

COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, MARYLAND

2000 Legislative Session

Bill No. CB-98-2000

Chapter No. 87

Proposed and Presented by Council Member Estep

Introduced by Council Member Estep

Co-Sponsors _____

Date of Introduction October 24, 2000

BILL

1 AN ACT concerning

2 Cemeteries

3 For the purpose of providing for the licensing of cemeteries, imposing standards of operation,
4 and providing remedies for violation.

5 BY adding:

6 SUBTITLE 2. ADMINISTRATION.

7 Sections 2-475, 2-476, 2-477, 2-478, 2-479,

8 2-480, 2-481, 2-482, 2-483, 2-484, 2-485,

9 2-486, 2-487, and 2-488,

10 The Prince George's County Code

11 (1999 Edition).

12 SECTION 1. BE IT ENACTED by the County Council of Prince George's County,
13 Maryland, that Sections 2-475, 2-476, 2-477, 2-478, 2-479, 2-480, 2-481, 2-482, 2-483, 2-484, 2-
14 485, 2-486, 2-487, and 2-488 of the Prince George's County Code be and the same are hereby
15 added:

16 SUBTITLE 2. ADMINISTRATION.

17 DIVISION 38. CEMETERIES.

18 Sec. 2-475. Definitions.

19 In this Division the following words have the meanings indicated.

20 (a) "Burial goods" means goods that are used in connection with burial.

21 (1) "Burial goods" includes:

- A. Casket;
- B. A grave liner;
- C. A memorial;
- D. A monument;
- E. A scroll;
- F. An urn;
- G. and a vault.

(b) "Cemetery" means land used or to be used for burial. "Cemetery" includes a structure used or to be used for burial.

(c) "Director" means the Director of the Office of Business and Regulatory Affairs, or the Director's designee.

(d) "Engage in the operation of a cemetery" means owning, controlling, or managing a cemetery, including performing activities necessary for:

- (1) the establishment or improvement of a cemetery.
- (2) interment; and
- (3) the care, preservation, or embellishment of a cemetery.

(e) "Interment" means all final disposition of human remains, including:

- (1) earth burial;
- (2) mausoleum entombment; and
- (3) niche or columbarium interment.

(f) "Permit" means a permit issued by the Director to allow a person to engage in the operation of a cemetery or provide burial goods.

(g) "Preneed goods" means burial goods that are sold before the buyer's death;

- (1) "Preneed goods" does not include burial space.

(h) "Provide burial goods" means:

- (1) to sell, erect, or inscribe burial monuments;
- (2) to sell burial goods.

Sec. 2-476. Exemptions from title.

(a) The registration and permitting provisions of this title do not apply to:

- (1) a person who owns and operates a bona fide religious, nonprofit cemetery in the County and does not sell preneed goods; or

(2) a not for profit organization created before 1900 by an act of the General Assembly.

(3) the operation of a funeral establishment, including the sale of burial goods in the ordinary course of the funeral establishment's business;

(4) a person currently and validly licensed to engage in the operation of a cemetery or provide burial goods pursuant to Title 5 of the Business Regulation Article of the Annotated Code of Maryland.

Sec. 2-477. Powers and duties of the Director.

(a) The Director shall adopt rules and regulations to carry out this Division;

(b) The Director may conduct an investigation and an inspection of the records and site of a person engaged in the operation of a cemetery.

(c) The Director may issue a subpoena for the attendance of a witness to testify or for the production of evidence in connection with any investigation or hearing conducted in accordance with this section. If a person fails to comply with a subpoena issued under this subsection, on petition of the Director, a circuit court may compel compliance with the subpoena.

(d) The Director may sue in the name of the County to enforce any provision of this Division by injunction.

(e) The Director may issue a cease and desist order, if the Director finds a violation of this Division.

(f) The Director may issue a civil citation, if the Director finds a violation of this Division.

(g) The Director may refer to the Office of Law:

1. a violation of this Division for enforcement; and

2. an alleged unfair or deceptive trade practice under State or County law.

(h) The Director shall maintain a list of all permit holders.

Sec. 2-478. Registration.

(a) A person shall register with the Director before:

1. engaging in the operation of a cemetery in the County; or

2. providing burial goods in the County.

Sec. 2-479. Registration requirements.

(a) In order to register, an applicant shall meet the requirements of this section.

(b) The applicant must be at least 18 years old.

1 (c) The applicant must be of good character and reputation.

2 (d) The cemetery or burial goods business with which the applicant is affiliated must be
3 financially stable in accordance with Section 12-207 of this subtitle.

4 **Sec. 2-480. Registration procedure.**

5 (a) An applicant shall register by:

6 1. submitting to the Director an application on the form that the Director provides;
7 and

8 2. paying a nonrefundable application fee of \$500.00.

9 (b) The application shall state:

10 1. the name, date of birth, and residential address of the applicant;

11 2. the name and fixed address of the affiliated cemetery or burial goods business;

12 3. whether the cemetery or burial goods business with which the applicant is
13 affiliated is owned or controlled by a partnership, limited liability company, or corporation;

14 4. the name and residential address of each employee who sells cemetery goods or
15 services to the public for applicant while engaging in the operation of a cemetery or burial goods
16 business; and

17 5. any other reasonable information that the Director determines is necessary to
18 carry out this Division.

19 **Sec. 2-481. Financial stability.**

20 (a) Each applicant shall demonstrate the financial stability of the cemetery or burial goods
21 business with which the applicant is affiliated by providing the Director with a financial
22 statement with the application for registration.

23 (b) If the applicant is an existing business, the financial statement shall:

24 1. be on the form that the Director requires;

25 2. contain a statement by a certified public accountant employed by the applicant,
26 detailing the assets and liabilities of the cemetery or burial goods business for the last fiscal year;
27 and

28 3. contain an opinion by the certified public accountant as to the financial stability of
29 the cemetery or burial goods business.

30 (c) If the applicant is a new business, the financial statement shall:

31 1. be on a form that the Director requires; and

2. satisfy criteria that the Director adopts to determine the financial stability of applicants that are new businesses or existing businesses.

Sec. 2-482. Issuance of permit.

(a) The Director shall issue a permit to an applicant who meets the requirements of this Division.

Sec. 2-483. Cemetery operation.

(a) Subject to the provisions of this section, a person may engage in the operation of a cemetery or burial goods business as a sole proprietor or through:

1. a corporation as an officer, director, employee or agent of the corporation;
2. a limited liability company as a member, employee or agent of the limited liability company; or
3. a partnership as a partner, employee, or agent of the partnership.

(b) Subject to the provisions of this Division, a corporation, limited liability company, or partnership may engage in the operation of a cemetery or burial goods business through a registered person.

(c) A registered person who engages in the operation of a cemetery through a corporation, limited liability company, or partnership under this title is subject to all of the provisions of this title that relate to engaging in the operation of a cemetery or the provision of burial goods.

(d) A corporation, limited liability company, or partnership that engages in the operation of a cemetery or burial goods business under this title is not, by its compliance with this title, relieved of any responsibility that the corporation, limited liability company, or partnership may have for an act or an omission by its officer, director, member, partner, employee, or agent.

(e) An individual who engages in the operation of a cemetery or burial goods business through a corporation, limited liability company, or partnership is not, by reason of the individual's employment or other relationship with the corporation, limited liability company, or partnership, relieved of any individual responsibility that the individual may have regarding that practice.

Sec. 2-484. Reports.

(a) Each permit holder shall submit a report to the Director within 120 days after the close of each calendar or other fiscal year chosen by the permit holder.

(b) The report shall:

- (1) be on the form that the Director requires;
- (2) be accompanied by a fee of \$100.00; and
- (3) include the name of the permit holders and each location of the permit holder.

Sec. 2-485. Enforcement.

(a) If the Director finds that a permit holder has violated this Division, Director may refer the matter to:

- (1) the County Attorney for civil enforcement; or
- (2) the State's Attorney for criminal prosecution.

(a) The County Attorney may sue for and a court may grant:

- (1) injunctive or other equitable relief;
- (2) imposition of a civil penalty not exceeding \$5,000.00; or
- (3) both.

Sec. 2-486. Prohibited acts.

(a) A permit holder may not sell or offer to sell to a member of the public a burial lot or burial right in a cemetery and represent to the public in any way, express or implied, that the cemetery or the burial lot or burial right in the cemetery will have perpetual care unless the registered permit holder has provided adequately for that perpetual care.

Sec. 2-487. Cemetery in violation of division.

(a) A person may not establish or operate a public or private cemetery or allow a public or private cemetery to be operated in violation of this division.

(b) Except as otherwise provided in this title, an individual may not engage in the operation of a cemetery or engage in a burial goods business or attempt to provide burial goods unless the individual is a permit holder.

(c) Unless a person is a permit holder, a person may not represent to the public, by use of a title, by description of services, methods, or procedures, or otherwise, that the person is authorized to engage in the operation of a cemetery or provide burial goods.

(d) No person may conduct an interment without holding a valid and unexpired permit issued pursuant to this Division.

(e) No person may perform a disinterment without the prior written approval of the Director, the Health Officer, and the State's Attorney for Prince George's County.

(f) In addition to notification of authorities required pursuant to State law, a person

1 engaged in the operation of a cemetery shall notify the Director promptly of excavation on
2 cemetery property that disinters loose human remains. The Director shall notify appropriate
3 authorities. A person engaged in the operation of a cemetery shall make reasonable efforts to
4 identify the loose human remains and shall reinter or dispose of the loose human remains in a
5 manner consistent with State law and rules adopted by the Director.

6 **Sec. 2-488. Penalty.**

7 A person who violates this division is guilty of a misdemeanor and on conviction is subject
8 to a fine not exceeding \$1,000.00 or imprisonment not to exceed six (6) months or both.

9 SECTION 2. BE IT FURTHER ENACTED that the provisions of this Act are hereby
10 declared to be severable; and, in the event that any section, subsection, paragraph, subparagraph,
11 sentence, clause, phrase, or word of this Act is declared invalid or unconstitutional by a court of
12 competent jurisdiction, such invalidity or unconstitutionality shall not affect the remaining
13 words, phrases, clauses, sentences, subparagraphs, paragraphs, subsections, or sections of this
14 Act, since the same would have been enacted without the incorporation in this Act of any such
15 invalid or unconstitutional word, phrase, clause, sentence, subparagraph, subsection, or section.

16 SECTION 3. BE IT FURTHER ENACTED that this Act shall take effect forty-five (45)
17 calendar days after it becomes law.

Adopted this 21st day of November, 2000.

COUNTY COUNCIL OF PRINCE
GEORGE'S COUNTY, MARYLAND

BY: _____
Dorothy F. Bailey
Chair

ATTEST:

Joyce T. Sweeney
Clerk of the Council

APPROVED:

DATE: _____ BY: _____
Wayne K. Curry
County Executive

KEY:
Underscoring indicates language added to existing law.
[Brackets] indicate language deleted from existing law.