

tributed to perpetual-care funds, there's no guarantee in many states that each cemetery complies with the law.

Figuring out whether a cemetery has enough funds to provide perpetual care isn't the kind of math that even a savvy consumer can perform. So, you must take steps to protect yourself, say experts whom we interviewed. According to Stalter, before you start to shop, you should learn about your state's maintenance-funding laws. You should ask the cemetery about the laws, whether the cemetery is a perpetual-care or an endowed-care facility, and whether the cemetery maintains a trust that adheres to state law. "It should be a red flag if the operator cannot explain what state requirements are," Stalter says. You also should ask for the name of the trustee and the market value of the trust (which can vary wildly among cemeteries) and, if it is audited, whether a report can be provided. You're not necessarily looking for specific numbers from these trust documents or audits; mostly you're just checking to see how transparent the cemetery is when it comes to revealing such information. If a cemetery operator can't or won't answer these questions, you should keep shopping.

**CRIMINAL INTENT.** Sometimes perpetual-care trust funds are established and contributed to regularly, but cemetery operators misappropriate their funds while the cemeteries are neglected. For example, relatives of people who were buried at Bayside Cemetery in Ozone Park, N.Y., allege in a lawsuit that the synagogue that owns the cemetery used perpetual-care funds to maintain the synagogue while the cemetery fell into a shocking state of neglect. And sometimes, cemetery operators just steal the funds. For instance, in 2005, a judge ordered the manager of Frederick Douglass Memorial Park in New York to return more than \$600,000 in perpetual-care funds that authorities claimed were used to cover personal expenses.

Swollen pre-need trust funds also have proven to be tempting for unscrupulous cemetery operators. In 2009, authorities in Mississippi disclosed that the pre-need trust fund at Green Acres Memorial Park in Vicksburg had just a little more than \$200 in it, instead of the \$374,000 that



**PLOT PROOF.** When you purchase a plot, visit the site at the cemetery to make sure that it matches what's on the deed.

should have been there. It's not clear whether the money was stolen or just lost because of poor management. But the loss of funds was illegal in either case, the state says.

But what happened in Mississippi is small potatoes compared with what happens elsewhere. Robert Nelms was convicted in Indiana and Michigan courts of embezzling \$24 million from the trust funds (pre-need and perpetual care) of cemeteries that he owned in those states. Authorities allege that Nelms embezzled \$24 million from these trust funds with the assistance of Smith Barney investment adviser Mark Singer, who also has been charged in the scheme. According to authorities, Nelms illegally withdrew money from the trust funds to pay for the cemeteries he purchased and a \$1.2 million home for himself in Indiana. Singer also is alleged to have aided Clayton Smart, who at press time awaits trial in Tennessee on charges of stealing \$20 million from a Memphis cemetery that he owned. Smart also faces charges in Michigan that he embezzled \$70 million from 28 cemeteries there.

Obviously, there is little that you can do to prevent or predict such criminal behavior, but outright theft isn't the only risk for consumers who purchase pre-need burial plots. If you change your mind about your burial plans or if you move to another state and decide that you would rather be buried there, most

often you won't get a refund on your burial plot.

In addition, depending on where you live, often you won't even get back a full refund on opening and closing fees, a headstone or a grave vault that you purchase pre-need at a cemetery. (New Jersey and New York are the only states that require a 100 percent refund, but neither of those refund mandates includes money spent on burial plots.) We can't help but believe that not getting back a full refund amounts to legalized theft, because the money was spent on services that haven't been performed and merchandise that hasn't been delivered. Even a top official with the main trade group for cemeteries acknowledges that consumers are getting a raw deal in this regard. Robert Fells of International Cemetery Cremation and Funeral Association tells *Consumers Digest* that when it comes to unused services and merchandise that hasn't been delivered, consumers should get their money back (minus a small fee that is related to the cemetery's expenses).

If you made a pre-need purchase but move somewhere else, you should check to see whether the cemetery will allow you to apply the money that you've spent for the plot and services there to another cemetery. There are 800 cemeteries that participate in the "credit exchange" for cemetery plots and services, Fells says, but that option wouldn't apply for cre-