

SENATE BILL 353

C2

11r1697
CF 11r1750

By: **Senator Pugh**

Introduced and read first time: February 2, 2011

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Cemeteries – Perpetual Care and Preneed Burial Contracts Trust Accounts –**
3 **Report Filing Deadline Extension**

4 FOR the purpose of authorizing the Director of the Office of Cemetery Oversight to
5 grant to certain persons subject to certain trust requirements under certain
6 provisions of law a certain extension of time in which to file certain reports
7 relating to the perpetual care trust fund of a cemetery and the preneed burial
8 contracts trust account of a seller of preneed goods and services; clarifying
9 language; making a stylistic change; and generally relating to cemeteries and
10 report filing deadlines for perpetual care and preneed burial contract trust
11 accounts.

12 BY repealing and reenacting, with amendments,
13 Article – Business Regulation
14 Section 5–606 and 5–710
15 Annotated Code of Maryland
16 (2010 Replacement Volume and 2010 Supplement)

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

19 **Article – Business Regulation**

20 5–606.

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

24 (2) The records of each sole proprietor registered cemeterian, permit
25 holder, or any other person subject to the trust requirements of this subtitle and of

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 each trustee appointed by the sole proprietor registered cemeterian, permit holder, or
 2 any other person subject to the trust requirements of this subtitle are subject to
 3 examination by:

4 (i) the Director;

5 (ii) the Attorney General or an authorized representative of the
 6 Attorney General; and

7 (iii) the State's Attorney for the county where the cemetery
 8 owner does business or where the cemetery is located.

9 (b) (1) **(I) [Each] SUBJECT TO SUBPARAGRAPH (II) OF THIS**
 10 **PARAGRAPH, EACH** sole proprietor registered cemeterian, permit holder, or any other
 11 person subject to the trust requirements of this subtitle shall submit a report to the
 12 Director within 120 days after the close of each calendar or other fiscal year chosen by
 13 the sole proprietor registered cemeterian, permit holder, or any other person subject to
 14 the trust requirements of this subtitle.

15 **(II) THE DIRECTOR MAY GRANT A SOLE PROPRIETOR**
 16 **REGISTERED CEMETERIAN, PERMIT HOLDER, OR ANY OTHER PERSON SUBJECT**
 17 **TO THE TRUST REQUIREMENTS OF THIS SUBTITLE AN EXTENSION OF NOT MORE**
 18 **THAN 60 DAYS TO SUBMIT THE REPORT REQUIRED UNDER THIS SECTION.**

19 (2) The report shall:

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

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

23 (iii) be accompanied by a trustee's summary statement of assets;

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

25 (v) include:

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

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

31 3. the amount of money in each perpetual care trust
 32 fund at the beginning of the calendar or other fiscal year chosen by the sole proprietor

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

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

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

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

12 7. the name and address of each trustee.

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

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

20 (c) The Director may adopt regulations:

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

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

25 5-710.

26 (a) (1) Each seller shall keep detailed records of all preneed burial
27 contracts and specific funds.

28 (2) The records of each seller and of each trustee appointed by the
29 seller are subject to examination by:

30 (i) the Director;

31 (ii) the Attorney General or an authorized representative of the
32 Attorney General; and

1 (iii) the State's Attorney for the county where the seller does
2 business.

3 (b) (1) **(I) [Each] SUBJECT TO SUBPARAGRAPH (II) OF THIS**
4 **PARAGRAPH, EACH** seller subject to the trust requirements of this subtitle shall
5 submit a report to the Director within 120 days after the close of each calendar or
6 other fiscal year chosen by the seller.

7 **(II) THE DIRECTOR MAY GRANT A SELLER SUBJECT TO THE**
8 **TRUST REQUIREMENTS OF THIS SUBTITLE AN EXTENSION OF NOT MORE THAN**
9 **60 DAYS TO SUBMIT THE REPORT REQUIRED UNDER THIS SECTION.**

10 (2) The report shall:

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

12 (ii) be certified by a certified public accountant retained by the
13 seller;

14 (iii) be accompanied by a trustee's summary statement of assets;

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

16 (v) include:

17 1. the name of the seller;

18 2. each location of the seller;

19 3. the amount of money that the seller received during
20 that year that is subject to the trust requirements of this subtitle;

21 4. the amount of money actually deposited into trust
22 accounts in that year;

23 5. the amount of money required to be disbursed from
24 the trust accounts in that year;

25 6. the amount of money actually disbursed from the
26 trust accounts in that year; and

27 7. the name and address of the trustee.

28 (3) (i) A seller of preneed goods or preneed services that sells its
29 business, files a petition in bankruptcy, or ceases to operate shall provide written
30 notice within 15 days:

1 1. to the Director, detailing the changes and the
2 arrangements the seller has made for carrying out the preneed burial contracts and
3 the disbursement of any moneys held in an escrow or trust account; and

4 2. to each buyer of a preneed burial contract, advising
5 the buyer of the buyer's options under State law in regard to the preneed contract.

6 (ii) Nothing in this paragraph exempts a seller of preneed goods
7 or services that sells its business, files a petition in bankruptcy, or ceases to operate
8 from filing the annual report required under this section.

9 (c) A seller of a preneed burial contract shall provide each buyer or
10 prospective buyer with a general price list for the buyer or prospective buyer to keep
11 which shall include:

12 (1) specific prices for:

13 (i) ground opening and closing;

14 (ii) extra depth interment;

15 (iii) interment of cremated remains; and

16 (iv) mausoleum entombment; and

17 (2) general price ranges for burial space or preneed goods.

18 (d) A seller of a preneed burial contract shall disclose to the buyer:

19 (1) all goods and services that are reasonably expected to be required
20 at the time of need that are not included in the preneed burial contract;

21 (2) the buyer's cancellation and refund rights under § 5-709 of this
22 subtitle;

23 (3) the person responsible for installation of the goods sold and any
24 warranties for the goods sold; and

25 (4) if the preneed contract provides for goods or services to be
26 delivered or performed before death:

27 (i) that interest or finance charges may be imposed;

28 (ii) that interest or finance charges are not allowed on other
29 preneed burial contracts that do not provide for goods or services to be delivered or
30 performed before death;

1 (iii) the manner of delivery of goods including where the goods
2 are stored; and

3 (iv) the buyer's remedy if delivered goods are damaged or
4 destroyed.

5 (e) The Director may require a seller to correct any underfunding, including
6 interest, due to the preneed trust account.

7 (f) The Director may adopt regulations:

8 (1) to administer this section; and

9 (2) for determining whether sellers are complying with this subtitle.

10 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
11 October 1, 2011.