



Funeral Consumers Alliance of Maryland and Environs

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

HB 556 - Opposition

Testimony for the House Committee on Health & Government Operations of the Maryland General Assembly

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Chairman Hammen and Members of the Committee:

Thank you for the opportunity to appear before you today to express the opposition of the Funeral Consumers Alliance of Maryland and Environs to House Bill 556. HB 556 would authorize a cemetery to seek forfeiture of the right to interment in the cemetery if the interment right has not been used and it has been at least 50 years since the cemetery's records indicate the last instruction as to use was received by the cemetery from the owner of that right or a member of the family of the owner.

Our organization is the volunteer-run, regional chapter of the national non-profit Funeral Consumers Alliance. The 100 or so chapters of the Funeral Consumers Alliance across this country are dedicated to helping the consumer be more informed about after-death care, and protecting the public from fraud and abuse in funeral and burial transactions. I am vice president of the local chapter, which has more than 300 members in Maryland who take an active interest in funeral and burial-related topics.

During the 1970's and 1980's, the Funeral Consumers Alliance helped push for the successful passage of the Federal Trade Commission's Funeral Rule, which set minimum standards for funeral homes in their interactions with the consumer.

Unfortunately, the federal government so far has turned a blind eye to regulating graveyards, which makes state rules regarding cemeteries and their practices all the more important.

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Let me first acknowledge that the vast majority of cemeteries in our state perform a useful service to the public. This testimony is not intended to impugn the integrity of all cemetery businesses or their owners, but instead is a reminder that rules and regulations are created by governments to protect the public from those who may not always act in the consumer's best interest.

Our consumer organization believes there is a number of problems with HB 556 as it is now written that warrant this committee giving it an unfavorable report.

1. HB 556 would take away the purchased right to interment after insufficient time. At least 75 years would be a more appropriate period of time to have passed before forfeiture should be considered because people are living so much longer now.
2. HB 556 does not require sufficient due diligence, including use of multiple communications channels, to locate the current owner of the right to interment since we live in a very mobile society now. It is not unusual today for individuals to have moved away to pursue higher education, career advancement or other personal interests while still seeking to maintain connection with where they were raised.
3. Families understandably may regard burial plots, that they or their forbearer's purchased, to be "family property" and not think it necessary to periodically check in with a cemetery to maintain their right to interment there even if a generation is skipped before the plots are used.
4. If the cemetery located an owner who no longer wanted the right to interment, it would be unreasonable to refund only the original amount paid because the cemetery has had use of the funds from the original purchase for 50 years or more.
5. If a burial has occurred within the preceding 75 years in a portion of a larger block purchased in the cemetery for interment of a number of family members, all adjacent, unused plots in the block should be removed from consideration of possible forfeiture of right to interment. HB 556 does not even address such a situation.
6. There are no agreed upon standards of record keeping by cemeteries in Maryland currently. Also, state cemetery inspectors do not examine right of interment records during their periodic inspections to ensure such records are being maintained in a reasonable manner. It is therefore unrealistic to expect the records of all cemeteries would fully indicate such things as:

- when each right to interment was purchased and last used by family members,
- what funds were received in each transaction for particular burial plots,
- when each owner or a member of his family last contacted the cemetery concerning use of their right to interment, and
- what each owner's address was when they last interacted with the cemetery.

We need look no further than Arlington National Cemetery to recognize the challenge that cemeteries have in maintaining complete records.

7. An independent regulatory authority such as the Maryland Department of Labor, Licensing and Regulation's Office of Cemetery Oversight should be required to review and approve all cemetery applications to reclaim a right to interment. This would ensure compliance with all requirements of the law including that sufficient due diligence was completed to locate the owner or survivors. Whether that state office has the resources necessary to handle such requests is a separate question.

Let me note before concluding this testimony that our organization believes it would be possible to have legislation drafted with a similar purpose that, unlike HB 556, would adequately protect the consumer while addressing a cemetery's legitimate desire to fully utilize their land.

In summary, HB 556 has far, far too many problems as now written. The Funeral Consumers Alliance of Maryland & Environs strongly opposes HB 556 and respectfully urges an unfavorable report on it by this committee.