
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL
No. 2388 Session of
1980

INTRODUCED BY RIEGER, MARCH 18, 1980

REFERRED TO COMMITTEE ON BUSINESS AND COMMERCE, MARCH 18, 1980

AN ACT

1 Amending Title 9 (Burial Grounds) of the Pennsylvania
2 Consolidated Statutes, further regulating cemetery companies,
3 requiring annual audits, increasing penalties.

4 The General Assembly of the Commonwealth of Pennsylvania
5 hereby enacts as follows:

6 Section 1. The definition of "qualified trustee" in section
7 101, sections 301(a), 302(a), 303, 307, 308, 309 and 310 of
8 Title 9, act of November 25, 1970 (P.L.707, No.230), known as
9 the Pennsylvania Consolidated Statutes, are amended to read:

10 § 101. Definitions.

11 * * *

12 "Qualified trustee." An institutional trustee [or an
13 incorporated cemetery company when acting pursuant to the
14 authority conferred by section 309 of this title (relating to
15 incorporated cemetery company as qualified trustee)].

16 § 301. Initial deposits by newly-organized cemetery companies.

17 (a) General rule.--No cemetery company shall establish a
18 cemetery, or dispose or make sale of any lot therein, without

1 first causing to be deposited with a qualified trustee a sum of
2 not less than [\$25,000] \$100,000 as a permanent lot care fund.

3 * * *

4 § 302. Initial deposits by existing cemetery companies.

5 (a) General rule.--No cemetery company specified in
6 subsections (b) or (c) of this section shall dispose or make any
7 sale of any lot situated in the cemetery of such cemetery
8 company, without first causing to be deposited with a qualified
9 trustee a sum of not less than [\$25,000] \$100,000 as a permanent
10 lot care fund.

11 * * *

12 § 303. Periodic deposits.

13 Every cemetery company shall set aside annually and deposit
14 into a permanent lot care fund a sum equal to at least [15%] 25%
15 of the gross amount of the funds arising from the sale of lots
16 in the cemetery of such cemetery company or a sum equal to at
17 least 40 cents per square foot of each lot sold, whichever is
18 greater.

19 § 307. Investment and operation of fund.

20 The permanent lot care fund shall be invested by the
21 qualified trustee in the manner authorized for fiduciaries by
22 the Fiduciaries Investment Act of 1949, and the qualified
23 trustee[, if an institutional trustees] shall pay semiannually
24 the net income of the fund to the cemetery company for the
25 purposes set forth in this chapter.

26 § 308. Accounts of qualified trustee.

27 [(a) Institutional trustee.--]The qualified trustee[, if an
28 institutional trustee,] shall file accounts in the court of
29 common pleas of the county in which the cemetery, or any part
30 thereof, is situate, which accounts shall be filed [triennially]

1 annually and at such other times as the court may direct, and
2 which accounts shall be audited, annually by a certified public
3 accountant at the expense of the cemetery company, adjudicated
4 and confirmed by the court upon such notice to the parties in
5 interest as the court may determine.

6 [(b) Cemetery company as trustee.--The court of common pleas
7 of the county in which the cemetery, or any part thereof, is
8 situated shall have jurisdiction in the discretion of said court
9 to compel any incorporated cemetery company acting as a
10 qualified trustee under section 309 of this title (relating to
11 incorporated cemetery company as qualified trustee) to file
12 accounts of any funds deposited in the permanent lot care fund.]

13 § 309. [Incorporated cemetery company as qualified trustee.

14 (a) General rule.--Every incorporated cemetery company may
15 act as qualified trustee of the permanent lot care fund required
16 by this chapter and may be appointed the original trustee, or,
17 when for any reason a vacancy may occur in a trusteeship,
18 substituted or successor trustee, and as such may receive
19 devises, or gifts, the principal of which is to be held, in
20 trust, in perpetuity or for a lesser period of time, for the
21 care, maintenance, preservation, ornamentation or benefit of its
22 cemetery, or the cemetery lots therein, upon giving its own bond
23 without surety. The directors of any such corporation are hereby
24 made trustees of any such funds so deposited or received, and
25 neither such funds nor the income derived therefrom shall be
26 used by such trustees for any purpose other than the purpose for
27 which they were deposited, devised, donated, or otherwise
28 acquired. The directors of such corporation shall cause accurate
29 accounts to be kept of such trust funds separate and apart from
30 the other funds of the corporation. Any such corporation may

1 combine and merge the principal of two or more such trust funds
2 and any funds so set aside in an omnibus fund for the purposes
3 of investment of the same.

4 (b) Transfers to institutional fiduciary.--Any incorporated
5 cemetery company may, by appropriate action of its stockholders
6 or members and board of directors and with the approval of the
7 court of common pleas of the county in which the cemetery, or
8 any part thereof, is situated, transfer any of such funds to one
9 or more institutional trustees, and with like investment
10 restrictions, such transfer to be either revocable, or absolute
11 and irrevocable, and upon the transfer of any such funds, the
12 incorporated cemetery company and its directors shall be
13 relieved of all liability for the investment and reinvestment
14 thereof.]

15 Prohibition of incorporated cemetery company as trustee.

16 An incorporated cemetery company shall not act as a qualified
17 trustee nor as a trustee.

18 § 310. Penalties.

19 Any officer of any incorporated cemetery company or any
20 member of any unincorporated cemetery company conducting or
21 maintaining a cemetery or knowingly permitting the same to be
22 conducted or maintained in violation of the provisions of this
23 chapter, shall be guilty of a [misdemeanor] felony, and shall,
24 upon conviction thereof, be sentenced to pay a fine of not more
25 than [\$1,000] \$50,000 or to undergo imprisonment for not more
26 than [one year] five years, or both.

27 Section 2. This act shall take effect in 90 days.