

No. 1982-48

AN ACT

HB 125

Amending Title 9 (Burial Grounds) of the Pennsylvania Consolidated Statutes, providing for the registration of certain cemetery companies with the State Real Estate Commission, providing for investigation of cemetery companies and further providing for the filing of accounts and reports.

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

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

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

(a) *Registration with State Real Estate Commission.*—

(1) *Except as provided in paragraph (2), every cemetery company shall have a current and valid registration certificate issued by the State Real Estate Commission pursuant to the act of February 19, 1980 (P.L.15, No.9), known as the "Real Estate Licensing Act," before disposing of any lot in its cemetery or before carrying on any other cemetery business. The biennial fee for the registration certificate shall be \$25.*

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

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

§ 308. **Accounts of qualified trustee.**

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

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

(1) *Accounts in the court of common pleas of the county in which the majority of the cemetery is situate and duplicates of such accounts with the State Real Estate Commission. The accounts shall be filed on or before January 31 of each odd-numbered year and at such other times as the court may direct. The accounts shall be audited, adjudicated and confirmed by the court upon notice to the commission and such other parties in interest as the court deems appropriate.*

(2) *Interim reports with the State Real Estate Commission. The interim report shall be filed on or before January 31 of each even-numbered year and shall be on a form approved by the commission. The interim report shall include a list of all contributions to the permanent lot care fund, a list of all withdrawals made from the fund and the number of lots deeded during the previous calendar year. The interim reports required under this paragraph shall be in addition to, and not in lieu of, the complete biennial account required under paragraph (1).*

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

§ 312. *Engaging in cemetery business in unauthorized manner.*

The State Real Estate Commission may investigate any cemetery company engaged in a business relating to cemetery lots, plots or mausoleum spaces, openings or foundations and fine the company up to \$1,000 or suspend or revoke the registration of the company 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 cemetery company has violated any of the provisions of that act, the act of August 14, 1963 (P.L.1059, No.459), relating to future need sales for death and interment, or this chapter. If it is determined that a cemetery company is engaging in the business specified in this section without registering or while its registration is suspended, the criminal penalties provided for in section 303 of the "Real Estate Licensing Act" may be imposed.

Section 3. (a) The initial accounts required to be filed pursuant to 9 Pa.C.S. § 308(b)(1) (relating to accounts of qualified trustee) shall be filed within 24 months of the effective date of this amendatory act and shall cover the period from January 1, 1981 through December 31, 1982. Thereafter accounts shall be filed on or before January 31 of each odd-numbered year.

(b) The initial interim report required to be filed pursuant to 9 Pa.C.S. § 308(b)(2) shall be filed on or before January 31, 1984 and shall cover the period from January 1, 1983 through December 31, 1983.

Section 4. This act shall take effect in 60 days.

APPROVED—The 7th day of March, A. D. 1982.

DICK THORNBURGH