

# SENATE BILL 536

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CF HB 555

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By: **Senator Klausmeier**

Introduced and read first time: February 4, 2016

Assigned to: Finance

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Committee Report: Favorable

Senate action: Adopted

Read second time: March 1, 2016

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## CHAPTER \_\_\_\_\_

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:

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



**Article – Business Regulation**

1  
2 5–603.

3 (b) (1) Each sole proprietor registered cemeterian, permit holder, or any other  
4 person subject to the registration or permit provisions of this title who sells or offers to sell  
5 to the public a burial lot or burial right in a cemetery as to which perpetual care is stated  
6 or implied shall have a perpetual care trust fund.

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

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

12 (i) “The cemetery is a perpetual care cemetery.”; or

13 (ii) “The cemetery is not a perpetual care cemetery.”

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

17 5–606.

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

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

25 (i) the Director;

26 (ii) the Attorney General or an authorized representative of the  
27 Attorney General; and

28 (iii) the State’s Attorney for the county where the cemetery owner  
29 does business or where the cemetery is located.

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

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

3 (2) The report shall:

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

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

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

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

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

13 3. a transaction summary of the perpetual care trust fund  
14 containing:

15 A. trust account earnings, including interest, dividends, and  
16 realized gains or losses;

17 B. money deposited;

18 C. total receipts;

19 D. administrative expenses;

20 E. disbursements of income for cemetery care, maintenance,  
21 administration, and embellishment;

22 F. other disbursements; and

23 G. total disbursements; and

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

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

27 (v) include:

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

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

3                   3.     the amount of money in each perpetual care trust fund at  
4 the beginning of the calendar or other fiscal year chosen by the sole proprietor registered  
5 cemeterian, permit holder, or any other person subject to the trust requirements of this  
6 subtitle;

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

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

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

15                  7.     the name and address of each trustee.

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

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

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

28                  (c)    The Director may adopt regulations:

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

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

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