

Missouri Revised Statutes

Chapter 214 Cemeteries Section 214.387

August 28, 2008

Monuments, markers or memorial funds to be deposited in segregated account--authorized withdrawals--commingling of funds prohibited--deferment of performance, when--trusteed accounts, procedure for withdrawals.

214.387. 1. Upon written instructions from the purchaser of a monument, marker or memorial, a cemetery may defer delivery of such property to a date designated by the purchaser, provided the cemetery operator, within forty-five days of the date the property is paid in full, deposits from its own funds an amount equal to one hundred ten percent of such property's wholesale cost into a segregated account. Funds deposited in a segregated account pursuant to this section and section 214.385 shall be maintained in such account until delivery of the property is made or the contract for the purchase of such property is canceled. No withdrawals may be made from the cemetery operator's segregated account established pursuant to this section and section 214.385 except as provided herein. The cemetery operator shall not commingle any other of its funds with the deposits made to the segregated account. Money in this account shall be invested utilizing the "prudent man theory" and is subject to audit by the division. Names and addresses of depositories of such money shall be submitted with the annual report.

2. If at the end of a calendar year the market value of the cemetery operator's segregated account exceeds the then current wholesale cost of all paid-in-full property which has not been delivered, the cemetery operator may withdraw from the segregated account all realized income earned by such account. If at the end of a calendar year the market value of the cemetery operator's segregated account is less than the then current wholesale cost of all paid-in-full property which has not been delivered, the cemetery operator shall only withdraw the realized income in excess of (i) the segregated account's market value at year end, plus (ii) all realized income accrued to the segregated account minus (iii) the wholesale cost of all paid-in-full property which has not been delivered.

3. Upon the delivery of a monument, marker or memorial sold by the cemetery or its agent, or the cancellation of the contract for the purchase of such property, the cemetery operator may withdraw from the segregated account an amount equal to (i) the market value of the segregated account based on the most recent account statement issued to the cemetery operator, times (ii) the ratio the delivered property's deposit in the account bears to the aggregate deposit of all property which is paid in full but not delivered. The segregated account may be inspected or audited by the division.

4. Upon written instructions from the purchaser of an interment, entombment, or inurnment

cemetery service, a cemetery may defer performance of such service to a date designated by the purchaser, provided the cemetery operator, within forty-five days of the date the agreement is paid in full, deposits from its own funds an amount equal to forty percent of the published retail price into a trusteed account. Funds deposited in a trusteed account pursuant to this section and section 214.385 shall be maintained in such account until delivery of the service is made or the agreement for the purchase of the service is canceled. No withdrawals may be made from the trusteed account established pursuant to this section and section 214.385 except as provided herein. Money in this account shall be invested utilizing the "prudent man theory" and is subject to audit by the division. Names and addresses of depositories of such money shall be submitted with the annual report.

5. Upon the delivery of the internment, entombment, or inurnment cemetery service agreed upon by the cemetery or its agent, or the cancellation of the agreement for the purchase of such service, the cemetery operator may withdraw from the trusteed account an amount equal to (i) the market value of the trusteed account based on the most recent account statement issued to the cemetery operator, times (ii) the ratio the service's deposit in the account bears to the aggregate deposit of all services which are paid in full but not delivered. The trusteed account may be inspected or audited by the division.

6. The provisions of this section shall apply to all agreements entered into after August 28, 2002.

(L. 1994 S.B. 496 § 214.385 subsec. 2 subdivs. (b), (c), (d) merged with S.B. 701, A.L. 2002 S.B. 892)

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