

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

## HOUSE BILL

No. 125

Session of  
1981

INTRODUCED BY DOMBROWSKI, BOWSER, KLINGAMAN, BOYES, CAPPABIANCA,  
MACKOWSKI AND A. C. FOSTER, JR., JANUARY 19, 1981

AS REPORTED FROM COMMITTEE ON STATE GOVERNMENT, HOUSE OF  
REPRESENTATIVES, AS AMENDED, APRIL 28, 1981

## AN ACT

1 Amending Title 9 (Burial Grounds) of the Pennsylvania  
2 Consolidated Statutes, ~~further providing for the filing of~~ <—  
3 ~~accounts, requiring cemeteries to be licensed, imposing~~  
4 ~~duties on the Pennsylvania Real Estate Commission and~~  
5 ~~providing penalties.~~ PROVIDING FOR THE REGISTRATION OF <—  
6 CERTAIN CEMETERY COMPANIES WITH THE STATE REAL ESTATE  
7 COMMISSION, PROVIDING FOR INVESTIGATION OF CEMETERY COMPANIES  
8 AND FURTHER PROVIDING FOR THE FILING OF ACCOUNTS.

9 The General Assembly of the Commonwealth of Pennsylvania  
10 hereby enacts as follows:

11 Section 1. ~~Section~~ SECTIONS 304 AND 308 of Title 9, act of <—  
12 November 25, 1970 (P.L.707, No.230), known as the Pennsylvania  
13 Consolidated Statutes, ~~is~~ ARE amended to read: <—

14 § 304. [FILING] REGISTRATION AND FILING AFFIDAVIT OF <—  
15 COMPLIANCE.

16 (A) REGISTRATION WITH STATE REAL ESTATE COMMISSION.--

17 (1) EXCEPT AS PROVIDED IN PARAGRAPH (2), EVERY CEMETERY  
18 COMPANY SHALL HAVE A CURRENT AND VALID REGISTRATION  
19 CERTIFICATE ISSUED BY THE STATE REAL ESTATE COMMISSION  
20 PURSUANT TO THE ACT OF FEBRUARY 19, 1980 (P.L.15, NO.9),

1     KNOWN AS THE "REAL ESTATE LICENSING ACT," BEFORE DISPOSING OF  
2     ANY LOT IN ITS CEMETERY OR BEFORE CARRYING ON ANY OTHER  
3     CEMETERY BUSINESS. THE BIENNIAL FEE FOR THE REGISTRATION  
4     CERTIFICATE SHALL BE \$25.

5             (2) THE PROVISIONS OF PARAGRAPH (1) SHALL NOT APPLY TO  
6     CEMETERY COMPANIES AND CEMETERIES OWNED OR CONTROLLED BY A  
7     BONA FIDE CHURCH OR RELIGIOUS CONGREGATION OR FRATERNAL  
8     ORGANIZATION OR BY ANY ASSOCIATION CREATED BY A BONA FIDE  
9     CHURCH OR RELIGIOUS CONGREGATION OR FRATERNAL ORGANIZATION.

10    (B) AFFIDAVIT OF COMPLIANCE.--EVERY CEMETERY COMPANY SUBJECT  
11 TO THE PROVISIONS OF SECTION 301 OF THIS TITLE (RELATING TO  
12 INITIAL DEPOSITS BY NEWLY-ORGANIZED CEMETERY COMPANIES) OR  
13 SECTION 302 OF THIS TITLE (RELATING TO INITIAL DEPOSITS BY  
14 EXISTING CEMETERY COMPANIES) SHALL, BEFORE DISPOSING OF ANY LOT  
15 IN ITS CEMETERY, CAUSE TO BE FILED IN THE DEPARTMENT OF STATE AN  
16 AFFIDAVIT SIGNED BY A MEMBER OR OFFICER OF THE CEMETERY COMPANY  
17 STATING THAT IT HAS COMPLIED WITH THE APPLICABLE SECTION OF THIS  
18 TITLE, TO WHICH AFFIDAVIT SHALL BE ATTACHED AN ACCEPTANCE BY A  
19 QUALIFIED TRUSTEE, ACKNOWLEDGING ITS ACCEPTANCE OF THE  
20 TRUSTEESHIP. THE AFFIDAVIT SHALL CONTAIN SUCH OTHER INFORMATION  
21 AS THE DEPARTMENT MAY REQUIRE.

22    § 308. Accounts of qualified trustee.

23             (a) Institutional trustee.--The qualified trustee, if an  
24 institutional trustee, shall file accounts in the court of  
25 common pleas of the county in which the cemetery, or any part  
26 thereof, is situate, which accounts shall be filed triennially  
27 and at such other times as the court may direct, and which  
28 accounts shall be audited, adjudicated and confirmed by the  
29 court upon such notice to the parties in interest as the court  
30 may determine.

1 (b) Cemetery company as trustee.--[The court of common pleas  
2 of the county in which the cemetery, or any part thereof, is  
3 situated shall have jurisdiction in the discretion of said court  
4 to compel any] An incorporated cemetery company acting as a  
5 qualified trustee under section 309 [of this title] (relating to  
6 incorporated cemetery company as qualified trustee) [to file  
7 accounts of any funds deposited in the permanent lot care fund.]  
8 shall file accounts in the court of common pleas of the county  
9 in which the majority of the cemetery is situate, which accounts <—  
10 shall cover the period from January 1, 1981 to January 1, 1983  
11 or for the period from the last filing whichever is shorter and  
12 which accounts shall be filed initially within 24 months of the  
13 effective date of this amendatory section and biennially  
14 thereafter and at such other times as the court may direct, and  
15 which accounts shall be audited, adjudicated and confirmed by  
16 the court upon such notice to the parties in interest as the  
17 court may determine. AND SHALL ALSO FILE ACCOUNTS WITH THE STATE <—  
18 REAL ESTATE COMMISSION. THE ACCOUNTS SHALL BE FILED BIENNIALLY  
19 AND AT SUCH OTHER TIMES AS THE COURT OR THE COMMISSION MAY  
20 DIRECT. THE ACCOUNTS SHALL BE AUDITED, ADJUDICATED AND CONFIRMED  
21 BIENNIALLY BY THE COURT UPON NOTICE TO THE COMMISSION AND SUCH  
22 OTHER PARTIES IN INTEREST AS THE COURT DEEMS APPROPRIATE.

23 Section 2. Title 9 is amended by adding ~~sections~~ A SECTION <—  
24 to read:

25 ~~§ 312. Cemeteries to be licensed.~~ <—

26 ~~(a) License required. No person, copartnership, association~~  
27 ~~or corporation shall engage in or carry on a business within the~~  
28 ~~Commonwealth within the limited field or branch of such a~~  
29 ~~business which applies to cemetery lots, plots and mausoleum~~  
30 ~~spaces, openings or foundations without first obtaining a~~

~~license pursuant to this section unless such cemetery is owned or controlled by a bona fide church or religious congregation or any association created by any such bona fide church or religious congregation. Any person, copartnership, association or corporation violating the provisions of this subsection shall be subject to the penalties provided in section 310 (relating to penalties).~~

~~(b) Application for license. Any application for a license to operate a cemetery shall be made in writing to the Department of State, upon a form provided for that purpose by the department and shall contain such information as the Pennsylvania Real Estate Commission shall require.~~

§ 313. Investigation of cemetery business.

The Pennsylvania Real Estate Commission is authorized to investigate any licensee CEMETERY COMPANY engaged in a business relating to cemetery lots, plots or mausoleum spaces, openings or foundations and to fine up to \$1,000 or suspend or revoke the license REGISTRATION in accordance with the provisions of section 604 of the act of February 19, 1980 (P.L.15, No.9), known as the "Real Estate Licensing Act" if it is determined that the licensee CEMETERY COMPANY has violated any of the provisions of that act, of Ch. 3 (relating to the regulation of cemetery companies), or the act of August 14, 1963 (P.L.1059, No.459), relating to future need sales for death and interment or if it is determined that a cemetery is engaging in the business without obtaining a license REGISTERING or while the license ITS REGISTRATION is suspended the criminal penalties provided for in section 303 of the "Real Estate Licensing Act" may be imposed.

Section 3. This act shall take effect January 31, 1982.