

§ 65-60.1. Trustees; qualifications; examination of records; enforcement.

(a) The term "corporate trustee" as used in this Article shall mean a bank, credit union, or trust company authorized to do business in North Carolina under the supervision of the Commissioner of Banks, Credit Union Administrator, or any other corporate entity; provided that any corporate entity other than a bank, credit union, or trust company which acts as trustee under this Article shall first be approved by the Cemetery Commission and shall be subject to supervision by the Cemetery Commission as provided herein.

(b) Any corporate entity, other than a bank, credit union, or trust company, which desires to act as trustee for cemetery funds under this Article shall make application to the Commission for approval. The Commission shall approve the trustee when it has become satisfied that:

- (1) The applicant employs and is directed by persons who are qualified by character, experience, and financial responsibility to care for and invest the funds of others.
- (2) The applicant will perform its duties in a proper and legal manner and the trust funds and interest of the public generally will not be jeopardized.
- (3) The applicant will act as trustee for cemetery funds which will exceed five hundred thousand dollars (\$500,000) in the aggregate.
- (4) The applicant is authorized to do business in North Carolina and has adequate facilities to perform its duties as trustee.

(c) Any trustee under this Article, other than a bank, credit union, or trust company under the supervision of the Commissioner of Banks, shall maintain records relative to cemetery trust funds as the Commission may by regulation prescribe. The records shall be available at the trustee's place of business in North Carolina and shall be available at all reasonable times for examination by a representative of the Commission. The records shall be audited annually, within 90 days from the end of the trust fund's fiscal year, by an independent certified public accountant, and a copy of the audit report shall be promptly forwarded to the Commission.

(d) Whenever it appears that an officer, director, or employee of a trustee, other than a bank, credit union, or trust company, is dishonest, incompetent, or reckless in the management of a cemetery trust fund, the Commission may bring an action in the courts to remove the trustee and to impound the property and business of the trustee as may be reasonably necessary to protect the trust funds.

(e) Any trustee shall invest and reinvest cemetery trust funds in the same manner as provided by law for the investment of trust funds by the clerk of the superior court; provided, however, that this subsection does not apply to a perpetual trust fund described in G.S. 65-64 or cemetery trust funds held in a fund designated as Trust Fund "A" pursuant to G.S. 65-64(e), which may be invested and reinvested in accordance with G.S. 32-71. (1977, c. 686, s. 15; 1979, c. 888, s. 9; 1995, c. 509, s. 135.3(a); 2010-102, s. 2.)