

HOUSE BILL 1417

By McCormick

AN ACT to amend Tennessee Code Annotated, Title 46,
Chapter 1, Part 3, relative to receiverships.

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

SECTION 1. Tennessee Code Annotated, Section 46-1-312, is amended by deleting subdivision (a)(1) and substituting instead the following language:

(a)

(1) The Davidson County chancery court, upon the petition of the commissioner, may appoint the commissioner as receiver to take charge of, control and manage a cemetery registered or required to be registered with the commissioner, upon determining that any of the following grounds exist:

(A) The cemetery has not maintained trust funds in the manner required by this chapter;

(B) The cemetery has allowed its registration to lapse, or the registration has been revoked;

(C) The cemetery is impaired or insolvent;

(D) The cemetery has refused to submit its books, records, accounts, or affairs to examination by the commissioner;

(E) There is reasonable cause to believe that there has been embezzlement, misappropriation, or other wrongful misapplication or use of trust funds or fraud affecting the ability of the cemetery to perform its obligation to perform improvement care or deliver merchandise or services;

(F) The cemetery has failed to file any report required by this chapter;

(G) The cemetery cannot or will not be able to meet all of its contractual obligations when they come due;

(H) A deficiency exists in the improvement care trust fund of any cemetery or separate geographical site of a cemetery; or

(I) The cemetery is not being operated in compliance with the terms and conditions of an order of the commissioner then in force and effect.

SECTION 2. Tennessee Code Annotated, Section 46-1-312, is amended by deleting subsection (c) and substituting instead the following language:

(c) If the sole ground for a receivership was a deficiency in the improvement care trust fund, the chancellor shall, upon a showing that the deficiency in the improvement care trust fund has been eliminated, terminate the suspension of the certificate of registration, compensate the receiver, dissolve the receivership, and restore the management of the cemetery to its owner.

SECTION 3. The commissioner for the Tennessee department of commerce and insurance is authorized to promulgate rules and regulations to effectuate the purposes of this act. All such rules and regulations shall be promulgated in accordance with the Uniform Administrative Procedures Act, compiled in Tennessee Code Annotated, title 4, chapter 5.

SECTION 4. This act shall take effect upon becoming a law, the public welfare requiring it; provided, however, Section 1 shall apply to all petitions filed on or after such date.