

Resthaven_FAV_SB104

Uploaded by: Cody, Richard F.

Position: FAV



Delores G. Kelley, Chair
Senate Finance Committee
3 East, Miller Senate Building
11 Bladen Street
Annapolis, MD 21401-1991

RE: SB104

January 17, 2020

Dear Senator Kelly,

The amendment to Section 5-303 of the Annotated Code of Maryland Business Regulation would allow cemeteries licensed by the Office of Cemetery Oversight to provide far more disclosure to the consumer than the current Financial Stability Report.

We do not object to the two annual financial audits that are required, in fact we support them. They are the audit of our Perpetual Care Fund and the audit of our Merchandising Trust Fund. These two audits are reasonable and protect the interest of our over 10,000 cemetery lot owners. It is the third requirement, a Financial Stability Report that could be improved by allowing certain cemeteries to substitute their income Tax Return instead of the Financial Stability Report.

As you know, an Income Tax Return will disclose far more financial information to the consumer than a Financial Stability Report.

Respectfully,

Richard F. Cody
Chairman

CC Senator Ronald N. Young
CC Office of Cemetery Oversight

VENABLE_FAV_SB104

Uploaded by: Stierhoff, John R.

Position: FAV

John R. Stierhoff
(410) 244-7833
jrstierhoff@venable.com

January 30, 2020

The Honorable Delores G. Kelley
Chair, Senate Finance Committee
3 East Miller Senate Office Building
11 Bladen Street
Annapolis, Maryland 21401

Re: Senate Bill 104 – Office of Cemetery Oversight – Cemetery Financial Statement – Requirements

Dear Chair Kelley:

I am writing on behalf of the Maryland Cemetery and Cremation Association (“Association”) in Support of Senate Bill 104.

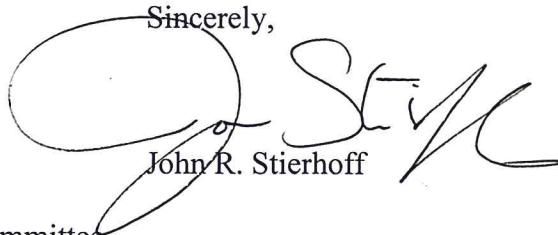
Founded in 1916, the Maryland Cemetery and Cremation Association represents the shared interests and concerns of professionals across the spectrum of Maryland’s “death care” industries.

The Association supports the option of allowing a business, in operation for five or more consecutive years, to file the federal tax return filed by the business for the prior year in lieu of a review by a certified public accountant as to the financial stability of the cemetery. The filing of the federal tax return would be in addition to the filing of a statement by a certified public accountant detailing the assets and liabilities of the cemetery for the last fiscal year, as required under current law.

The federal tax return of a cemetery business will disclose much more detailed financial information than is disclosed today, and, as a result, will benefit Maryland consumers.

The Maryland Cemetery and Cremation Association respectfully requests the Senate Finance Committee to Support Senate Bill 104.

Sincerely,



John R. Stierhoff

cc: Members, Senate Finance Committee

SenYoung_Sponsor_SB104

Uploaded by: Young, Sen Ronald

Position: FAV

Support SB104

Senator Ronald Young - 2020 Legislation

Sponsor Testimony

SB104 - Office of Cemetery Oversight - Cemetery Financial Statements - Requirements

SB104 allows cemetery operators in the State that have been in operation for a minimum of 5 consecutive years to elect to submit either the business' federal tax returns, or a financial stability report. This would amend current Maryland Code Section 5-304 which requires the submissions of bi-annual "CPA reviewed" balance sheets to the Maryland Office of Cemetery Oversight.

Requiring both the federal tax returns and a financial stability report is an onerous and redundant regulation that costs cemetery operators \$12,000 - \$16,000. This is a drain, not only on financial resources, but of cemetery staff resources as well.

By permitting a cemetery operators to elect to submit to one report for the purpose of establishing financial stability, this saves those businesses from performing a redundant task that does not reveal any new information regarding that cemetery business' financial stability.

It is worth noting that multiple cemetery operations within my district have stated their support for this legislation, including the non-profit Mt. Olivet Cemetery, where Francis Scott Key, the author of our National Anthem is buried.

The idea for this bill came to us from a constituent who has been a successful cemetery operator for many years, and is rightfully seeking an end to this onerous and unnecessary regulation.

I urge you a favorable report on SB104



Senator Ronald Young
James Senate Office Building
Room 301
Annapolis, MD 21401

Dear Senator Young:

At a meeting held on Thursday, January 16, 2020, the Board of Directors of Frederick's Mount Olivet Cemetery, Frederick, Maryland voted unanimously in favor of Senate Bill 104, which you introduced on January 8, 2020.

Two of our Board members are accountants and stressed the opportunity this legislation will create huge savings in professional accounting fees that would otherwise be spent into the future, while still maintaining a fair and clear accurate assessment of Mount Olivet's financial status.

Historic Mount Olivet Cemetery is a not for profit cemetery, established in 1852 by an act to incorporate cemeteries in the State of Maryland. Since that time, Mount Olivet has had over 40,000 interments, 4,000 of which are veterans from the American Revolution, Civil War, World Wars up through present day conflicts. Mount Olivet has some of the earliest burials in the state of Maryland, including our first-elected governor, Thomas Johnson, Jr. Mount Olivet has also been the recipient of removals from various other church graveyards once located in downtown Frederick and the surrounding area. With the increased cost of maintaining Mount Olivet, this bill will help greatly in alleviating this expense.

Thank you for presenting this bill, and we look forward to a favorable decision.

Yours truly,

A handwritten signature in black ink that reads "Tim", which is a common nickname for George T. Horman.

George T. Horman
President, Board of Directors



Delores G. Kelley, Chair
Senate Finance Committee
3 East, Miller Senate Building
11 Bladen Street
Annapolis, MD 21401-1991

RE: SB104

January 17, 2020

Dear Senator Kelly,

The amendment to Section 5-303 of the Annotated Code of Maryland Business Regulation would allow cemeteries licensed by the Office of Cemetery Oversight to provide far more disclosure to the consumer than the current Financial Stability Report.

We do not object to the two annual financial audits that are required, in fact we support them. They are the audit of our Perpetual Care Fund and the audit of our Merchandising Trust Fund. These two audits are reasonable and protect the interest of our over 10,000 cemetery lot owners. It is the third requirement, a Financial Stability Report that could be improved by allowing certain cemeteries to substitute their income Tax Return instead of the Financial Stability Report.

As you know, an Income Tax Return will disclose far more financial information to the consumer than a Financial Stability Report.

Respectfully,

Richard F. Cody
Chairman

CC Senator Ronald N. Young
CC Office of Cemetery Oversight

BrianDitzler_UNF_SB104

Uploaded by: Ditzler, Brian

Position: UNF



Funeral Consumers Alliance of Maryland and Environs

Protecting a consumer's right to a meaningful, dignified, and affordable funeral.

Senate Finance Committee of the Maryland General Assembly

Testimony on: SB 104 (Office of Cemetery Oversight - Cemetery Financial Statement - Requirements)

Position: Oppose

Hearing date: January 30, 2020

The Funeral Consumers Alliance of Maryland opposes SB 104 which would allow a cemetery which sells burial goods to submit its Federal tax return for the previous year to the Office of Cemetery Oversight (OCO) instead of submitting the currently required statement from a certified public accountant (CPA) detailing the assets and liabilities of the cemetery along with an assessment of the financial stability of the business.

The cemetery business is different from many others in that it receives money from consumers often many years, if not decades, before the products and services paid for in advance will need to be delivered to the purchaser. The money received for pre-need trusts and the 10% or more of the cost of each burial plot that goes into a cemetery's perpetual care fund add up to quite substantial sums of money at each cemetery that must be properly accounted for and protected so that it all will be there when needed in the future. The 86 licensed cemeteries in Maryland now hold \$240 million in perpetual care and pre-need trust funds that must be protected.

The Maryland General Assembly was well aware of past problems with mismanaged cemeteries and missing funds when it created the Office of Cemetery Oversight in 1997 and specified that each cemetery which sells burial goods must submit to OCO a statement from a CPA as to the cemetery's financial stability. The need for cemeteries to prove their continuing viability and to properly account for all the funds that consumers prepaid has not lessened over time.

Requiring a CPA to determine the financial stability of a cemetery makes sense because he/she is an objective third party who will look at a wide variety of a cemetery's data including bank balances, monthly income, expense and net profit statements, fixed assets and liabilities for the last fiscal year, accounts receivable and payable, a description of loans in effect, trends and ratios discerned from examining the previously-mentioned items from month to month, and comparing what is found to industry averages. A financial stability analysis looks at an entire business operation and essentially drills down 2 or 3 levels beyond what is shown on a tax return. There is much less of an ability to prove solvency looking at a tax return than with a CPA review.

Another significant problem with the bill is that it would shift the burden of assessing the financial stability of each cemetery onto the small OCO staff, which does not have the resources to collect all the required data from the 86 licensed cemeteries and to complete the necessary analyses.

Being able to rely on a CPA report on each cemetery's financial stability is a far, far more effective and reliable way to protect consumers and their funds. FCAME strongly encourages this committee to issue an unfavorable report on SB 192.

Brian Ditzler, FCAME Vice President, bditzler@gmail.com

FCAME is the volunteer-run, regional chapter of the non-profit Funeral Consumers Alliance (FCA), the oldest and largest consumer protection organization focused solely on guarding the rights (and wallets) of grieving consumers. FCA's many chapters across the country are dedicated to: helping consumers be more informed about death care options, and protecting the public from fraud and abuse in cremation, funeral and burial transactions. FCA and its chapters take no money from the death care industry or government.

Funeral Consumers Alliance of Maryland & Environs (FCAME)

<http://www.mdfunerals.org>

tel: 301-564-0006. email: info@mdfunerals.org.

9601 Cedar Lane, Bethesda, MD 20814

MACPA-UNF_SB0104

Uploaded by: Hood, Tom

Position: UNF



Jan. 30, 2020

The Honorable Delores G. Kelley
Senate Finance Committee
3 East, Miller Senate Office Building
Annapolis, MD 21401

RE: OPPOSE SB0104 – Office of Cemetery Oversight – Cemetery Financial Statement - Requirements

Dear Chairman Kelley and members of the Committee:

The Maryland Association of Certified Public Accountants is a professional membership organization representing more than 9,000 CPAs throughout Maryland. We respectfully disagree with the provision in SB0104 allowing “a business that has been in operation for 5 or more consecutive years” to submit “the federal tax returns filed by the business for the prior year,” in place of the current requirement for “a review by the certified public accountant as to the financial stability of the cemetery.” The proposed alteration of the current requirement will in no way provide the Office of Cemetery Oversight with the same level of assurance as a review of the financial statement performed by a CPA.

Professional standards for a review engagement require a CPA to obtain a working knowledge of the industry in which the entity operates and acquire information on key aspects of the organization, including operating methods, products and services, and material transactions with related parties. When a CPA reviews financial statements, professional standards require a report to be issued on those financial statements. A review engagement involves a CPA performing analytical procedures that provide a basis for obtaining limited assurance that no material changes need to be made to the financial statements for it to be in conformity with the applicable financial reporting framework.

The Fiscal and Policy Note for SB0104 lends support to our position that a review engagement performed by a CPA is the prudent option. The existing personnel in the Office of Cemetery Oversight do not have the “expertise to make such an independent determination” as to the financial stability of a cemetery. In fact, the Maryland Department of Labor would need to fund a *new position for a CPA* to review the tax returns to determine the financial viability of the cemetery. As a result, “these businesses could be at a greater risk of financial instability if the review conducted by MDL ... is not as timely or thorough.”

We believe SB0104 sets a bad precedent and will limit the ability of the Office of Cemetery Oversight in determining the financial stability of applicants. For these reasons, we respectfully request an unfavorable report for SB0104. Thank you for your consideration of our position.

Sincerely yours,

J. Thomas Hood, III, CPA
CEO & Executive Director

cc: Nick Manis, Manis Canning & Associates

DavidZinner_UNF_SB104

Uploaded by: Zinner, David

Position: UNF

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.**