board may not issue a license to or list any corporation as
32 licensed to operate a mortuary science business.

33 (b) The Board may renew [only] the license of a corporation that:

34 (1) IS CERTIFIED UNDER § 5-803 OF THE BUSINESS REGULATION
35 ARTICLE; OR

36 [(1)] (2) (I) On June 1, 1945, held a license issued by this State;

- 1 [(2)] (II) Has been renewed continuously since that date;
- 2 [(3)] (III) Submits an application on a form required by the Board; and
- 3 [(4)] (IV) Pays a fee set by the Board.

4 (c) Each application for ISSUANCE OR renewal OF A LICENSE made by a
5 corporation shall state the name and address of each officer and director of the
6 corporation.

7 (d) While a corporation license is effective, it authorizes a corporation to
8 operate a mortuary science business only if any practice of mortuary science that is
9 conducted for the corporation is practiced by a licensed individual.

10 (e) A corporation may not operate a branch funeral establishment unless the
11 branch funeral establishment was in operation on or before October 1, 1964.

12 (f) If a corporation is sold, declares bankruptcy, or ceases to operate, written
13 notice must be submitted to:

14 (1) The Board, within 2 weeks of the occurrence, detailing the changes
15 and the arrangements for carrying out the pre-need contracts and disbursement of
16 the money held in escrow; and

17 (2) The holders of pre-need contracts advising them of their options
18 under Maryland law.

19 7-310.

20 (a) (1) A funeral establishment shall be licensed by the Board before the
21 establishment may be used for the preparation of the remains, viewing, and
22 conducting of services.

23 (2) The licensee may be restricted to operations as determined by the
24 Board.

25 (b) (1) To apply for a funeral establishment license, an applicant shall:

26 (i) Submit an application to the Board on the form that the Board
27 requires; [and]

28 (ii) Pay to the Board an application fee set by the Board; AND

29 (III) IF THE APPLICANT IS APPLYING FOR A CORPORATE LICENSE,
30 SUBMIT TO THE BOARD THE CERTIFICATION OF THE DIRECTOR OF THE OFFICE OF
31 CEMETERY OVERSIGHT REQUIRED UNDER § 5-803 OF THE BUSINESS REGULATION
32 ARTICLE.

33 (2) An application for a funeral establishment license shall be signed by:

1 (I) [a] A licensed individual who is not an apprentice but is the
2 owner or co-owner of the establishment to be licensed; OR

3 (II) AN OFFICER OR DIRECTOR OF A CORPORATION CERTIFIED
4 UNDER § 5-803 OF THE BUSINESS REGULATION ARTICLE.

5 (c) The Board shall issue a funeral establishment license to a funeral
6 establishment that:

7 (1) Has complied with all applicable State and local laws;

8 (2) Will be owned and operated in accordance with this title by at least
9 one licensed mortician or one licensed funeral director, or a holder of a surviving
10 spouse or corporation license; and

11 (3) Will be held responsible for any and all activities performed on the
12 premises.

13 (d) Signs and advertisements of a funeral establishment shall display the
14 name that appears on the establishment license.

15 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
16 October 1, 2002.