

§ 65-64. Deposits to perpetual care fund.

(a) Deposits to the care and maintenance trust fund must be made by the cemetery company holding title to the subject cemetery lands on or before the last day of the calendar month following the calendar month in which final payment is received as provided herein; however the entire amount required to be deposited into the fund shall be paid within four years from the date of any contract requiring the payment regardless of whether all amounts have been received by the cemetery company. If the cemetery company fails to make timely deposit, the Commission may levy and collect a late filing fee of one dollar (\$1.00) per day for each day the deposit is delinquent on each grave space, niche or mausoleum crypt sold. The care and maintenance trust fund shall be invested and reinvested by the trustee in accordance with G.S. 32-71. Investments may be made through means of a common trust fund as described in G.S. 53-163.5. Cemetery trust funds held in a fund designated as Trust Fund "A" pursuant to G.S. 65-64(e) may be invested and reinvested in accordance with G.S. 32-71. The fees and other expenses of the trust fund shall be paid by the trustee from the net income thereof and may not be paid from the corpus. To the extent that the net income is not sufficient to pay the fees and other expenses, the fees and other expenses shall be paid by the cemetery company.

(b) When a municipal, church-owned or fraternal cemetery converts to a private cemetery as defined in G.S. 65-48, then the cemetery shall establish and maintain a care and maintenance trust fund pursuant to this section; provided, however, the initial deposit for establishment of this trust fund shall be an amount equal to fifty dollars (\$50.00) per space for all spaces either previously sold or contracted for sale in the cemetery at the time of conversion or fifty thousand dollars (\$50,000), whichever sum is greater.

(c) Repealed by 1991 (Regular Session, 1992), c. 1007, s. 35.

(d) In each sales contract, reservation or agreement wherein burial rights are priced separately, the purchase price of the burial rights shall be the only item subject to care and maintenance trust fund deposits; but if the burial rights are not priced separately therein, the full amount of the contract, reservations or agreement shall be subject to care and maintenance trust fund deposits as provided herein, unless the purchase price of the burial rights can be determined from the accounting records of the cemetery company.

(e) When the amount deposited in the perpetual care fund required by this Article of any cemetery company shall amount to one hundred fifty thousand dollars (\$150,000), anything in this Article to the contrary notwithstanding, the cemetery company may make all deposits thereafter either into the original perpetual care trust fund or into a separate fund established as an irrevocable trust, designated as Perpetual Care Trust Fund "A," and invested by the trustee, in accordance with G.S. 32-71. Funds in a trust fund designated as Trust Fund "A" may not be invested in another cemetery company.

(f) For special endowments for a specific lot, grave, or a family mausoleum, memorial, marker, or monument, the cemetery may set aside the full amounts received for this individual special care in a separate trust or by a deposit to a savings account in a bank, credit union, or savings and loan association located within and authorized to do business in the State; provided, however, if the licensee does not set up a separate trust or savings account for the special endowment the full amount thereof shall be deposited in Perpetual Care Trust Fund "A." (1943, c. 644, s. 10; 1957, c. 529, s. 4; 1967, c. 1009, s. 10; 1971, c. 1149, s. 5; 1975, c. 768, s. 1; 1977, c. 686, s. 14; 1979, c. 888, ss. 5, 6; 1987, c. 488, ss. 3, 6; 1991, c. 653, s. 6; 1991 (Reg. Sess., 1992), c. 1007, s. 35; 1995, c. 509, s. 135.3(b), (c); 2004-202, ss. 7, 8; 2010-102, s. 3.)