



Funeral Consumers Alliance of Maryland and Environs

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

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

Testimony on: HB 949 (Cemeteries - Perpetual Care Trust Fund - Loan of Principal for Capital Expenditures)

Position: Oppose

Hearing date: February 24, 2016

Thank you for the opportunity to provide testimony in opposition to HB 949 which would authorize a percentage of the principal of a cemetery's perpetual care trust fund to be loaned to various individuals associated with the perpetual care trust fund to be used for capital expenditures for the repair of mausoleum roofs and roads.

To understand the impact this bill might have, it's useful to understand how perpetual care trust funds at cemeteries are funded, and what purpose the trust funds are supposed to serve.

The cemetery owner or permit holder provides the initial deposits into the trust fund (as specified by Maryland law), with the amount determined by the size of the property, whether the cemetery will be non-profit or for-profit, and whether the cemetery will sell burial goods. Also, at least 10% of the actual selling price of each right of interment in a burial plot, crypt or niche must be deposited in the perpetual care fund.

A cemetery's perpetual care fund is intended to generate income to be used only for the perpetual care of the cemetery including maintenance, repair and renewal of the cemetery grounds and buildings now as well as in the future when most or all burial plots have been sold and there is little or no earnings being generated for the cemetery owners. The trust fund needs to have enough money in it 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.

Maryland law clearly indicates in Business Regulation, Section 5-603 (g) that the perpetual care trust fund "shall be a single purpose trust fund," not be subject to judgment, garnishment or other seizure for use in bankruptcy or similar proceeding, and "shall be retained intact to provide for the future maintenance of the cemetery."

How then can one reasonably justify any loan of the principal of a perpetual care fund? Permitting this to happen would be totally contrary to the intent and purpose of perpetual care trust funds. Also, effective supervision of the implementation and payback of such loans would be quite a difficult task without the addition of more staff for the Office of Cemetery Oversight which already is kept quite busy handling its existing regulatory responsibilities.

In summary, HB 949 is a bad idea that is not deserving of your support. FCAME strongly encourages this committee to issue an unfavorable report on HB 949.

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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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