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SENATE BILL NO. 1174

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on General Laws and Technology
on January 26, 2015)

(Patron Prior to Substitute—Senator Obenshain)

A *BILL to amend and reenact §§ 54.1-2324 and 54.1-2333 of the Code of Virginia, relating to the Cemetery Board; perpetual care trust fund; preneed trust accounts; report of independent certified public accountant.*

Be it enacted by the General Assembly of Virginia:

1. That §§ 54.1-2324 and 54.1-2333 of the Code of Virginia are amended and reenacted as follows:
§ 54.1-2324. Financial report and report of independent certified public accountant required for perpetual care trust funds.

A. Within four months after the close of its fiscal year, the cemetery company shall report the following information to the Board, on forms prescribed by the Board:

1. The total amount of principal in the perpetual care trust fund;
2. The securities in which the perpetual care trust fund is invested and the amount of cash on hand as of the close of the fiscal year;
3. The income received from the perpetual care trust fund, and the sources of such income, during the preceding fiscal year;
4. An affidavit executed by the compliance agent that all applicable provisions of this chapter relating to perpetual care trust funds have been complied with;
5. The total receipts subject to the 10 percent trust requirement;
6. All expenditures from the perpetual care trust fund;
7. If the trustee is other than a Virginia trust company or trust subsidiary or a federally insured bank or savings institution doing business in the Commonwealth, proof that the required fidelity bond has been secured and that it is in effect; *and*
8. A separate total of expenses incurred for general care and maintenance, embellishment and administration of its cemeteries.

B. The cemetery company shall ~~employ (i) engage~~ an independent certified public accountant to ~~audit and provide assurance that, with regard~~ *apply agreed-upon procedures as specified by the Board* to the total of all receipts subject to § 54.1-2319, ~~the report of the owner, operator or developer is true and correct and that the required deposits to the perpetual care trust fund have been made on a timely basis. Such audit in accordance with standards established by the American Institute of Certified Public Accountants or any successor standard authorities, and (ii) provide to the Board the independent certified public accountant's report on the agreed-upon procedures. The information provided by the cemetery company shall provide full disclosure of any transactions between the perpetual care trust fund and any directors, officers, stockholders, or employees of the cemetery company, or relatives of the cemetery company's employees, and shall include a description of the transactions, the parties involved, the dates and amounts of the transactions, and the reasons for the transactions.~~

C. The information required to be filed hereunder with the Board shall be exempt from the Government Data Collection and Dissemination Practices Act (§ 2.2-3800 et seq.).

§ 54.1-2333. Financial report and report of independent certified public accountant required for preneed trust accounts.

A. The cemetery company shall report the following information to the Board within four months following the cemetery company's fiscal year, on forms prescribed by the Board:

1. The total amount of principal in the preneed trust account;
2. The securities in which the preneed trust account is invested;
3. The income received from the trust and the source of that income during the preceding fiscal year;
4. An affidavit executed by the compliance agent that all provisions of this chapter applicable to the seller relating to preneed trust accounts have been complied with;
5. Forty percent of the total receipts required to be deposited in the preneed trust account;
6. All expenditures from the preneed trust account; and
7. If the trustee is other than a Virginia trust company or trust subsidiary or a federally insured bank or savings institution doing business in the Commonwealth, proof that the required fidelity bond has been secured and that it is in effect.

B. The cemetery company shall ~~employ (i) engage~~ an independent certified public accountant to ~~audit and provide assurance that 40 percent of the cash receipts from the sale of preneed property or services not to be delivered or performed within 120 days after receipt of the initial payment on account has been deposited in the account within 30 days after the close of the month in which the payment was~~

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60 ~~received~~ apply agreed-upon procedures as specified by the Board to the total of all receipts subject to
61 § 54.1-2325, in accordance with standards established by the American Institute of Certified Public
62 Accountants or any successor standard authorities, and (ii) provide to the Board the independent
63 certified public accountant's report on the agreed-upon procedures.

64 ~~Such audit~~ The information provided by the cemetery company shall provide full disclosure of any
65 transactions between the preneed trust account and any directors, officers, stockholders, or employees of
66 the cemetery company, or relatives of the cemetery company's employees, and shall include a
67 description of the transactions, the parties involved, the dates and amounts of the transactions, and the
68 reasons for the transactions.

69 C. The information required to be filed hereunder with the Board shall be exempt from the
70 Government Data Collection and Dissemination Practices Act (§ 2.2-3800 et seq.).