

**Amendment No. 1 to HB1307**

**Marsh  
Signature of Sponsor**

**AMEND Senate Bill No. 1235\***

**House Bill No. 1307**

by deleting all language after the enacting clause and substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 46-1-102, is amended by deleting subdivision (15) and substituting instead the following:

(15) "Lawn crypts" means pre-installed, below-the-ground concrete chambers, either single or double depth, covered by earth or sod;

SECTION 2. Tennessee Code Annotated, Section 46-1-105(c), is amended by deleting the subsection and substituting instead the following:

No renewal of a certificate of registration shall be issued unless the applicant pays, in addition to the renewal fee, a consumer protection fee of twenty dollars (\$20.00) for every pre-need sales contract entered into during the preceding renewal period, except that the applicant shall not have to pay the consumer protection fee on any pre-need sales contract entered into that was subsequently cancelled prior to the applicant's request for renewal of a certificate of registration.

SECTION 3. Tennessee Code Annotated, Section 46-1-204(a), is amended by deleting the subsection and substituting instead the following:

(1) Every cemetery company engaged in the business of selling, leasing, or renting lots, grave spaces, crypts, niches, and burial rights in this state shall establish and forever maintain an improvement care trust fund to provide for the improvement, care, and maintenance of the following:

(A) Each separate cemetery;

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(B) Each separate geographical location of each cemetery owned and operated by the cemetery company; and

(C) Each separate geographical location of a funeral home, or other individual or entity, that has niches or other areas or devices of interment for sale, lease, or rent.

(2) The trust fund required by this subsection (a) shall be established by executing a written trust agreement with a trust company approved by the commissioner, or with a state or national bank, or with savings and loan associations having insurance of accounts as required by law; provided, that a cemetery company may change the trustee of its trust fund by providing written notice to the commissioner no later than thirty (30) days prior to the change, along with sufficient evidence, as determined by the commissioner, that the trustee will be able to comply with the requirements of this chapter. If the commissioner determines that the evidence submitted is insufficient to ensure that the trustee will be able to comply with the requirements of this chapter, the commissioner may refuse to allow the cemetery company to change the trustee.

SECTION 4. Tennessee Code Annotated, Section 46-1-204(b)(3)(A), is amended by deleting subdivisions (i)—(iii) and substituting instead the following:

(i) For land, but not including lawn crypts or land donated without charge for the purpose of interring the remains of a deceased person who was under eighteen (18) years of age at the time of death, one dollar (\$1.00) per square foot of the land sold or twenty percent (20%) of the total transaction amount for the land, whichever is greater;

(ii) For a lawn crypt, twenty percent (20%) of the total transaction amount for the land excluding the lawn crypt or fifty dollars (\$50.00), whichever is greater;

(iii) For a mausoleum, crypt, niche, or any memorial other than a commodity, not less than ten percent (10%) of the total transaction amount for each item;

SECTION 5. Tennessee Code Annotated, Section 46-1-204(b)(3)(B), is amended by adding the following language immediately after the language “shall not be credited toward any future liability”:

, except that a cemetery company may credit any payment, which was deposited into the improvement care trust fund from a contract that was subsequently canceled, toward any future liability as long as the credit is applied within twelve (12) months from the date of the cancellation date

SECTION 6. Tennessee Code Annotated, Section 46-1-204, is further amended by adding the following language as a new subsection:

(h) For purposes of this section, “cemetery company” includes any individual or entity that leases or rents crypts and niches, even if the individual or entity is not organized, owning, or controlling cemetery lands or property nor conducting the business of a cemetery.

SECTION 7. Tennessee Code Annotated, Section 46-1-209(b), is amended by deleting the language “twelve (12) consecutive months” and substituting instead the language “ninety (90) consecutive days”.

SECTION 8. Tennessee Code Annotated, Section 46-1-303, is amended by adding the following language as new subsections:

(d) In the event of an audit of a cemetery company authorized by subsection (a), § 46-1-207, § 46-1-214(f), or § 46-1-306, the commissioner or the commissioner’s duly authorized representatives shall provide the cemetery company with the following:

(1) A nonbinding, written exit report containing the initial findings of the audit no more than fourteen (14) days after the conclusion of the field audit on the premises of the cemetery; and

(2) A final written report or a results of examination letter detailing the official findings of the audit no more than sixty (60) days after the conclusion of the audit.

(e) Nothing in this section shall invalidate or in any way lessen any finding of an audit that is not issued within the timeframes described in subsection (d).

SECTION 9. This act shall take effect January 1, 2016, the public welfare requiring it.