

HB0394/826384/2

BY: Health and Government Operations Committee

AMENDMENTS TO HOUSE BILL 394
(First Reading File Bill)

AMENDMENT NO. 1

On page 1, strike beginning with “authorizing” in line 11 down through “resolution;” in line 13; in line 14, after “Director” insert “of the Office of Cemetery Oversight”; in line 23, after “Director;” insert “requiring certain reports to be accompanied by certain statements that include certain information;”; and strike beginning with “repealing” in line 24 down through “requirements;” in line 26.

On page 2, in line 5, strike “providing for a delayed effective date for certain provisions of this Act;”; in line 10, strike “5-204(b), (i), and (l)” and substitute “5-204(i) and (l)”; in line 11, strike “5-603(b)” and substitute “5-606(b)”; in the same line, after “5-702(a),” insert “5-710(b),”; and strike in their entirety lines 19 through 24, inclusive.

AMENDMENT NO. 2

On page 4, strike in their entirety lines 2 through 9, inclusive.

On page 7, in line 1, strike “**SHOWING**” and substitute “VERIFYING”.

On pages 9 and 10, strike in their entirety the lines beginning with line 27 on page 9 through line 28 on page 10, inclusive.

On page 11, in lines 1, 7, 22, and 30, strike “3.”, “4.”, “5.”, and “6.”, respectively, and substitute “2.”, “3.”, “4.”, and “5.”, respectively; and strike in their entirety lines 34 and 35.

On page 12, in line 1, strike “8.” and substitute “6.”; and strike beginning with the second comma in line 1 down through “Act,” in line 2.

(Over)

AMENDMENT NO. 3

On page 7, after line 16, insert:

“5-606.

(b) (1) Each sole proprietor registered cemeterian, permit holder, or any other person subject to the trust requirements of this subtitle shall submit a report to the Director within 120 days after the close of each calendar or other fiscal year chosen by the sole proprietor registered cemeterian, permit holder, or any other person subject to the trust requirements of this subtitle.

(2) The report shall:

(i) be on the form that the Director requires;

(ii) be certified as to correctness by a certified public accountant retained by the cemetery;

(iii) be accompanied by a trustee’s ANNUAL summary statement of assets **FOR THE REPORTING PERIOD THAT INCLUDES:**

1. THE AMOUNT OF MONEY IN THE PERPETUAL CARE TRUST FUND AT THE BEGINNING OF THE REPORTING PERIOD;

2. AN INVESTMENT PORTFOLIO SUMMARY DESCRIBING THE ASSET AND THE MARKET VALUE FOR EACH INVESTMENT CLASS;

3. A TRANSACTION SUMMARY OF THE PERPETUAL CARE TRUST FUND CONTAINING:

A. TRUST ACCOUNT EARNINGS, INCLUDING INTEREST, DIVIDENDS, AND REALIZED GAINS OR LOSSES;

B. MONEY DEPOSITED;

C. TOTAL RECEIPTS;

D. ADMINISTRATIVE EXPENSES;

E. DISBURSEMENTS OF INCOME FOR CEMETERY CARE, MAINTENANCE, ADMINISTRATION, AND EMBELLISHMENT;

F. OTHER DISBURSEMENTS; AND

G. TOTAL DISBURSEMENTS; AND

4. THE AMOUNT OF MONEY IN THE PERPETUAL CARE TRUST FUND AT THE END OF THE REPORTING PERIOD;

(iv) be accompanied by a fee of \$25; and

(v) include:

1. the name of the sole proprietor registered cemeterian, permit holder, or any other person subject to the trust requirements of this subtitle;

2. each location of the sole proprietor registered cemeterian, permit holder, or any other person subject to the trust requirements of this subtitle;

(Over)

3. the amount of money in each perpetual care trust fund at the beginning of the calendar or other fiscal year chosen by the sole proprietor registered cemeterian, permit holder, or any other person subject to the trust requirements of this subtitle;

4. the amount of money that the sole proprietor registered cemeterian, permit holder, or any other person subject to the trust requirements of this subtitle received during that year that is subject to the trust requirements of this subtitle;

5. the amount of money actually deposited into each perpetual care trust fund in that year;

6. the amount of money spent during that year to provide care, maintenance, administration, and embellishment of each cemetery, except for money used for the care of monuments and memorials; and

7. the name and address of each trustee.

(3) IF THE DIRECTOR DETERMINES, AFTER A REVIEW OF THE REPORT AND ANNUAL SUMMARY STATEMENT OF ASSETS REQUIRED BY THIS SUBSECTION, THAT ADDITIONAL DOCUMENTATION IS REQUIRED, A SOLE PROPRIETOR REGISTERED CEMETERIAN, PERMIT HOLDER, OR ANY OTHER PERSON SUBJECT TO THE TRUST REQUIREMENTS OF THIS SUBTITLE SHALL PROVIDE THE ADDITIONAL DOCUMENTATION TO THE DIRECTOR.

[(3)](4) A sole proprietor registered cemeterian, permit holder, or any other person subject to the trust requirements of this subtitle who stops selling burial lots or burial rights in a cemetery as to which perpetual care is stated or implied shall notify the Director in the required report for the year in which sales stop.

[(4)](5) The Director may require a sole proprietor registered cemeterian, permit holder, or any other person subject to the trust requirements of this subtitle to correct any underfunding, including interest, due to the perpetual care trust fund.”.

AMENDMENT NO. 4

On page 7, after line 25, insert:

“5-710.

(b) (1) Each seller subject to the trust requirements of this subtitle shall submit a report to the Director within 120 days after the close of each calendar or other fiscal year chosen by the seller.

(2) The report shall:

(i) be on the form that the Director requires;

(ii) be certified by a certified public accountant retained by the seller;

(iii) be accompanied by a trustee’s ANNUAL summary statement of assets FROM THE TRUSTEE FOR THE REPORTING PERIOD WHICH INCLUDES:

1. THE AMOUNT OF MONEY IN THE PRENEED TRUST FUND AT THE BEGINNING OF THE REPORTING PERIOD;

2. AN INVESTMENT PORTFOLIO SUMMARY DESCRIBING THE ASSET AND THE MARKET VALUE FOR EACH INVESTMENT CLASS;

(Over)

3. A TRANSACTION SUMMARY OF THE PRENEED TRUST FUND CONTAINING:

A. TRUST ACCOUNT EARNINGS;

B. MONEY DEPOSITED;

C. TOTAL RECEIPTS;

D. ADMINISTRATIVE EXPENSES;

E. WITHDRAWALS FROM THE TRUST ACCOUNT FOR CANCELLED CONTRACTS;

F. WITHDRAWALS FROM THE TRUST ACCOUNT FOR DELIVERY OF MERCHANDISE FOR USE OR STORAGE, AND FOR SERVICES PERFORMED, INCLUDING THE PRINCIPAL AND EARNINGS;

G. OTHER DISBURSEMENTS; AND

H. TOTAL DISBURSEMENTS; AND

4. THE AMOUNT OF MONEY IN THE PRENEED TRUST FUND AT THE END OF THE REPORTING PERIOD;

(iv) be accompanied by a fee of \$25; and

(v) include:

1. the name of the seller;

2. each location of the seller;
3. the amount of money that the seller received during that year that is subject to the trust requirements of this subtitle;
4. the amount of money actually deposited into trust accounts in that year;
5. the amount of money required to be disbursed from the trust accounts in that year;
6. the amount of money actually disbursed from the trust accounts in that year; and
7. the name and address of the trustee.

(3) IF THE DIRECTOR DETERMINES, AFTER A REVIEW OF THE REPORT AND ANNUAL SUMMARY STATEMENT OF ASSETS REQUIRED BY THIS SUBSECTION, THAT ADDITIONAL DOCUMENTATION IS REQUIRED, A SELLER SUBJECT TO THE TRUST REQUIREMENTS OF THIS SUBTITLE SHALL PROVIDE THE ADDITIONAL DOCUMENTATION TO THE DIRECTOR.

[(3)](4) (i) A seller of preneed goods or preneed services that sells its business, files a petition in bankruptcy, or ceases to operate shall provide written notice within 15 days:

1. to the Director, detailing the changes and the arrangements the seller has made for carrying out the preneed burial contracts and the disbursement of any moneys held in an escrow or trust account; and

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2. to each buyer of a preneed burial contract, advising the buyer of the buyer's options under State law in regard to the preneed contract.

(ii) Nothing in this paragraph exempts a seller of preneed goods or services that sells its business, files a petition in bankruptcy, or ceases to operate from filing the annual report required under this section."