



## **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 483** "Cemeteries – Perpetual Care – Distributions From Perpetual Care Trust Fund"

Position: **Oppose**

Hearing Date: March 12, 2020

The Funeral Consumers Alliance of Maryland and Environs strongly opposes SB 483 that would remove protections of cemetery perpetual care trust funds in current law and expose cemeteries to greater risk of depleting their perpetual care trust fund's assets.

The bill would eliminate the requirement that realized capital gains of perpetual care trust funds be deposited in that fund so the principal can grow. And even more problematic is that the bill would allow a cemetery owner to take an annual distribution of up to 4% of the principal of the perpetual care trust fund for years. Currently, a cemetery can only take an annual distribution of the net income of a perpetual care trust fund to be used for current and future repair and maintenance of cemetery grounds and buildings, and the principal of the fund cannot be touched.

The cemetery business is different from 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 provided to the purchaser. At least 10% of the price of each right to interment in a burial plot goes into the principal of a cemetery's perpetual care fund, as do any capital gains earned from investments of the principal, so the principal can continue to grow over time.

Currently there is almost \$90 million total in the perpetual care trust funds of the 85 licensed cemeteries in the state. SB 483 says the Director of the Office of Cemetery Oversight (OCO) may limit or prohibit a cemetery's proposed distribution based on a review of the prior 5 to 7 years of performance of a perpetual care trust fund. However, as the Fiscal and Policy Note clearly states, existing staff in OCO lacks the requisite expertise to make the financial calculations necessary to determine the health of up to 85 cemeteries' perpetual care trust funds and whether further distributions from each of their perpetual care trust fund's principal should be allowed. Is the General Assembly prepared to increase the budget for OCO so it can hire contractual support or an accountant needed to keep up with the additional work that SB 483 would bring OCO?

Maryland law clearly indicates that a cemetery perpetual care trust fund "shall be a single purpose trust fund", and "shall be retained intact to provide for the future maintenance of the cemetery." A perpetual care trust fund's principal needs to be large enough so the cemetery may continue as a beautiful, self-maintaining park in perpetuity and doesn't become neglected or abandoned, and a burden on taxpayers when most all the burial plots have been sold and there is little or no earnings being generated for the cemetery owners.

In summary, let me quote the last line of the Fiscal and Policy Note on SB 483. "The bill exposes these businesses to additional risks of depleting assets in their perpetual care trust funds." We totally agree with that assessment and urge an unfavorable report on this bill.

Brian Ditzler, FCAME Vice President, [bditzler@gmail.com](mailto: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.*

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Funeral Consumers Alliance of Maryland & Environs (FCAME)

<http://www.mdfunerals.org>

[info@mdfunerals.org](mailto:info@mdfunerals.org)

9601 Cedar Lane, Bethesda, MD 20814