

# HOUSE BILL 555

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CF 6lr2283

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By: **Delegate Kipke**

Introduced and read first time: February 3, 2016

Assigned to: Health and Government Operations

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## A BILL ENTITLED

1 AN ACT concerning

2 **Office of Cemetery Oversight – Perpetual Care Trust Funds – Report**  
3 **Submission Requirement**

4 FOR the purpose of altering the time period within which a sole proprietor registered  
5 cemeterian, certain permit holders, or certain other persons subject to certain  
6 perpetual care trust requirements are required to submit a certain report regarding  
7 a certain perpetual care trust fund to the Director of the Office of Cemetery  
8 Oversight; and generally relating to perpetual care trust funds and the Office of  
9 Cemetery Oversight.

10 BY repealing and reenacting, without amendments,  
11 Article – Business Regulation  
12 Section 5–603(b)  
13 Annotated Code of Maryland  
14 (2015 Replacement Volume and 2015 Supplement)

15 BY repealing and reenacting, with amendments,  
16 Article – Business Regulation  
17 Section 5–606  
18 Annotated Code of Maryland  
19 (2015 Replacement Volume and 2015 Supplement)

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

22 **Article – Business Regulation**

23 5–603.

24 (b) (1) Each sole proprietor registered cemeterian, permit holder, or any other  
25 person subject to the registration or permit provisions of this title who sells or offers to sell

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 to the public a burial lot or burial right in a cemetery as to which perpetual care is stated  
2 or implied shall have a perpetual care trust fund.

3 (2) A separate perpetual care trust fund shall be established for each  
4 cemetery to which this section applies.

5 (3) On the general price list, contract of sale of burial space, and any  
6 conveyance documents, all cemeteries subject to the provisions of this subtitle shall state  
7 in writing the following using 12 point or larger type font:

8 (i) "The cemetery is a perpetual care cemetery."; or

9 (ii) "The cemetery is not a perpetual care cemetery."

10 (4) A cemetery created in the State after October 1, 2001, that is not  
11 exempt under § 5-602 of this subtitle shall be required to establish a perpetual care trust  
12 fund.

13 5-606.

14 (a) (1) Each sole proprietor registered cemeterian, permit holder, or any other  
15 person subject to the trust requirements of this subtitle shall keep detailed records of all  
16 sales of burial lots or burial rights in a cemetery and money received.

17 (2) The records of each sole proprietor registered cemeterian, permit  
18 holder, or any other person subject to the trust requirements of this subtitle and of each  
19 trustee appointed by the sole proprietor registered cemeterian, permit holder, or any other  
20 person subject to the trust requirements of this subtitle are subject to examination by:

21 (i) the Director;

22 (ii) the Attorney General or an authorized representative of the  
23 Attorney General; and

24 (iii) the State's Attorney for the county where the cemetery owner  
25 does business or where the cemetery is located.

26 (b) (1) Each sole proprietor registered cemeterian, permit holder, or any other  
27 person subject to the trust requirements of this subtitle shall submit a report to the Director  
28 within [120] **150** days after the close of each calendar or other fiscal year chosen by the  
29 sole proprietor registered cemeterian, permit holder, or any other person subject to the  
30 trust requirements of this subtitle.

31 (2) The report shall:

32 (i) be on the form that the Director requires;

1 (ii) be certified as to correctness by a certified public accountant  
2 retained by the cemetery;

3 (iii) be accompanied by a trustee's annual summary statement of  
4 assets for the reporting period that includes:

5 1. the amount of money in the perpetual care trust fund at  
6 the beginning of the reporting period;

7 2. an investment portfolio summary describing the asset and  
8 the market value for each investment class;

9 3. a transaction summary of the perpetual care trust fund  
10 containing:

11 A. trust account earnings, including interest, dividends, and  
12 realized gains or losses;

13 B. money deposited;

14 C. total receipts;

15 D. administrative expenses;

16 E. disbursements of income for cemetery care, maintenance,  
17 administration, and embellishment;

18 F. other disbursements; and

19 G. total disbursements; and

20 4. the amount of money in the perpetual care trust fund at  
21 the end of the reporting period;

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

23 (v) include:

24 1. the name of the sole proprietor registered cemeterian,  
25 permit holder, or any other person subject to the trust requirements of this subtitle;

26 2. each location of the sole proprietor registered cemeterian,  
27 permit holder, or any other person subject to the trust requirements of this subtitle;

28 3. the amount of money in each perpetual care trust fund at  
29 the beginning of the calendar or other fiscal year chosen by the sole proprietor registered

1 cemeterian, permit holder, or any other person subject to the trust requirements of this  
2 subtitle;

3                   4.     the amount of money that the sole proprietor registered  
4 cemeterian, permit holder, or any other person subject to the trust requirements of this  
5 subtitle received during that year that is subject to the trust requirements of this subtitle;

6                   5.     the amount of money actually deposited into each  
7 perpetual care trust fund in that year;

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

11                   7.     the name and address of each trustee.

12                   (3)    If the Director determines, after a review of the report and annual  
13 summary statement of assets required by this subsection, that additional documentation is  
14 required, a sole proprietor registered cemeterian, permit holder, or any other person subject  
15 to the trust requirements of this subtitle shall provide the additional documentation to the  
16 Director.

17                   (4)    A sole proprietor registered cemeterian, permit holder, or any other  
18 person subject to the trust requirements of this subtitle who stops selling burial lots or  
19 burial rights in a cemetery as to which perpetual care is stated or implied shall notify the  
20 Director in the required report for the year in which sales stop.

21                   (5)    The Director may require a sole proprietor registered cemeterian,  
22 permit holder, or any other person subject to the trust requirements of this subtitle to  
23 correct any underfunding, including interest, due to the perpetual care trust fund.

24                   (c)    The Director may adopt regulations:

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

26                   (2)    for determining whether registered cemeterians, permit holders, or any  
27 other person subject to the trust requirements of this subtitle are complying with this  
28 subtitle.

29                   SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
30 October 1, 2016.