

VIRGINIA ACTS OF ASSEMBLY -- 2015 SESSION

CHAPTER 138

An Act to amend and reenact §§ 54.1-2808.1 and 54.1-2808.2 of the Code of Virginia, relating to unclaimed cremains of veterans; eligible dependents; veterans service organizations.

[S 1106]

Approved March 16, 2015

Be it enacted by the General Assembly of Virginia:

1. That §§ 54.1-2808.1 and 54.1-2808.2 of the Code of Virginia are amended and reenacted as follows:

§ 54.1-2808.1. Disposition of cremains.

Except as otherwise provided in § 54.1-2808.2, a funeral director may dispose of the cremains of an individual by interment, entombment, inurnment, or by scattering of the cremains, if after 120 days from the date of cremation, the contracting agent has not claimed the cremains or instructed the funeral director as to final disposition. The funeral director shall keep a permanent record of all cremains which identifies the method and site of final disposition. The costs and all reasonable expenses incurred in disposing of the cremains shall be borne by the contracting agent. Upon the disposition of the cremains, the funeral director shall not be liable for the cremains or for the method of final disposition. Except as otherwise provided in § 54.1-2808.2, any funeral director in possession of unclaimed cremains prior to July 1, 1993, may dispose of such cremains in accordance with the provisions of this section. However, no funeral director shall, without written permission of the contracting agent, dispose of cremains in a manner or a location in which the cremains of the deceased are commingled, except in the scattering of cremains at sea, by air, or in an area used exclusively for such purpose, or place, temporarily, the cremains of persons in the same container or urn.

For the purposes of this section and § 54.1-2808.2, "contracting agent" means any person, organization, association, institution, or group of persons who contracts with a funeral director or funeral establishment for funeral services.

§ 54.1-2808.2. Identification of unclaimed cremains of veterans and eligible dependents.

A. For the purposes of this section:

"Eligible dependent" means a veteran's spouse, a veteran's unmarried child younger than 21 years of age, or veteran's unmarried adult child who before the age of 21 became permanently incapable of self-support because of physical or mental disability.

"Veterans service organization" means an association or other entity organized for the benefit of veterans that has been recognized by the U.S. Department of Veterans Affairs or chartered by Congress and any employee or representative of such association or entity.

B. If the contracting agent has not claimed the cremains or instructed the funeral director as to final disposition within 90 days from the date of cremation, the funeral director shall provide names and any other identifying information of the unclaimed cremains to the Department of Veterans Services or a veterans service organization in order for the Department or organization to determine if the unclaimed cremains are those of a veteran or eligible dependent. The names and any personal identifying information submitted by a funeral director to the Department of Veterans Services or veterans service organization in compliance with this section shall be exempt from disclosure under the Virginia Freedom of Information Act (§ 2.2-3700 et seq.).

B. Commencing July 1, 2014, the C. The Department of Veterans Services or veterans service organization shall notify the funeral director within 30 45 days of receipt of the information required by subsection A B if the cremains are those of a veteran or eligible dependent and, if so, whether such veteran or eligible dependent is eligible for burial in a veterans cemetery in order to permit the transfer of the unclaimed cremains to a veterans cemetery. If the cremains are those of an eligible veteran or eligible dependent, a funeral director may transfer the cremains to the Department of Veterans Services or a veterans service organization for the purpose of disposition of such cremains.

C. D. No disposal of the unclaimed cremains of an eligible veteran or eligible dependent shall be made until the funeral director has notified the Virginia Department of Veterans Services or a veterans service organization and has received a determination as to whether the cremains are those of an eligible veteran or eligible dependent. Absent bad faith or malicious intent, no funeral director who transfers the cremains of a veteran or eligible dependent to the Virginia Department of Veterans Services or a veterans service organization for purposes of disposition or a veterans service organization that receives cremains for the purposes of disposition as provided in this section shall be liable for civil negligence.