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HOUSE BILL NO. 247

Offered January 10, 1996

A BILL to amend the Code of Virginia by adding in Chapter 3 of Title 57 an article numbered 8, consisting of sections numbered 57-39.20 through 57-39.25 relating to pet cemeteries; penalties.

Patrons—Shuler and Hargrove

Referred to Committee on General Laws

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Chapter 3 of Title 57 an article numbered 8, consisting of sections numbered 57-39.20 through 57.39-25 as follows:

Article 8.
Pet Cemeteries.

§ 57-39.20. Definitions.

As used in this article, unless the context requires a different meaning:

"Burial right" means the right of interment.

"Interment" means the disposition of pet remains by earth burial, entombment in a mausoleum , or inurnment in a columbarium.

"Pet" means an animal that has been adapted or tamed to live in intimate association with or for the pleasure of people and includes but is not limited to dogs, cats, birds, rabbits, and hamsters.

"Pet cemetery" means land, together with any structures, facilities, or buildings appurtenant thereto provided to members of the public for use or reservation for use for the individual interment, above or below ground, of pet remains. "Pet cemetery" does not include land used exclusively for landfilling or the communal burial of pets, but does include a pet cemetery where a portion of the land is used for the communal burial of pets.

§ 57-39.21. Duty to file declaration of land use restriction.

The owner of any land used or to be used as a pet cemetery shall file in the office of the clerk of the circuit court for the locality where the land is located a declaration restricting the use of the land to use as a pet cemetery. The owner shall execute the declaration in the same manner and with the same effect as a conveyance of an interest in land. The clerk shall record the declaration in the deed book and index it in the name of the owner. The restriction established in such a recorded declaration may be removed only as provided in § 59-39.24. Unless a restriction is so removed, no person shall use land restricted pursuant to this section for any purpose other than as a pet cemetery.

§ 57-39.22. Size requirement.

No person shall operate a pet cemetery that is less than three acres in size, unless the pet cemetery was operating on or before July 1, 1996.

§ 57-39.23. Operator to establish endowment care fund.

A. Any person desiring to operate any pet cemetery which is organized or developed on or after July 1, 1996, shall, before selling or offering to sell any burial right in such pet cemetery, establish an endowment care fund and place a deposit in the fund of at least \$12,000 in cash or bonds of the United States, the Commonwealth or any county, city or town in the Commonwealth,

Once the operator has deposited in the endowment care fund a total of \$24,000, the operator may withdraw the original deposit of \$12,000 from the fund.

B. No person shall operate or continue to operate any pet cemetery in the Commonwealth without establishing and maintaining an endowment care fund segregated from other assets of the pet cemetery in accordance with this section.

C. Any person operating any pet cemetery after July 1, 1996, shall place into the endowment care fund required by this section a maintenance fee of not less than fifty dollars, which shall be charged as part of the purchase price for the sale of any burial right. This fee shall be placed in the endowment care fund no later than thirty days following the month in which the entire gross sales proceeds from the sale of the burial right are received.

D. The moneys of an endowment care fund shall be invested as provided by §§ 26-40 through 26-45.1 of Chapter 3 of Title 26, except as provided otherwise herein.

The income from the endowment care fund shall be used only for the maintenance, supervision, improvement, and preservation of the grounds, lots, markers, memorials, buildings, equipment, statuary, and other real and personal property of the pet cemetery and for the payment of real property taxes.

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58 *Annual reports of all the assets and investments of the endowment care fund shall be prepared and*
59 *maintained, and shall be available for inspection at reasonable times to any owner of a burial right in*
60 *the pet cemetery.*

61 *§ 59-39.24. Removal of restriction on land.*

62 *A. After a declaration has been filed pursuant to § 57-39.21, the restriction may be removed in*
63 *accordance with this section by order of the circuit court for the locality where the land is located in a*
64 *proceeding brought by the pet cemetery owner or his heirs or assigns.*

65 *B. The circuit court may remove the restriction on the land upon proof satisfactory to the court that*
66 *either of the following has occurred:*

67 *1. No interments have been made in the land from which the restriction is sought to be removed; or*

68 *2. The owner of the pet cemetery or his heirs or assigns have received, from those persons who own*
69 *burial rights in the pet cemetery or their heirs or assigns, written authorization, acknowledged before a*
70 *notary public, to remove the restriction from the land. Any person granting this authorization who*
71 *wishes to have a pet that is already interred in the pet cemetery removed and reinterred elsewhere shall*
72 *so state on the authorization and the pet cemetery owner shall provide proof of this removal and*
73 *reinterment. A pet cemetery owner need not obtain the authorization described in this subdivision from a*
74 *person who has purchased a burial right in the pet cemetery but who has not yet used that right for the*
75 *interment of a pet, if the owner refunds to the purchaser or his heirs or assigns all moneys taken for the*
76 *burial right, plus interest computed in the manner and at the rate agreed upon between the cemetery*
77 *owner and the owner of the burial right.*

78 *C. The circuit court may remove the restriction on a portion of the land described in the declaration,*
79 *if the portion of the land that remains subject to the restriction is not less than three acres in size, upon*
80 *proof satisfactory to the court that the situations described in either subdivision 1 or 2 of subsection B*
81 *have occurred with respect to that portion of the land from which the restriction is sought to be*
82 *removed.*

83 *D. A holder of a lien on the restricted land may object to the removal of the restriction and the*
84 *circuit court shall consider any such objection before issuing an order to remove the restriction.*

85 *E. An order issued by the circuit court removing a restriction pursuant to this section shall be filed*
86 *in the office of the clerk of the circuit court for the locality where the land is located. The clerk shall*
87 *record the order in the deed book.*

88 *§ 57-39.25. Violation a misdemeanor.*

89 *It shall be unlawful for any person to violate any of the provisions of this article. Any such violation*
90 *shall be deemed a Class 1 misdemeanor and any person convicted of such violation shall be punished in*
91 *accordance with the provisions of § 18.2-11.*