

Chapter 490

(House Bill 555)

AN ACT concerning

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

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

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

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

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

Article – Business Regulation

5–603.

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

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

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

- (i) “The cemetery is a perpetual care cemetery.”; or
- (ii) “The cemetery is not a perpetual care cemetery.”

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

5–606.

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

(2) The records of each sole proprietor registered cemeterian, permit holder, or any other person subject to the trust requirements of this subtitle and of each trustee appointed by the sole proprietor registered cemeterian, permit holder, or any other person subject to the trust requirements of this subtitle 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 cemetery owner does business or where the cemetery is located.

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

(2) The report shall:

- (i) be on the form that the Director requires;
- (ii) be certified as to correctness by a certified public accountant retained by the cemetery;
- (iii) be accompanied by a trustee’s annual summary statement of assets for the reporting period that includes:

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

2. an investment portfolio summary describing the asset and the market value for each investment class;
3. a transaction summary of the perpetual care trust fund containing:
 - A. trust account earnings, including interest, dividends, and realized gains or losses;
 - B. money deposited;
 - C. total receipts;
 - D. administrative expenses;
 - E. disbursements of income for cemetery care, maintenance, administration, and embellishment;
 - F. other disbursements; and
 - G. total disbursements; and
4. the amount of money in the perpetual care trust fund at the end of the reporting period;
 - (iv) be accompanied by a fee of \$25; and
 - (v) include:
 1. the name of the sole proprietor registered cemeterian, permit holder, or any other person subject to the trust requirements of this subtitle;
 2. each location of the sole proprietor registered cemeterian, permit holder, or any other person subject to the trust requirements of this subtitle;
 3. the amount of money in each perpetual care trust fund at the beginning of the calendar or other fiscal year chosen by the sole proprietor registered cemeterian, permit holder, or any other person subject to the trust requirements of this subtitle;
 4. the amount of money that the sole proprietor registered cemeterian, permit holder, or any other person subject to the trust requirements of this subtitle received during that year that is subject to the trust requirements of this subtitle;
 5. the amount of money actually deposited into each perpetual care trust fund in that year;

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

7. the name and address of each trustee.

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

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

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

(c) The Director may adopt regulations:

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

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

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

Approved by the Governor, May 10, 2016.