

Chapter 150

(House Bill 403)

AN ACT concerning

Office of Cemetery Oversight – Preneed Trust Account – Underfunding

FOR the purpose of authorizing the Director of the Office of Cemetery Oversight to require the correction of any underfunding, including interest, due to a preneed trust account.

BY repealing and reenacting, with amendments,
Article – Business Regulation
Section 5–710
Annotated Code of Maryland
(2004 Replacement Volume and 2009 Supplement)

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

Article – Business Regulation

5–710.

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

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

- (i) the Director;
- (ii) the Attorney General or an authorized representative of the Attorney General; and
- (iii) the State’s Attorney for the county where the seller does business.

(b) (1) Each seller subject to the trust requirements of this subtitle shall submit a report to the Director within 120 days after the close of each calendar or other fiscal year chosen by the seller.

(2) The report shall:

- (i) be on the form that the Director requires;
- (ii) be certified by a certified public accountant retained by the seller;
- (iii) be accompanied by a trustee's summary statement of assets;
- (iv) be accompanied by a fee of \$25; and
- (v) include:
 - 1. the name of the seller;
 - 2. each location of the seller;
 - 3. the amount of money that the seller received during that year that is subject to the trust requirements of this subtitle;
 - 4. the amount of money actually deposited into trust accounts in that year;
 - 5. the amount of money required to be disbursed from the trust accounts in that year;
 - 6. the amount of money actually disbursed from the trust accounts in that year; and
 - 7. the name and address of the trustee.

(3) (i) A seller of preneed goods or preneed services that sells its business, files a petition in bankruptcy, or ceases to operate shall provide written notice within 15 days:

- 1. to the Director, detailing the changes and the arrangements the seller has made for carrying out the preneed burial contracts and the disbursement of any moneys held in an escrow or trust account; and
- 2. to each buyer of a preneed burial contract, advising the buyer of the buyer's options under State law in regard to the preneed contract.

(ii) Nothing in this paragraph exempts a seller of preneed goods or services that sells its business, files a petition in bankruptcy, or ceases to operate from filing the annual report required under this section.

(c) A seller of a preneed burial contract shall provide each buyer or prospective buyer with a general price list for the buyer or prospective buyer to keep which shall include:

- (1) specific prices for:
 - (i) ground opening and closing;
 - (ii) extra depth interment;
 - (iii) interment of cremated remains; and
 - (iv) mausoleum entombment; and
- (2) general price ranges for burial space or preneed goods.

(d) A seller of a preneed burial contract shall disclose to the buyer:

- (1) all goods and services that are reasonably expected to be required at the time of need that are not included in the preneed burial contract;
- (2) the buyer's cancellation and refund rights under § 5-709 of this subtitle;
- (3) the person responsible for installation of the goods sold and any warranties for the goods sold; and
- (4) if the preneed contract provides for goods or services to be delivered or performed before death:
 - (i) that interest or finance charges may be imposed;
 - (ii) that interest or finance charges are not allowed on other preneed burial contracts that do not provide for goods or services to be delivered or performed before death;
 - (iii) the manner of delivery of goods including where the goods are stored; and
 - (iv) the buyer's remedy if delivered goods are damaged or destroyed.

(E) THE DIRECTOR MAY REQUIRE A SELLER TO CORRECT ANY UNDERFUNDING, INCLUDING INTEREST, DUE TO THE PRENEED TRUST ACCOUNT.

[(e)] (F) The Director may adopt regulations:

- (1) to administer this section; and
- (2) for determining whether sellers are complying with this subtitle.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, April 13, 2010.