

Written Testimony by David Zinner on **Senate Bill 104**

I am a member of Maryland's Advisory Council on Cemetery Operations. This written testimony is not made in my official capacity nor as a representative of the Council or the Office of Cemetery Oversight.

The proposed amendment in SB104 to Maryland Business Regulation §5-304 would allow tax returns to be substituted for reviews by a Certified Public Accountant (CPA) after a cemetery has operated for five years.

This change would be problematic.

1. It puts at risk a quarter of a billion dollars of consumers' money that is held by the 86 Maryland regulated cemeteries in pre-need and perpetual care funds. .
2. As cemeteries get older, they have more perpetual care money they are holding. Cemeteries less than five years old may be more prone to failure, but less perpetual care money is at risk. Five years may be the wrong cutoff.
3. The burden of analysis will be shifted from independent CPA's to the Office of Cemetery Oversight. The fiscal note for SB104 says the office will need an additional staff person to handle this work.

Most importantly, the information on a tax return is not the same as a CPA analysis. A tax return shows income and expense, assets and liabilities. **CPA reviews are different.** CPA's are trained to understand business finances, pass tests to certify their competence, and are familiar with the business they are auditing. A CPA might use any of 24 different types of financial ratio analysis to address the question of a cemetery's financial stability. For example the ratio of Net Income/Owners' Equity is a good indicator of profitability. Some experts think a ratio of under 10% indicates poor management performance.

The OCO's current mandated CPA review includes many pointed questions about **the financial stability of the cemetery**. There are 10 required questions that can uncover significant deficiencies not showing on a tax return. For example

- The method of providing for allowance for cancellations on installment
- A description of how the obligation for undelivered merchandise sold as preneed is accounted for.
- And other questions covering cemetery contracts, merchandise, pre-need sales and more

And the CPA must answer this critical question:

If you have substantial doubt about the cemetery's ability to continue in business beyond one year from the balance sheet or comparative balance sheet date, **you are required** to specifically reference this concern in the review report or related note disclosures or both.

No CPA review requirements are in a tax return. Please **vote no on SB 104.**