

SENATE BILL 715

By Taylor

AN ACT to amend Tennessee Code Annotated, Title 46,
relative to cemeteries.

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

SECTION 1. Tennessee Code Annotated, Section 46-1-204(e)(1)(A)(ii), is amended by deleting the first sentence and substituting:

An amount not exceeding five percent (5%) of the fair market value of the trust, averaged over the balance as of the last day of the trust fiscal year immediately preceding the distribution year and the two (2) preceding years or, if less than two (2) years, the average of the balance as of the last day of each trust fiscal year for the period of time the trust has been in existence.

SECTION 2. Tennessee Code Annotated, Section 46-1-204(c), is amended by deleting the second and third sentences.

SECTION 3. Tennessee Code Annotated, Section 46-2-101(b), is amended by deleting subdivision (2) and substituting:

(2) The charge for installation of a commodity by the cemetery owner must be the same to all persons, regardless of the source of the commodity. A cemetery owner may prohibit the installation of a commodity by noncemetery personnel. The cemetery owner shall install all commodities furnished from sources other than the cemetery within thirty (30) days of the receipt of the commodity, weather permitting.

SECTION 4. Tennessee Code Annotated, Section 46-2-101(b)(3), is amended by deleting the first sentence.

SECTION 5. Tennessee Code Annotated, Section 46-2-101(c), is amended by deleting the second sentence and substituting the following:

The cemetery owner may charge an administrative, processing, or documentation fee; provided, however, that the fee is an equal amount charged to all persons. The fee must be posted on the schedule of charges as required by subsection (d).

SECTION 6. Tennessee Code Annotated, Section 46-1-204(b)(3), is amended by adding the following as a new subdivision:

(C) Additional deposits to the improvement care trust fund are not required on the sale of subsequent interment rights for the same cemetery land, lawn crypt, mausoleum, crypt, niche, or any memorial other than a commodity, for which an improvement care deposit has already been made.

SECTION 7. Tennessee Code Annotated, Title 46, is amended by adding the following as a new chapter:

46-3-101. Chapter definitions.

As used in this chapter:

(1) "Cemetery" means any land or structure in this state dedicated to and used, or intended to be used, for interment of human remains;

(2) "Cemetery company" means an individual, partnership, corporation, or association owning or controlling cemetery lands or property and conducting the business of a cemetery;

(3) "Community columbarium" means a structure, room, or space in a building or structure used, or intended to be used, for the interment of cremated human remains by members of the general public;

(4) "Community mausoleum" means a structure, above ground, or partially above and partially below ground, containing crypts and niches used or intended for use by members of the general public;

(5) "Crypt" means a chamber of sufficient size to inter the remains of a deceased person;

(6) "Grave space" means a space of ground in a cemetery used or intended to be used for interment, the beautification of the ground, or the memorialization of the deceased person;

(7) "Interment" means any lawful disposition of the remains of a deceased person as provided by law;

(8) "Interment right" means the right to inter human remains in a particular grave space, community mausoleum, or community columbarium in a cemetery; and

(9) "Niche" means a space in a community columbarium used, or intended to be used, for the interment of the cremated remains of one (1) or more deceased persons.

46-3-102. Abandonment of interment rights.

(a) An interment right is considered abandoned, and reverts to the cemetery company that owns or controls the cemetery where the right was purchased, if the following occurs:

(1) Seventy-five (75) years passes without known contact with the recorded owner of the interment right or, if the recorded owner is deceased, with an heir or beneficiary of the recorded owner of the right;

(2) The cemetery company conducts a reasonable search for the recorded owner of the interment right and, if the recorded owner of the interment

right is deceased, an heir or beneficiary of the owner; the reasonable search must include:

(A) Sending a certified letter of notice to the last known address of the recorded owner of the interment right, or any known heir or beneficiary of the owner; provided that, if an address is not available, this subdivision (a)(2)(A) does not apply; and

(B) Publishing a description of the interment right specifying the exact location of the right within the cemetery on the cemetery company's website, if available, for a minimum of twelve (12) months; and

(3) An individual does not provide proof of ownership of the interment right within one (1) year from the first date of the publication required by subdivision (a)(2)(B).

(b) A cemetery may not reclaim any interment right if a memorial has been installed on the cemetery space.

(c) An individual who provides proof of ownership of an interment right that is deemed abandoned pursuant to this section that has been used or sold by the cemetery company is entitled to receive an interment right from the cemetery company's available inventory of equal value to the resale price of the abandoned interment right that reverted to the cemetery company or the original purchase price, whichever is greater, for up to twenty-five (25) years after the right was reclaimed by the cemetery company.

(d) A cemetery that reclaims an interment right under this section must keep a record of such reclamation and provide the record to the commissioner of commerce and insurance upon request.

SECTION 8. Tennessee Code Annotated, Section 46-1-105(a), is amended by deleting the first sentence and substituting:

There is established within the state general fund a cemetery state administrative fund referred to as the "cemetery state administrative account".

SECTION 9. Tennessee Code Annotated, Section 46-1-105, is amended by deleting subsection (c) and substituting:

(c) A renewal of a certificate of registration must not be issued unless the applicant pays, in addition to the renewal fee, a state administrative fee of twenty dollars (\$20.00) for every pre-need sales contract entered into during the preceding renewal period, except that the applicant is not required to pay the state administrative 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. If the pre-need contract covers both cemetery merchandise and funeral merchandise as defined in § 62-5-403, then the cemetery company is only required to pay one (1) administrative fee for the contract, which must be credited to the cemetery state administrative account. A cemetery company shall not charge a consumer more than one (1) state administrative fee for the execution of one (1) or more cemetery contracts entered into by the consumer at any one (1) time.

SECTION 10. Tennessee Code Annotated, Section 46-1-204(b)(3)(A), is amended by deleting subdivisions (i)-(iii) and substituting:

(i) For interment rights in land, but not including interment rights in a lawn crypt or interment rights in 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 set aside for said interment rights or twenty percent (20%) of the total transaction amount for the land set aside for said interment rights, whichever is greater;

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

(iii) For interment rights in 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 11. Tennessee Code Annotated, Section 46-1-108(a), is amended by deleting "the lots" and substituting "interment rights".

SECTION 12. This act takes effect upon becoming a law, the public welfare requiring it.

Amendment No. 1 to SB0715

Bailey
Signature of Sponsor

AMEND Senate Bill No. 715*

House Bill No. 713

by deleting § 46-3-101 in SECTION 7 and substituting the following:

46-3-101. Chapter definitions.

As used in this chapter:

- (1) "Cemetery" has the same meaning as defined in § 46-1-102;
- (2) "Cemetery company" has the same meaning as defined in § 46-1-102;
- (3) "Community columbarium" means a structure, room, or space in a building or structure used, or intended to be used, for the interment of cremated human remains by members of the general public;
- (4) "Community mausoleum" means a structure, above ground, or partially above and partially below ground, containing crypts and niches used or intended for use by members of the general public;
- (5) "Crypt" has the same meaning as defined in § 46-1-102;
- (6) "Grave space" has the same meaning as defined in § 46-1-102;
- (7) "Interment" has the same meaning as defined in § 46-1-102;
- (8) "Interment right" means the right to inter human remains in a particular grave space, community mausoleum, or community columbarium in a cemetery; and
- (9) "Niche" has the same meaning as defined in § 46-1-102.

AND FURTHER AMEND by adding the following new subsection to § 46-3-102 in SECTION 7:

(e) A cause of action does not arise from reclamation of an abandoned interment right if the interment right was reclaimed in accordance with this section.

AND FURTHER AMEND by deleting SECTION 12 and substituting the following:

SECTION 12. This act takes effect January 1, 2026, the public welfare requiring it.