

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 AMENDED ON THIRD CONSIDERATION, HOUSE OF REPRESENTATIVES,
JUNE 2, 1981

AN ACT

1 Amending Title 9 (Burial Grounds) of the Pennsylvania
2 Consolidated Statutes, providing for the registration of
3 certain cemetery companies with the State Real Estate
4 Commission, providing for investigation of cemetery companies
5 and further providing for the filing of accounts AND REPORTS. <—

6 The General Assembly of the Commonwealth of Pennsylvania
7 hereby enacts as follows:

8 Section 1. Sections 304 and 308 of Title 9, act of November
9 25, 1970 (P.L.707, No.230), known as the Pennsylvania
10 Consolidated Statutes, are amended to read:

11 § 304. [Filing] Registration and filing affidavit of
12 compliance.

13 (a) Registration with State Real Estate Commission.--

14 (1) Except as provided in paragraph (2), every cemetery
15 company shall have a current and valid registration
16 certificate issued by the State Real Estate Commission
17 pursuant to the act of February 19, 1980 (P.L.15, No.9),
18 known as the "Real Estate Licensing Act," before disposing of

1 any lot in its cemetery or before carrying on any other
2 cemetery business. The biennial fee for the registration
3 certificate shall be \$25.

4 (2) The provisions of paragraph (1) shall not apply to
5 cemetery companies and cemeteries owned or controlled by a
6 bona fide church or religious congregation or fraternal
7 organization or by any association created by a bona fide
8 church or religious congregation or fraternal organization.

9 (b) Affidavit of compliance.--Every cemetery company subject
10 to the provisions of section 301 [of this title] (relating to <—
11 initial deposits by newly-organized cemetery companies) or
12 section 302 [of this title] (relating to initial deposits by <—
13 existing cemetery companies) shall, before disposing of any lot
14 in its cemetery, cause to be filed in the Department of State an
15 affidavit signed by a member or officer of the cemetery company
16 stating that it has complied with the applicable section of this
17 title, to which affidavit shall be attached an acceptance by a
18 qualified trustee, acknowledging its acceptance of the
19 trusteeship. The affidavit shall contain such other information
20 as the department may require.

21 § 308. Accounts of qualified trustee.

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

30 (b) Cemetery company as trustee.--[The court of common pleas

1 of the county in which the cemetery, or any part thereof, is
2 situated shall have jurisdiction in the discretion of said court
3 to compel any] An incorporated cemetery company acting as a
4 qualified trustee under section 309 [of this title] (relating to
5 incorporated cemetery company as qualified trustee) [to file
6 accounts of any funds deposited in the permanent lot care fund.]
7 ~~shall file: accounts in the court of common pleas of the county~~ <—
8 ~~in which the majority of the cemetery is situate and shall also~~
9 ~~file accounts with the State Real Estate Commission. The~~
10 ~~accounts shall be filed biennially and at such other times as~~
11 ~~the court or the commission may direct. The accounts shall be~~
12 ~~audited, adjudicated and confirmed biennially by the court upon~~
13 ~~notice to the commission and such other parties in interest as~~
14 ~~the court deems appropriate.~~

15 (1) ACCOUNTS IN THE COURT OF COMMON PLEAS OF THE COUNTY <—
16 IN WHICH THE MAJORITY OF THE CEMETERY IS SITUATE AND
17 DUPLICATES OF SUCH ACCOUNTS WITH THE STATE REAL ESTATE
18 COMMISSION. THE ACCOUNTS SHALL BE FILED ON OR BEFORE JANUARY
19 31 OF EACH ODD-NUMBERED YEAR AND AT SUCH OTHER TIMES AS THE
20 COURT MAY DIRECT. THE ACCOUNTS SHALL BE AUDITED, ADJUDICATED
21 AND CONFIRMED BY THE COURT UPON NOTICE TO THE COMMISSION AND
22 SUCH OTHER PARTIES IN INTEREST AS THE COURT DEEMS
23 APPROPRIATE.

24 (2) INTERIM REPORTS WITH THE STATE REAL ESTATE
25 COMMISSION. THE INTERIM REPORT SHALL BE FILED ON OR BEFORE
26 JANUARY 31 OF EACH EVEN-NUMBERED YEAR AND SHALL BE ON A FORM
27 APPROVED BY THE COMMISSION. THE INTERIM REPORT SHALL INCLUDE
28 A LIST OF ALL CONTRIBUTIONS TO THE PERMANENT LOT CARE FUND, A
29 LIST OF ALL WITHDRAWALS MADE FROM THE FUND AND THE NUMBER OF
30 LOTS DEEDED DURING THE PREVIOUS CALENDAR YEAR. THE INTERIM

1 REPORTS REQUIRED UNDER THIS PARAGRAPH SHALL BE IN ADDITION
2 TO, AND NOT IN LIEU OF, THE COMPLETE BIENNIAL ACCOUNT
3 REQUIRED UNDER PARAGRAPH (1).

4 Section 2. Title 9 is amended by adding a section to read:

5 ~~§ 313. Investigation of cemetery business.~~ <—

6 § 312. ENGAGING IN CEMETERY BUSINESS IN UNAUTHORIZED MANNER. <—

7 The Pennsylvania STATE Real Estate Commission is authorized <—

8 ~~to~~ MAY investigate any cemetery company engaged in a business <—

9 relating to cemetery lots, plots or mausoleum spaces, openings

10 or foundations and to fine THE COMPANY up to \$1,000 or suspend <—

11 or revoke the registration OF THE COMPANY in accordance with the <—

12 provisions of section 604 of the act of February 19, 1980

13 (P.L.15, No.9), known as the "Real Estate Licensing Act," if it <—

14 is determined that the cemetery company has violated any of the

15 provisions of that act, of Ch. 3 (relating to the regulation of <—

16 cemetery companies), or the act of August 14, 1963 (P.L.1059,

17 No.459), relating to future need sales for death and interment

18 ~~or if,~~ OR THIS CHAPTER. IF it is determined that a cemetery <—

19 COMPANY is engaging in the business SPECIFIED IN THIS SECTION <—

20 without registering or while its registration is suspended, the <—

21 criminal penalties provided for in section 303 of the "Real

22 Estate Licensing Act" may be imposed.

23 SECTION 3. (A) THE INITIAL ACCOUNTS REQUIRED TO BE FILED <—

24 PURSUANT TO 9 PA.C.S. § 308(1) (RELATING TO ACCOUNTS OF

25 QUALIFIED TRUSTEE) SHALL BE FILED WITHIN 24 MONTHS OF THE

26 EFFECTIVE DATE OF THIS AMENDATORY ACT AND SHALL COVER THE PERIOD

27 FROM JANUARY 1, 1981 THROUGH DECEMBER 31, 1982. THEREAFTER

28 ACCOUNTS SHALL BE FILED ON OR BEFORE JANUARY 31 OF EACH ODD-

29 NUMBERED YEAR.

30 (B) THE INITIAL INTERIM REPORT REQUIRED TO BE FILED PURSUANT

1 TO 9 PA.C.S. § 308(2) SHALL BE FILED ON OR BEFORE JANUARY 31,
2 1984 AND SHALL COVER THE PERIOD FROM JANUARY 1, 1983 THROUGH
3 DECEMBER 31, 1983.

4 Section ~~3-~~ 4. This act shall take effect January 31, 1982.

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