

**REPORT OF THE
COMMISSION ON LOCAL GOVERNMENT**

**LOCAL GOVERNMENT ISSUES
RELATED TO NEGLECTED OR
ABANDONED FOR-PROFIT
CEMETERIES**

**TO THE GOVERNOR AND
THE GENERAL ASSEMBLY OF VIRGINIA**



SENATE DOCUMENT NO. 11

**COMMONWEALTH OF VIRGINIA
RICHMOND
1998**

Commission on Local Government

Members*

James J. Heston, Chairman
Geline B. Williams, Vice Chairman
William S. Hubbard
Frank Raflo

* The fifth position on the Commission remained vacant following the death of Harold S. Atkinson during the course of the year.

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I. EXECUTIVE SUMMARY

Pursuant to the request set forth in Senate Joint Resolution 319, the Commission on Local Government, in cooperation with the Department of Agriculture and Consumer Services, the Virginia Association of Counties, the Virginia Municipal League, and the Virginia Cemetery Association, examined "the local government issues related to the upkeep and maintenance of certain neglected or abandoned for-profit cemeteries." The resolution directed the Commission to exclude from its study not-for-profit private cemeteries.

As a consequence of its analysis of the issues, the Commission concluded that there exists a need (1) to strengthen the State's oversight of for-profit cemeteries, (2) to extend and refine measures to ensure the integrity and adequacy of the trust funds established by cemetery companies for the maintenance of their facilities, (3) to clarify and extend the authority of local government with respect to the operation and maintenance of cemeteries, and (4) to provide more effective means of protecting the public's interests.

The Commission's study also disclosed a disparity in the scope and nature of the law governing funeral homes and cemeteries in Virginia. The legal framework applicable to cemeteries is less extensive than that governing the operation of funeral homes in the State. The difference in the degree of public oversight of the two industries is relevant to the issues addressed in this study due to the emergence of corporate bodies that provide both funeral and cemetery services. Based upon this emerging reality and the interdependence of the two industries, the Commission concluded that a single State body should be established to oversee the functioning of both funeral homes and cemeteries in Virginia. To that end, the Commission proposes that the responsibility of the Board of Funeral Directors and Embalmers be broadened to include the authority to oversee and regulate for-profit cemeteries, with the name and composition of that body being changed to reflect its expanded authority. With respect to the regulation of for-profit cemeteries, the Commission recommends that the restructured organization be given the authority (1) to register such facilities and their sales personnel, (2) to prescribe in detail the financial records to be maintained by cemetery operators, (3) to establish guidelines for use by commissioners of revenue in maintaining the integrity and adequacy of the trust funds created by cemeteries, and (4) to develop a model ordinance to guide local governments in the development of local ordinances for overseeing the operation and maintenance of burial grounds. Although the Commission recommends no general statewide increase in minimum trusting levels for cemeteries, it suggests that the General Assembly direct the proposed new State regulatory body or other appropriate entity to examine this issue at some point in the future.

II. SCOPE OF STUDY

Senate Joint Resolution No. 319 requested the Commission on Local Government, in cooperation with the Department of Agriculture and Consumer Services, the Virginia Association of Counties, the Virginia Municipal League, and the Virginia Cemetery Association, to study the "local government issues related to the upkeep and maintenance of certain neglected or abandoned cemeteries."¹ In identifying the facilities to be studied, the resolution directed the Commission to exclude from consideration "not-for-profit private cemeteries such as those owned or operated by descendants or families of those interred therein, churches, synagogues, religious sects, or other benevolent associations." With respect to issues to be addressed in the study, the resolution specifically requested the Commission to include in its analysis of the for-profit facilities (1) the need for the establishment of minimum standards for the operation and maintenance of cemeteries, (2) the adequacy of perpetual care trust funds established for the operation and maintenance of cemeteries, and (3) the effectiveness of consumer protection laws to ensure that local governments and the families of those interred in cemeteries have effective recourse if such facilities are not adequately maintained. The Commission's research, aided by the various entities listed above, focused on those specified concerns.

III. PROCEEDINGS OF THE COMMISSION

On May 5, 1997 the Commission met with representatives of the Virginia Municipal League, the Virginia Association of Counties, the Virginia Cemetery Association, and the Virginia Department of Agriculture and Consumer Services for purposes of receiving preliminary comment from those entities regarding the issues under consideration and for planning the conduct of the study. Consistent with decisions made at that session, the Commission held hearings in Blacksburg on June 3, in Richmond on July 14, in Bedford on August 19, and devoted additional meetings to consideration of the issues in Richmond on September 2 and November 17. The Commission received testimony at those sessions by the above-referenced organizations and from other interested parties, including the Association of Independent Funeral Homes of Virginia, the Commissioners of Revenue Association of Virginia, the Plot and Entombment Association of Monta Vista Memory Gardens and Mausoleum located in the City of Galax, individual localities, and members of the public. Accordingly, the Commission is indebted to those entities and individuals for their comments and assistance with this study.

¹See Appendix A for the text of Senate Joint Resolution No. 319.

IV. SUMMARY OF PRINCIPAL ISSUES AND CONCERNS

SYNOPSIS OF TESTIMONY

The specific issue which gave rise to Senate Joint Resolution No. 319 (SJR 319) was pervasive dissatisfaction with the operation and maintenance of a for-profit cemetery located in the City of Galax. According to the records of the Office of Consumer Affairs (OCA) in the Department of Agriculture and Consumer Services (DACCS), 84 complaints were registered with that agency by individuals and families having an interest in that cemetery between February and June 1997 regarding the operation and maintenance of that specific facility.² Testimony presented to the Commission at the public hearing in Blacksburg indicated, generally, that the complaints registered against that facility had not been effectively addressed by the cemetery owner. According to information compiled by the OCA, that cemetery, which was founded in 1957, has had a history of legal and financial difficulty regarding the mismanagement of trust funds and noncompliance with other provisions of Virginia law. Those problems have reduced the capacity, it appears, of the current owner of that cemetery to provide the proper operation and maintenance of the burial grounds.

While the problems associated with the Galax facility and the incidence of complaint regarding that cemetery are clearly atypical of the general management of for-profit cemeteries in Virginia, the facility in Galax is not the only burial grounds in the Commonwealth to have been the subject of formal complaint in recent years. According to the records of the OCA, at least 50 complaints were registered against other cemeteries in the Commonwealth from 1995 through July 1997.³ Thus, public concern regarding the operation and maintenance of for-profit cemeteries in Virginia has not been limited to a single facility.

As a consequence of the incidence of discontent regarding the operation and maintenance of the cemetery in Galax, the governing body of that municipality has been confronted with requests that it take action to improve conditions in that cemetery. Those requests have raised concern with the City that the municipality might be required to assume financial

²Virginia Department of Agriculture and Consumer Services, Office of Consumer Affairs, tabulation presented to the Commission on Local Government, June 3, 1997.

³During the period between 1995 and 1997 the number of cemeteries registered in Virginia has ranged between 110 and 115. The largest number of complaints registered against a single cemetery other than the facility in the City of Galax was six.

responsibility for the operation and maintenance of that burial facility.⁴ Concern regarding the possibility that local governments might be required to assume responsibility for poorly maintained and financially incapacitated private cemeteries was expressed to this Commission by other Commonwealth localities. The experience of local governments with cemeteries has revealed that those facilities do constitute sources of potential public cost. A survey of the Commonwealth's cities and towns conducted by the Virginia Municipal League in the spring of this year indicated that 18 of its member jurisdictions had received complaints regarding the inadequate maintenance of for-profit cemeteries and that in 14 instances the locality had voluntarily taken action to assist with the upkeep of the grounds in question.⁵ A similar survey conducted concurrently by the Virginia Association of Counties indicated that difficulties with various categories of cemeteries had been experienced by six of its member jurisdictions.⁶ In sum, the evidence presented to this Commission suggests the need to strengthen the State's regulation of for-profit cemeteries, to assure their financial capacity to maintain their facilities, to clarify the role and responsibility of local government in overseeing the operation and maintenance of burial grounds, and to provide the public more effective means of having complaints addressed.

In addition to receiving testimony regarding the issues raised specifically by SJR 319, the Commission was also apprised of the considerable disparity in the breadth and nature of the laws governing funeral homes and cemeteries in Virginia. Testimony indicated that, while a significant network of law and regulation governed the operation of funeral homes in Virginia, the legal framework applicable to cemeteries provided substantially less public oversight. This disparity in the degree of public oversight of the two industries is of relevance to the issues addressed in this study due to the emergence of corporate entities providing both funeral home and cemetery services. While the emergence of such corporate entities was a principal point of concern in the study concurrently undertaken by the Board of Health Professions pursuant to House Joint Resolution No. 553 (1997), that phenomenon also merits note and comment in this report.

⁴See Appendix B for a statement by Daniel J. Campbell, City Manager, City of Galax, relative to this issue.

⁵The Virginia Municipal League survey data were tabulated and presented to the Commission by memorandum dated May 28, 1997. The same survey indicated that 23 Virginia municipalities had reported problems associated with the not-for-profit cemeteries. See Appendix C for the Virginia Municipal League's survey instrument and a tabular presentation of the survey results.

⁶The Virginia Association of Counties' survey statistics were tabulated and presented to the Commission on June 17, 1997. See Appendix D for a summary and a tabular presentation of the results from the Virginia Association of Counties' survey.

CURRENT LEGAL CONTEXT IN VIRGINIA

Under current law, entities operating for-profit cemeteries in Virginia are required to register annually with the OCA in the DACS and to pay an annual registration fee of \$300. Subsequent to each registration, the OCA is required (1) to notify the commissioner of revenue serving the jurisdiction in which the cemetery is located that the registration has been effected and (2) to "inform the commissioner of his duties" as prescribed by law.⁷ Once the annual registration and notification have been performed, oversight of for-profit cemeteries devolves upon the local commissioner of revenue.

The duties of the commissioner of revenue are focused essentially on the oversight of trust accounts which are established by cemeteries. Any for-profit cemetery company advising the public that graves or entombments within its facility "will be perpetually cared for" is required to establish a perpetual care trust fund "in a bank, savings and loan, or other federally insured investment banking institution" doing business in Virginia and to make an initial deposit of at least \$25,000 prior to the sale of any burial site.⁸ In addition, each cemetery company offering perpetual care is required to add to its trust fund a "minimum" of 10% of its receipts from the sale of graves and above-ground crypts and niches.⁹ Once a cemetery company has deposited in its perpetual care trust fund a sum equal to triple the amount of its original deposit, it may withhold future deposits to the trust account until its original deposit is recovered.¹⁰

These perpetual care trust accounts are managed by trustees appointed by the cemetery company. If the cemetery company appoints as trustee of the trust fund any entity other than a bank, savings and loan, or other federally insured investment banking institution doing business in the Commonwealth, such trustee must be approved by the commissioner of revenue and must provide a fidelity bond payable to the trust account.¹¹ The commissioner of revenue is empowered to initiate court action to remove any trustee that has been appointed with the commissioner's approval and to

⁷Sec. 57-35.11:1, Code of Va.

⁸Sec. 57-35.13, Code of Va.

⁹Sec. 57-35.15, Code of Va.

¹⁰Sec. 57-35.17, Code of Va.

¹¹Sec. 57-35.14, Code of Va. The fidelity bond is required to be "not less than 100 percent" of the value of the principal at the beginning of each calendar year.

impound the property and business of the trustee in instances in which dishonesty, incompetence, or recklessness in the management of the trust fund is suspected.¹²

The income from the perpetual care trust fund is required by law to be used solely and exclusively for the "general care, maintenance, administration and embellishment of the cemetery."¹³ Each cemetery company establishing a perpetual care trust fund is directed to maintain detailed accounts of all transactions, receipts, accounts receivable, and expenditures affecting that fund.¹⁴ At the close of each fiscal year, each cemetery company maintaining a perpetual care trust fund is required to submit a report containing information, as specified by statute, regarding receipts and expenditures from that fund to the commissioner of revenue.¹⁵ The cemetery company is also directed by law to employ an independent certified public accountant to audit and provide assurance to the commissioner of revenue that, with respect to specified fiscal issues, the report is "true and correct."¹⁶ In addition, commissioners of revenue are authorized by law to examine all records maintained by cemetery companies regarding receipts and expenditures affecting perpetual care trust funds.¹⁷ Although these provisions provide a basically sound framework for the oversight of perpetual care trust funds, they do require, in our judgment, clarification and strengthening.

While SJR 319 directed this Commission's attention towards the adequacy of perpetual care trust funds and the sufficiency of public oversight of their management, testimony presented to this body also raised issues concerning a second category of trust accounts maintained by cemeteries. Current statutory provisions in Virginia require cemetery companies to establish a separate "preneed trust account" for the deposit of a percentage of funds derived from sales of property or services which will be provided pursuant to contract at some point more than 120 days after the initial contractual payment. Cemetery companies are required to place in trust

¹²Ibid.

¹³Sec. 57-35.18, Code of Va.

¹⁴Sec. 57-35.19, Code of Va.

¹⁵Sec. 57-35.20, Code of Va.

¹⁶Ibid. We note, however, that the present statute does not expressly require the submission of the audit to the commissioner of revenue.

¹⁷Sec. 57-35.19, Code of Va.

40% of their receipts from the sale of such property or services.¹⁸ With the exception of the difference in the percentage of sales receipts required to be placed in trust, the provisions regarding the recordkeeping and oversight of preneed trust funds parallel those which are applicable to perpetual care accounts. Cemetery records regarding preneed trust accounts are also "subject to examination by the commissioner of revenue."¹⁹

V. FINDINGS AND RECOMMENDATIONS

As requested, this Commission has examined the local governmental issues related to the operation and maintenance of for-profit cemeteries. As a result of that examination, we find that there exists a need (1) to prescribe minimum standards for the operation and maintenance of cemeteries, (2) to clarify and strengthen the legal framework for the oversight of trust funds, and (3) to increase the capacity of local governments and persons holding burial rights in cemeteries to have their complaints addressed in a timely and effective manner. In our judgment, the recommendations presented below are reasonable and appropriate steps to address those needs.

STATE REGULATORY BOARD

Regulatory oversight of cemeteries in Virginia, which is restricted to those facilities operated for profit, is shared by the OCA in the DACS and the commissioners of revenue serving individual counties and cities. Under current law, the DACS, operating through its OCA, has only a limited regulatory role in the oversight of cemeteries in Virginia. That role consists only of the ministerial responsibility of annually registering for-profit cemeteries and subsequently apprising the commissioners of revenue that the registration has occurred and informing those officials of their oversight duties with respect to the registered facility. While the OCA does play a major role in the receipt and processing of consumer complaints through its mediation activities and by its service as a liaison between complainants and cemeteries, it has no regulatory authority over cemeteries beyond the registration and notification activity.²⁰

In our view, there is a need for the establishment of a State entity with broad authority to regulate for-profit cemeteries and to establish statewide

¹⁸Sec. 57-35.21, Code of Va.

¹⁹Sec. 57-35.26, Code of Va.

²⁰With respect to the Galax cemetery, the OCA distributed copies of the complaints received to the cemetery owner, the Virginia Cemetery Association, the Galax Commissioner of Revenue, and various municipal officials. In addition, staff of the OCA met with the Galax City Manager and numerous complainants in efforts to resolve concerns regarding that cemetery. Those efforts have had some positive results.

guidelines for use by commissioners of revenue and local governments in overseeing the operation of such cemeteries within their jurisdiction. With respect to the nature and responsibilities of this body, we recommend the following:

1. The responsibility of the Board of Funeral Directors and Embalmers (BFDE) should be broadened to include authority to oversee and regulate for-profit cemeteries, with its name and composition being changed to reflect its expanded authority.
2. The restructured State regulatory entity, as proposed above, should be authorized to issue regulations pursuant to statutory prescription and criteria regarding:
 - a) the registration of cemeteries;
 - b) the registration of personnel engaged in selling burial rights in cemeteries;
 - c) a definition of the term "perpetual care";
 - d) the detailed information which shall be recorded and maintained by cemeteries with respect to perpetual care and preneed trust accounts;
 - e) the detailed data which shall be submitted to the commissioners of revenue regarding the oversight of perpetual care and preneed trust accounts and the format in which such data shall be presented to those officials;
 - f) the details and itemized costs which shall appear on all sales contracts relative to burial rights, facilities, and services offered by cemeteries;
 - g) the specification of certain in-person sales practices which are proscribed for use by registered cemetery sales personnel;
 - h) the development of a model ordinance establishing criteria which shall prescribe and define the authority of localities to adopt ordinances governing the operation and maintenance of for-profit cemeteries;
 - i) the development of guidelines for use by commissioners of revenue in evaluating the adequacy of perpetual care and preneed trust accounts; and

- j) the development of a process by which it (i.e., the State regulatory entity) shall review, reject, or adopt and implement a change in the minimum trusting level of an individual cemetery as proposed by a commissioner of revenue.
- 3. As a prerequisite for the annual re-registration of a cemetery, the State regulatory entity should be required to obtain from the local commissioner of revenue, on forms prescribed by that entity, certification indicating that the cemetery is in compliance with all applicable State law and regulation subject to that official's oversight.

COMMISSIONERS OF REVENUE

Present statutory arrangements direct each for-profit cemetery in Virginia to submit to the commissioner of revenue serving the jurisdiction within which its burial facility is located, within four months following the close of its fiscal year, a report providing specified information regarding the two trust funds and assurances from an independent certified public accountant that the required deposits to those accounts have been made. Thus, local commissioners of revenue serve as repositories of specified financial reports and assurances submitted to them by for-profit cemeteries relative to perpetual care and trust funds. In addition, current law requires cemetery companies to maintain detailed records of all transactions regarding their perpetual care trust funds and states that "such records shall be subject to examination" by the commissioner of revenue.²¹ In our judgment, the current statutory language regarding the commissioner of revenue and the role of that official in the oversight of for-profit cemeteries requires clarification and extension. Accordingly, the Commission recommends the following:

- 1. The statutory provisions listing the various reports and documents to be submitted to the commissioner of revenue by for-profit cemetery companies should be amended to include expressly the audits performed by the certified public accountants with respect to the perpetual care and preneed trust accounts.
- 2. The Code of Virginia should be amended to expressly require commissioners of revenue to review critically all documents received from for-profit cemeteries and:
 - a) to advise the State regulatory entity of their findings and

²¹See Sec. 57-35.19, Code of Va.

- b) to advise the Commonwealth's attorney of any evidence of possible illegality or other impropriety revealed during the review of any cemetery report, record, or other document.
3. The Code of Virginia should be amended to authorize commissioners of revenue to recommend to the State regulatory entity, consistent with guidelines issued by that body and based upon the reports, audits, or other documents obtained from individual cemeteries, changes in the percentage of sales required to be placed in trust accounts by a cemetery.

LOCAL GOVERNMENTAL AUTHORITY

There is a need to increase, in our view, the authority and capacity of local governments to ensure the proper operation and maintenance of for-profit cemeteries. To this end, we recommend the following:

1. The Code of Virginia should be amended to authorize local governments to enact ordinances, not inconsistent with a model ordinance adopted by the State regulatory entity, regulating the establishment, operation, and maintenance of for-profit cemeteries.
2. These local ordinances should address such matters as public access, internal thoroughfares, drainage, minimum standards of operation and maintenance, and other elements not inconsistent with the model ordinance developed by the State regulatory entity.
3. Ordinances adopted by localities governing the establishment, operation, and maintenance of for-profit cemeteries should be authorized to include performance bonds, letters of credit, or other financial instruments to assure the local government of a cemetery's adherence to the various requirements of the ordinance. Satisfaction of any obligation of a cemetery company under the provisions of an ordinance should result in the release of the bond or other financial instrument applicable to that obligation. These financial provisions governing a cemetery's compliance with ordinance requirements should parallel those currently authorized for inclusion in subdivision ordinances.
4. The Code of Virginia should be amended to authorize local governments to petition the court for access to a perpetual care trust account, when a performance bond or other financial instrument is not available for the purpose, to perform the requisite care. Such public access to a trust fund, authorized under court discretion, provides an alternative means of assuring the proper care and maintenance of for-profit cemeteries.

TRUST FUNDS

The specific issue which prompted this study was the extensive number of complaints registered regarding the operation and maintenance of a cemetery located in the City of Galax. Testimony presented to this Commission indicated that a factor affecting the quality of the operation and maintenance of that cemetery has been the fact that the perpetual care trust fund established to maintain that facility was the subject of mismanagement by prior owners. While the misuse of the perpetual care trust fund established by the Galax cemetery is clearly an aberration from the norm in Virginia, its occurrence is sufficient to warrant a critical review of the statutory provisions governing the oversight of such funds. Our review of those provisions suggests the need to amplify and extend public oversight of the management and use of the trust funds.

With respect to perpetual care trust funds, a major point of concern during the course of the Commission's hearings was the adequacy of the perpetual care trust level currently imposed on cemeteries. While this Commission received considerable testimony suggesting that the percentage of sales receipts committed by for-profit cemeteries to perpetual care trust funds should be increased from the current 10% level to a higher percentage, we do not have sufficient evidence upon which to recommend such a general statewide change. There are currently no statistics available to this Commission indicating that the current mandatory minimum 10% perpetual care trusting level is generally insufficient to provide the funds needed for the operation and maintenance of for-profit cemeteries in Virginia.²² Although the adequacy of the minimum 10% trusting level is an appropriate subject for future analysis, this Commission cannot recommend a general statutory increase in that minimum percentage based on the evidence at hand.

With respect to the existing statutory arrangement regarding perpetual care trust funds, the Virginia Cemetery Association (VCA) has observed that current law does permit an increase in the minimum trust level for individual cemeteries. The VCA has noted that present law requires cemetery companies to make "adequate provision" for perpetual care²³ and that the statutory provision specifying a "minimum" deposit of 10% of sales receipts²⁴ merely establishes the lowest permissible

²²Interstate data collected by the Virginia Cemetery Association and submitted to the Commission on Local Government via letter dated September 29, 1997 indicate that approximately 20 states impose a trust requirement for perpetual care in excess of 10% of sales, with the largest being required by New Mexico (25%).

²³Sec. 57-35.13, Code of Va.

²⁴Sec. 57-35.15, Code of Va.

percentage. The VCA asserts that these provisions authorize the courts, upon appropriate petition, to increase the minimum trusting level for a cemetery where circumstances warrant. Thus, from the perspective of the VCA, current law sanctions increases in the perpetual care trust level for individual cemeteries where conditions dictate the propriety of such action.

Based upon our review of the existing statutory provisions, the testimony received, and the available data, the Commission recommends the following:

1. The State regulatory entity should be authorized, within constraints imposed by law, to increase the minimum perpetual care trust requirement applicable to individual for-profit cemeteries based upon the recommendation of the commissioner of revenue and substantiated by fiscal reports and records obtained from the relevant cemetery.
2. Section 57-35.18 of the Code of Virginia, which specifies the purposes for which income from perpetual care trust funds may be expended, should be amended to define the term "administration" in order to limit the use of trust funds for such activity. Under existing statutory language, income from perpetual care trust funds may be expended for "the general care, maintenance, administration and embellishment" of the relevant cemetery.
3. The State regulatory entity should be authorized to prescribe in detail the data and information relative to trust accounts to be submitted to the commissioner of revenue and to require a detailed explanation of the purpose of all expenditures and withdrawals from the trust accounts.
4. The Code of Virginia should be amended to require expressly that the audits of trust funds currently prescribed by Sections 57-35.20 and 57-35.27 be made annually.
5. The owner of a for-profit cemetery should be required to notify the commissioner of revenue of the initial establishment of a perpetual care or preneed trust fund and the institution within which the fund is placed within 7 days of its establishment.
6. The owner of a for-profit cemetery should be required to notify the commissioner of revenue of any intention to change the institution holding a trust account and to specify the reason for the proposed change at least 30 days in advance of the change.
7. The owner of a for-profit cemetery should be required to notify the commissioner of revenue of any intention to change the

trustee of any trust account and to specify the reason for the proposed change at least 30 days in advance of the change.

8. Any owner of a for-profit cemetery proposing to withhold deposits to a perpetual care trust fund as reimbursement for the initial deposit, as currently authorized by Section 57-35.17, should be required (a) to notify the trustee and the commissioner of revenue of such intention at least 30 days in advance of the commencement of the proposed withholdings, and (b) to certify that the recovery of the initial deposit has not previously been made from such fund.

ISSUES FOR FUTURE CONSIDERATION

Analysis of Minimum Trusting Requirements

As noted previously, this Commission received considerable testimony during the course of its deliberations regarding the adequacy of the minimum trusting levels imposed upon cemeteries with respect to both perpetual care and preneed trust accounts. Evidence does not presently exist, in our judgment, to warrant a recommendation that those minimum trusting levels be increased on a general statewide basis. We do, however, consider this issue to be appropriate for further analysis. Accordingly, this Commission recommends that the proposed new State regulatory entity, or other body with access to the requisite expertise and data, be directed by the General Assembly to examine periodically the adequacy of the trusting levels imposed on cemeteries with respect to both perpetual care and preneed trust accounts, as well as the sufficiency of initial deposit required with respect to perpetual care trust accounts.

Emergence of Entities with Funeral Home and Cemetery Holdings

During the course of this Commission's hearings testimony was presented regarding the emergence of corporate entities in Virginia engaged in both cemetery and funeral home activity. Among other concerns, that testimony pointed to disparities in the law regarding the trusting requirements imposed upon the two activities in terms of preneed contracts.²⁵ Under current law, for-profit cemetery companies entering contracts for the provision of property or burial services which are to be provided more than 120 days subsequent to the initial contractual payment are required to deposit 40% of their receipts from such sales in a trust

²⁵Blair H. Nelsen, President, Association of Independent Funeral Homes of Virginia, statement presented to the Commission on Local Government, July 14, 1997. See Appendix E.

account for purposes of meeting their future commitments. In contrast, current law requires funeral homes to place in trust 100% of their proceeds from similar preneed contract sales.²⁶

The disparity in trusting requirements has grown in significance with the advent of corporate entities concurrently offering both cemetery and funeral home services. In such circumstances, a corporate funeral home establishment owning a cemetery could sell, it appears, through the medium of its cemetery certain preneed items and services and escape the higher trusting requirements. This disparity in the trust requirements imposed upon cemeteries and funeral homes regarding the preneed sale of identical items is a situation ostensibly creating an inequitable trade environment. An immediate consequence of this disparity is to place those funeral homes without affiliated cemeteries at a legally imposed commercial disadvantage, with subsequent consequences being potentially detrimental to the general public. While these issues are beyond the scope of the study placed upon this Commission, we are obliged to note their existence and to recommend to the legislature continued attention to their potential ramifications.²⁷

Corporate Management of Municipal Cemeteries

The Commission was also apprised during the course of its study of instances in which municipalities have considered contracting with private firms for the operation and management of municipally owned cemeteries. Such an arrangement raises questions regarding the extent to which, if any, the private firm would be subject to State cemetery law and regulation. If such a private firm was to advertise the perpetual care of the burial sites within the municipally owned facility, current law is unclear whether a perpetual care trust account would be required and if such an account would be subject to statutory oversight. Again, while this issue appears beyond the scope of this study, it constitutes a matter which merits the future attention of the General Assembly.

State Assistance for Cemetery Rehabilitation

Evidence presented to the Commission revealed that some localities have confronted major expenses in assuming responsibility for the operation and maintenance of neglected or abandoned cemeteries. Many of these cemeteries have lacked the resources for proper maintenance, and others have been of unknown origin with no identifiable source of support. Often such facilities exist in localities already fiscally stressed for the provision of

²⁶Sec. 54.1-2822, Code of Va.

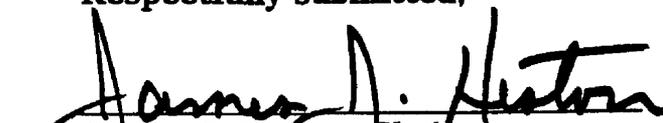
²⁷The ramifications of trends in the funeral industry, including the emergence of corporate entities engaging in both funeral home and cemetery activities, constituted a focal point of the study concurrently conducted by the Board of Health Professions pursuant to House Joint Resolution No. 553 (1997).

basic services to their residents. Recognizing the cost associated with the operation and maintenance of cemeteries, localities are extremely hesitant to accept this additional responsibility. As a consequence, many old cemeteries, some of which are of considerable historic significance to our Commonwealth, continue to deteriorate.²⁸ Accordingly, we recommend that the legislature consider the establishment of a program, at some point in the future, whereby some form of State assistance might be provided to localities confronting this dilemma.

VI. CONCLUDING COMMENT

In the preceding sections of this report the Commission has recommended a series of statutory modifications which address the issues referred to us for consideration. We trust that those modifications, if ultimately adopted by the legislature, will have a positive impact on the operation and maintenance of for-profit cemeteries in the Commonwealth, on the integrity and adequacy of the trust funds established for that purpose, and on the ability of local governments and the public to assert effectively their interests in the proper care of such facilities. This Commission wishes to express its gratitude to the Department of Agriculture and Consumer Services, the Virginia Association of Counties, the Virginia Municipal League, and the Virginia Cemetery Association for the assistance and counsel which they provided during the course of this study.

Respectfully submitted,


James J. Heston, Chairman


Gene B. Williams, Vice Chairman


William S. Hubbard


Frank Rafo

²⁸The McClanahan Cemetery in the City of Roanoke qualifies as an example of an historic burial grounds which circumstances have left with no financial means for maintenance and preservation. That cemetery is the burial grounds of the early owners and settlers of Roanoke Valley and relatives of prominent figures from the American Revolution.

SENATE JOINT RESOLUTION NO. 319

Requesting the Commission on Local Government, in cooperation with the Department of Agriculture and Consumer Services, the Virginia Municipal League, the Virginia Association of Counties, and the Virginia Cemetery Association to study local government issues related to the upkeep and maintenance of certain neglected or abandoned cemeteries.

Agreed to by the Senate, February 4, 1997

Agreed to by the House of Delegates, February 20, 1997

WHEREAS, several local governments in the Commonwealth have encountered situations in which cemeteries are not maintained to the satisfaction of adjacent landholders and the friends and families of those interred; and

WHEREAS, Chapter 3 of Title 57 of the Code of Virginia governs the administration of cemeteries within the Commonwealth, and specifies therein certain minimum requirements, particularly for burial sites sold with the representation that such burial sites will receive perpetual care; and

WHEREAS, in cases in which the owners of cemeteries do not adequately provide for maintenance, do not have the resources to provide adequate maintenance, and have few remaining burial sites to sell, some local governments and citizens have found inadequate recourse to enforce the laws pertaining to such cemeteries; and

WHEREAS, when cemeteries do not comply with such minimum provisions, are abandoned, or are poorly maintained, the local governments in which such cemeteries are located are frequently requested to assume upkeep and maintenance of such cemeteries; and

WHEREAS, some local governments have found that assuming uncompensated responsibility for abandoned or neglected cemeteries presents a burden on local taxpayers; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the Commission on Local Government, in cooperation with the Department of Agriculture and Consumer Affairs, the Virginia Association of Counties, the Virginia Municipal League, and the Virginia Cemetery Association be requested to study local government issues related to the upkeep and maintenance of certain neglected or abandoned cemeteries. The study shall consider (i) minimum standards for the upkeep and maintenance of cemeteries; (ii) the adequacy of perpetual care trust funds for upkeep and maintenance of cemeteries after all grave sites have been sold; and (iii) the effectiveness of consumer protection laws to ensure that local governments and the families of those interred in cemeteries have effective recourse if such cemeteries are not adequately maintained. The commission shall not include in its study not-for-profit private cemeteries such as those owned or operated by descendants or families of those who are interred therein, churches, synagogues, religious sects, or benevolent associations.

All agencies of the Commonwealth shall provide assistance to the commission, upon request.

The Commission on Local Government shall complete its work in time to submit its findings and recommendations to the Governor and the 1998 Session of the General Assembly as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents.



CITY OF GALAX

TELEPHONE & TDD
540-236-5773
FAX 540-236-2889

SENATE JOINT RESOLUTION 319
STUDY COMMITTEE COMMENTS
DANIEL J. CAMPBELL, GALAX CITY MANAGER, JUNE 3, 1997

Representatives of the Commission on Local Government and Members
of the Study Committee -

My name is Dan Campbell, Galax City Manager, and I am here today to
briefly comment on issues, in particular, local government issues,
related to neglected or abandoned for-profit cemeteries.

First, allow me to indicate that your evaluation of this matter
will certainly be difficult, for it is a complex subject that could
potentially have implications in any community within this great
Commonwealth. I encourage you to be careful in your survey and to
actually visit first-hand those private cemeteries where issues of
neglect have surfaced.

Please do not rely on written or verbal consumer complaints and
distant photographs during this review. If your job is to be done
well you will need to visit select facilities and attempt to
understand the "whole and complete" picture. With that said - I
invite you to visit Galax.

My primary point with respect to the subject at hand is -

* A Virginia local government must not be expected to assume any responsibility associated with a neglected or abandoned for-profit cemetery. Therefore, your recommendation upon completion of this study should not suggest assumption by localities of the responsibility for abandoned or neglected cemeteries.

Cemeteries can be very expensive to maintain, while revenue opportunities to offset operations and maintenance costs are apt to be non-existent or at best very limited. Just as limited local government revenues are not used to "take over" a failing neighborhood store, or larger private business - these same limited local revenues should not be dedicated to any public "take over" of a questionable private cemetery operation.

As you are well aware - cemetery operations are subject to a high level of consumer scrutiny. These consumers are easily dissatisfied given the sensitive nature of the product and service.

Where a neglected cemetery may change ownership - the new operator will be expected to correct "all" deficiencies. As such, may I suggest that such problems will not be as simple as just maintaining a regular mowing schedule.

For example - what if - and please forgive me, for perhaps I may be too direct - but, what if, a body is discovered to be buried in the wrong location or even worse, a body can not be found? What if - the vault company dug a grave where a walkway was supposed to be,

the burial went forward, and then adjoining plot owners complain and want their walkway back?

What if - an accurate and up-to-date plan of the cemetery does not exist at the time of ownership (or responsibility) transfer and a long absent son, daughter or grandchild returns to view their parents or grandparents grave site and the new owners (or the new responsible party) has inadequate records and is unable to locate the long deceased family member?

What if - burial sites have been damaged and countless markers have been paid for by the consumer, but not installed?

Given the potential for such "What Ifs" to become true and real problems -- I am confident that you can see why Galax, as one small Virginia locality, is absolutely not interested in becoming a "Responsible Party" following any transfer of a neglected or abandoned cemetery.

Relatedly, I ask that you consider just how the assuming party, the new responsible party, is to correct problems of the nature described herein, and do so to the satisfaction of the consumer. Further, what legal ramifications associated with the cemetery has the new owner or responsible party assumed?

Truly, it is unfortunate, and, yet so factual, that where a for-profit cemetery has been in operation for many years, there can be

no fresh start with a clean slate for any party willing to assume future responsibility for a potentially voluminous number of historical problems.

In closing, I encourage each of you on this most worthwhile study committee to look at the effectiveness of consumer protection laws and the requirements associated with perpetual care funds.

I also challenge you to resist any temptation to suggest as a result of this study that Virginia local government is prepared to assume responsibility for any neglected private and/or for-profit cemetery. A mandate on local government of this nature is not fair, appropriate or acceptable.

Genuinely, I thank you for expending your time and effort on behalf of Virginia's citizens and local governments.

cemetery



OFFICERS

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R. MICHAEL AMYX

MAGAZINE

VIRGINIA TOWN & CITY

To: City and Town Managers
 From: Kimberly Pollard, Legislative Associate
 Date: April 23, 1997
 Re: SJR 319, Maintenance of Private Cemeteries

Pursuant to SJR 319 the Virginia Municipal League is participating in a study relating to the upkeep and maintenance of neglected or abandoned cemeteries. The Virginia Municipal League is interested in finding out how widespread this problem is by surveying localities throughout the state.

Please fax the completed survey to Kimberly Pollard at 804/343-3758 no later than April 29. Thank you for your response.

♦Have there been cases when for-profit private cemeteries have not been maintained to the satisfaction of nearby landholders or friends and families of those interred?

_____yes _____no _____not aware of a situation

♦Has your locality ever had to assume responsibility of upkeep and maintenance of these abandoned or neglected for-profit private cemeteries?

_____yes _____no _____not aware of a situation

♦Has your locality experienced any of the above problems with not-for-profit cemeteries?

_____yes _____no _____not aware of a situation

Locality: _____

Name of Respondent: _____

Comments:

13 EAST FRANKLIN STREET
 P.O. BOX 12164
 RICHMOND, VIRGINIA 23241
 804/649-8471
 FAX 804/343-3758
 E-MAIL vml@i2020.net

Virginia Municipal League Survey on Cemeteries

Locality	Complaints received regarding inadequate maintenance of for-profit cemeteries			Locality required to assume maintenance responsibility of for-profit cemeteries			Complaints received regarding inadequate maintenance of not-for-profit cemeteries			
	Yes	No	Not Aware	Yes	No	Not Aware	Yes	No	Not Aware	
	Alexandria	x			x				x	
	Bedford			x			x			x
Bristol			x		x			x		
Buena Vista	x			x				x		
Chesapeake	x			x			x			
Clifton Forge		x			x			x		
Covington			x			x		x		
Danville		x			x			x		
Emporia			x			x			x	
Falls Church		x			x			x		
Fairfax		x			x		x			
Fredricksburg			x			x	x			
Galax	x			x				x		
Hampton	x			x			x			
Hopewell			x			x			x	
Lexington			x		x		x			
Lynchburg			x			x			x	
Manassas			x			x	x			
Manassas Park		x			x			x		
Norfolk	x			x				x		
Portsmouth	x			x					x	
Radford	x				x			x		
Roanoke	x				x		x			
Salem	x			x			x			
Staunton		x			x			x		
Suffolk	x			x			x			
Virginia Beach		x			x		x			
Williamsburg		x			x			x		
Waynesboro		x			x			x		
Total out of a possible	11	9	9	9	13	7	10	14	5	
	29	29	29	29	29	29	29	29	29	
Towns										
Accomac		x			x			x		
Altavista			x		x		x			
Amherst			x		x			x		
Appalachia		x		x			x			
Appomattox			x		x			x		
Ashland		x			x			x		
Berryville		x			x			x		
Big Stone Gap		x			x			x		
Blacksburg			x		x				x	
Blackstone			x		x			x		
Bowling Green			x			x			x	
Bridgewater			x		x		x			

Virginia Municipal League Survey on Cemeteries

Locality	Complaints received regarding inadequate maintenance of for-profit cemeteries			Locality required to assume maintenance responsibility of for-profit cemeteries			Complaints received regarding inadequate maintenance of not-for-profit cemeteries		
	Yes	No	Not Aware	Yes	No	Not Aware	Yes	No	Not Aware
	Brookneal		x			x			x
Broadway		x			x			x	
Cape Charles			x		x			x	
Cedar Bluff		x					x		
Chase City			x		x			x	
Chincoteague		x			x			x	
Christiansburg	x			x				x	
Clarksville	x					x	x		
Culpepper			x		x		x		
Dayton		x			x			x	
Drakes Branch			x		x			x	
Dumfries		x			x			x	
Eastville		x			x			x	
Farmville		x			x			x	
Front Royal		x			x			x	
Glade Spring		x			x			x	
Glasgow			x		x			x	
Gretna		x			x		x		
Grottoes		x			x			x	
Harrisonburg			x		x			x	
Haymarket		x			x			x	
Hillsville			x		x			x	
Hurt		x			x			x	
Iron Gate		x			x			x	
Jonesville		x			x		x		
Kilmamock		x				x		x	
Lawrenceville		x			x			x	
Leesburg		x			x			x	
Louisa		x			x			x	
Luray	x				x		x		
Marion			x		x			x	
Middleburg			x		x			x	
Middletown			x		x			x	
Narrows		x			x			x	
Occoquan			x			x			x
Orange		x			x			x	
Pearisburg		x			x		x		
Pennington Gap			x		x			x	
Pulaski		x			x			x	
Purcellville			x		x				x
Quantico			x		x			x	
Richlands			x		x				x
Rocky Mount	x			x			x		
Round Hill			x		x				x
Smithfield			x		x			x	

Virginia Municipal League Survey on Cemeteries

Locality	Complaints received regarding inadequate maintenance of for-profit cemeteries			Locality required to assume maintenance responsibility of for-profit cemeteries			Complaints received regarding inadequate maintenance of not-for-profit cemeteries			
	Yes	No	Not Aware	Yes	No	Not Aware	Yes	No	Not Aware	
	Stanley			x		x			x	
	Stephens City	x			x					x
Strasburg			x	x					x	
Tappahannock		x			x		x			
Tazewell		x			x			x		
Timberville			x		x			x		
Urbanna			x		x			x		
Vienna			x		x			x		
Vinton		x			x		x			
Wakefield	x				x			x		
Warrenton	x				x			x		
Washington			x			x			x	
Waverly			x		x			x		
West Point		x			x			x		
Windsor		x			x			x		
Wise			x		x				x	
Woodstock		x			x			x		
Total	7	34	32	5	63	5	13	51	10	
out of a possible	74	74	74	74	74	74	74	74	74	
Grand total	15	43	41	11	75	10	26	52	20	

VIRGINIA ASSOCIATION OF COUNTIES
Comments Regarding Survey on Cemeteries in Virginia's Counties

Prepared for the Commission on Local Government
May 5, 1997

On April 23 the Virginia Association of Counties conducted a survey asking all ninety-five of its member counties to comment on the nature of any problems they have experienced relating to privately owned or "for profit" cemeteries. Specifically counties were asked if they were aware of the following:

- Cases when for-profit cemeteries have not been maintained to the satisfaction of nearby landholders or friends and families of those interred; and
- Situations when they have been abandoned and the county has been asked to assume responsibility for upkeep and maintenance.

Results:

Out of the sixty-seven counties responding to the survey, only five indicated that they had the types of experiences described above. These counties were Arlington, Buchanan, Chesterfield, Franklin, and Wythe. A summary providing a few extra details of these situations appears below:

Arlington County: Reported that they were aware of two situations abandoned cemeteries which were both eventually declared historic districts. The responsibility for maintenance was assumed by the county.

Buchanan County: According to the county administrator, there are numerous small family cemeteries in Buchanan County that no longer receive proper maintenance. The county occasionally receives requests for it to assume maintenance responsibility. This function, however, is not in the county budget.

Chesterfield County: Reported two or three situations when nearby landholders complained to the county about weed growth problems in cemeteries. In such cases the county can invoke its weed ordinance to compel action by the cemetery owner. This has been a successful approach. The county reports that they do not have any problems involving abandoned cemeteries.

Franklin County: Reported that they have had cemeteries not maintained to the satisfaction of nearby landholders, and that there has also been experience with abandonments. The county has not provided any other details.

Wythe County: Reported a case where a private cemetery was abandoned. The property owner was delinquent on payment of county taxes. Because of this delinquency, the county was later able to auction the property owners' assets. The county then assumed temporary responsibility for maintenance. Eventually the cemetery was purchased by another private company. Since that time the property has been expanded and well-maintained.

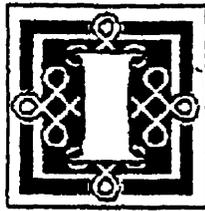
In addition to the above responses, Floyd County reported that it is rehabilitating a Civil War cemetery as a tourist attraction.

Cemetary survey

<i>County</i>	<i>No</i>	<i>Experienced</i>
	<i>Experiences</i>	<i>Problems</i>
Accomack	x	
Albemarle	x	
Alleghany	x	
Amelia	x	
Amherst	x	
Appomattox	x	
Arlington		x
Bath	x	
Bedford	x	
Bland	x	
Boteourt	x	
Brunswick	x	
Buchanan		x
Buckingham	x	
Campbell	x	
Charles City	x	
Charlotte	x	
Chesterfield		x
Clarke	x	
Cumberland	x	
Dickinson	x	
Dinwiddie	x	
Essex	x	
Fauquier	x	
Floyd	x	
Fluvanna	x	
Franklin		x
Gloucester	x	
Goochland	x	
Graig	x	
Henry	x	
Highland	x	
Isle of Wight	x	
James City	x	
Lancaster	x	
Lee	x	
Lunenburg	x	
Madison	x	
Mathews	x	
Middlesex	x	
Nelson	x	
Northampton	x	
Nottoway	x	

Cemetary survey

Orange	x	
Page	x	
Patrick	x	
Powhatan	x	
Prince Edward	x	
Prince George	x	
Pulaski	x	
Rappahannock	x	
Richmond	x	
Rockingham	x	
Russell	x	
Shenandoah	x	
Smyth	x	
Spotsylvania	x	
Stafford	x	
Surry	x	
Sussex	x	
Tazewell	x	
Warren	x	
Washington	x	
Westmoreland	x	
Wise	x	
Wythe		x
York	x	



Association of
**Independent
Funeral Homes
of Virginia**

Association Management Office:
118 North Eighth Street
Richmond, Virginia 23219
(804) 643-0312
fax (804) 643-0311

July 14, 1997

The Commission on Local Government
702 Eighth Street Office Building
505 East Broad Street
Richmond, Virginia 23219

Dear Sirs,

The Association of Independent Funeral Homes of Virginia is in support of SJR 319 and offers the following comments relative to the issue of trust funds and consumer protection.

- I. As SJR 319 points out, local governments and taxpayers risk assuming uncompensated responsibility for inadequately funded private cemeteries. However, we feel that the issue of public or church affiliated cemeteries also must be addressed. The Code of Virginia exempts municipal and church owned cemeteries from regulation. What provisions have been made to regulate these cemeteries in the event for-profit corporations contract to assume operational responsibilities? Will for-profit corporations be able to continue to operate these cemeteries without regulation if the municipality or church retains ownership of the cemetery property? And, if so, what provision for trusting will be placed upon municipal cemeteries, such as Richmond's, if proposals to lease the cemeteries are successful? We urge this issue be addressed, as local governments and taxpayers should not be liable for the practices of a private corporation. If adequate provision for trusting of perpetual care funds is not made, the taxpayers may suffer.
- II. Consumer Protection: While the intent of SJR 319 is to ensure consumer protection in the event perpetual care funds for the maintenance of the cemeteries are not inadequate, the issue of prepaid merchandise must also be addressed. Cemeteries are only required to trust 40% of monies received. Currently, merchandise sold by cemeteries falls under the same trusting requirements as other cemetery funds; if a cemetery has trusted an inadequate amount for perpetual care, it may also be assumed that the amount trusted for preneed merchandise sales may be inadequate to guarantee delivery of merchandise sold.

Today, funeral homes and cemeteries sell much of the same merchandise; graveliners, vaults, markers, monuments and headstones. If sold by a funeral home, Virginia law requires 100% of the purchase price of this merchandise to be trusted. However, as previously stated, the same merchandise may be sold with only 40% of the purchase price trusted if sold by a cemetery. This raises two issues:

- A. There is an increasing trend whereby companies own both funeral homes and cemeteries. With current trusting laws, what prevents merchandise sales from being shifted from a company's funeral home to its cemetery in order to gain immediate access to 60% of the money involved? For example, if a company owned both a cemetery and funeral home, what would prevent it from placing funeral merchandise, such as vaults, on a cemetery contract in order to trust at the lower level? Unless the consumer is informed about the trusting requirements, he or she would not be aware of the risk being assumed.
- B. If a cemetery has not trusted adequately, and the local government must assume responsibility for the cemetery and its maintenance, will the taxpayer also assume the burden of providing the merchandise sold?

We urge the Commission to recommend increasing the trusting level of merchandise sales to 100% to ensure comparable levels of consumer protection, whether dealing with a funeral home or cemetery.

Regarding HJR 553, Trends in the Funeral Industry, The Association of Independent Funeral Homes of Virginia has consistently pointed out the impact on the consumer of the unequal trusting levels required of cemeteries and funeral homes. Although we agree with the second policy option recommendation of the Study Committee, we disagree with the staff's assertion that conglomerate ownership in Virginia is statistically insignificant. If conglomerate-owned funeral homes and cemeteries were dispersed across the Commonwealth, this assertion would be true. However, funeral conglomerates purchase with the intent to control a given market. For example:

- I. Conglomerates attempt to cluster facilities as much as possible, allowing them to control market share:
 - A. In Northern Virginia, 11 of 18 funeral homes are conglomerate-owned, a rate of 61%.
 - B. Within a 20 mile radius of Martinsville, one company owns 5 of 7 funeral homes, a rate of 71%, and two of three for-profit cemeteries.
 - C. In Lynchburg, two of three funeral homes are conglomerate owned.
 - D. One conglomerate owns every funeral home in Fredericksburg and Williamsburg, as well as three for-profit cemeteries in Fredericksburg.
- II. Conglomerates typically purchase high volume firms, therefore the percentage of funeral services rendered is higher than the percentage of individual funeral homes owned. (In Northern Virginia, conglomerates own the two largest firms, each with multiple locations. Approximate market share for the conglomerates is 75%.)
- III. Conglomerates typically purchase funeral homes and cemeteries in a given area to "control" the death care industry (Fredericksburg, Martinsville and the Southwest Virginia area of Marion are prime examples).

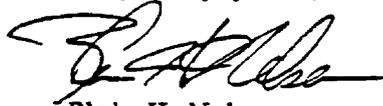
The significance of this clustering is the ability of conglomerates to control the death care industry in a given area and potentially take advantage of the cemetery-funeral home relationship by shifting merchandise sales from the funeral home to the cemetery, thereby trusting consumer purchases at lower levels. This exposes the consumer to the risk that funds meant to be placed in trust for the future delivery of merchandise may be used today for operational purposes.

Therefore, we ask this commission, as it considers the issue of cemetery trusting of funds, to make two recommendations.

1. Consider extending laws and regulations governing cemeteries to apply to those operated by for-profit companies, but owned by municipalities or churches.
2. In order to ensure consumer protection, recommend legislation to require that cemeteries trust preneed merchandise sales at the level of 100%. This would ensure consumers that sufficient funds are available to provide merchandise purchased preneed, and, in the event a local government were required to assume responsibility of a cemetery, taxpayers would not be liable for the delivery of merchandise for which adequate funding provisions had not been made.

I thank you for the opportunity to share these comments.

Very truly yours,

A handwritten signature in black ink, appearing to read "Blair H. Nelsen". The signature is fluid and cursive, with a large initial "B" and "H".

Blair H. Nelsen
President

