

HOUSE BILL 1307

By Swann

AN ACT to amend Tennessee Code Annotated, Title 46,
Chapter 1 and Title 62, relative to interment of
deceased persons.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

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

(15) "Lawn crypts" means preinstalled, 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 period "." after the language "during the preceding renewal period" and by substituting instead a comma "," and the following language:

except that the applicant shall not have to pay a consumer protection fee of twenty dollars (\$20.00) on any preneed sales contract entered into that was subsequently cancelled prior to the applicant's request for renewal cemetery registration.

SECTION 3. Tennessee Code Annotated, Section 46-1-203(a)(3), is amended by deleting the language "either" and by deleting the language "or a surety bond approved by the commissioner".

SECTION 4. Tennessee Code Annotated, Section 46-1-204(a), is amended by deleting the subsection and by substituting instead the following:

(a)

(1) Every cemetery company, or other business entity or individual, 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 for, to provide for the improvement, care, and maintenance of, the following:

(A) Each separate cemetery;

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

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

(2) The improvement care trust fund required by subdivision (a)(1) 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. 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 evidence sufficient to the commissioner that the trustee will be able to comply with this chapter. If the commissioner determines that the evidence submitted is insufficient to ensure that the trustee will be able to comply with this chapter, the commissioner may refuse to allow the cemetery company to change the trustee.

SECTION 5. Tennessee Code Annotated, Section 46-1-204(b)(3)(A), is amended by deleting the language “deposited in trust by the cemetery company” and substituting instead “deposited in trust by the cemetery company, or other business entity or individual”.

SECTION 6. Tennessee Code Annotated, Section 46-1-204(b)(3)(A)(i), is amended by deleting the subdivision and substituting instead:

(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, two dollars (\$2.00) per square foot of the land sold or twenty percent (20%) of the transaction amount for each item, whichever is greater;

SECTION 7. Tennessee Code Annotated, Section 46-1-204(b)(3)(A)(ii), is amended by deleting the language “sales price of” and substituting instead “transaction amount for”.

SECTION 8. Tennessee Code Annotated, Section 46-1-204(b)(3)(A)(iii), is amended by deleting the language “sales price” and substituting instead “transaction amount for each item”.

SECTION 9. Tennessee Code Annotated, Section 46-1-204(b)(3)(B), is amended by deleting the period “.” after the language “shall not be credited toward any future liability” and by substituting instead a comma “,” and the following language:

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

SECTION 11. Tennessee Code Annotated, Section 46-1-303, is amended by adding the following language as a new, appropriately designated subsection:

() In the event of an audit of a cemetery company authorized by § 46-1-214(f), § 46-1-303(a), or any other section of this chapter, the commissioner or the commissioner’s duly authorized representatives shall provide the cemetery company with the following:

(1) A nonbinding, written report detailing the initial findings of the audit no less than fourteen (14) days after the conclusion of the 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 less than sixty (60) days after the conclusion of the audit.

SECTION 12. Tennessee Code Annotated, Section 46-1-301, is amended by adding the following language as a new, appropriately designated subsection:

() Nothing in this chapter, or any rules promulgated pursuant to this chapter, shall prevent the commissioner from reducing or waiving any penalties, fines, fees, or citations assessed against a cemetery company or its agents, owners, or operators pursuant to this chapter, or any rules or regulations promulgated under this chapter, if good cause or extenuating circumstances exist as determined by the commissioner. The commissioner has express authority and discretion to reduce or waive any penalties, fines, fees, or citations assessed against a cemetery company or its agents, owners, or operators pursuant to this chapter, or any rules promulgated under this chapter, at any time.

SECTION 13. This act shall take effect upon becoming a law, the public welfare requiring it.