



HOUSE BILL No. 6007

September 10, 1996, Introduced by Rep. Brackenridge and referred to the Committee on Commerce.

A bill to amend section 35a of Act No. 87 of the Public Acts of 1855, entitled as amended

"An act relative to burying grounds; and to impose certain duties upon the department of commerce,"

being section 456.35a of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 35a of Act No. 87 of the Public Acts of
2 1855, being section 456.35a of the Michigan Compiled Laws, is
3 amended to read as follows:

4 Sec. 35a. (1) The ENDOWMENT CARE fund required to be set
5 aside under section 35 ~~for the purpose of keeping and maintain-~~
6 ~~ing the grounds of cemeteries established after the effective~~
7 ~~date of this 1966 amendatory act, or mausoleums which are not~~
8 ~~located in the confines of a dedicated cemetery and are~~
9 ~~established after the effective date of this 1966 amendatory~~

1 ~~act,~~ shall be created by the deposit of \$25,000.00 into the fund
2 before any sale of burial rights, entombment rights, or columbar-
3 ium rights is made.

4 (2) With respect to all cemeteries or mausoleums, ~~whether~~
5 ~~established before or after the effective date of this 1966 act,~~
6 the ENDOWMENT CARE fund shall be added to by payment, perpetual-
7 ly, into the ~~same~~ FUND each month of not less than 15% of all
8 proceeds received during the previous month from the sales of
9 burial rights, entombment rights, or columbarium rights. ~~made~~
10 ~~after the effective date of this 1966 amendatory act. No~~ A
11 total deposit for a single adult burial right sale or assignment
12 shall NOT be less than \$20.00. Notwithstanding the minimum
13 amount required to be paid into such endowment CARE fund from the
14 proceeds of sales of lots or burial rights, ~~as provided herein,~~
15 any cemetery which has an endowment CARE fund of more than
16 \$125,000.00 and exceeding \$10,000.00 per acre of the developed
17 portion of such cemetery ~~may make application~~ APPLY to the
18 cemetery ~~commission~~ COMMISSIONER for a waiver of the 15% or
19 \$20.00 minimum requirement. The cemetery ~~commission~~
20 COMMISSIONER shall take ~~such~~ testimony and ~~make such~~
21 ~~investigation~~ INVESTIGATE as it ~~deems~~ CONSIDERS advisable.
22 ~~pursuant to such application.~~ If the cemetery ~~commission~~
23 COMMISSIONER determines that the applicant has an endowment CARE
24 fund of more than \$125,000.00 and exceeding \$10,000.00 per acre
25 of the developed portion of ~~such~~ THAT cemetery and that the
26 income from such fund is sufficient to meet the then current cost
27 of keeping the applicant's cemetery in good condition, it shall

1 grant a waiver of the 15% and \$20.00 minimum requirement ~~—~~ and
2 ~~it~~ shall grant such modifications with respect to contributions
3 to ~~such~~ THE fund as it ~~deems~~ CONSIDERS advisable.

4 (3) ~~The~~ EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (7),
5 THE endowment care fund may be administered by the board of
6 directors itself, or by such trustees, individual or corporate,
7 as it may select under the terms of a trust instrument or
8 declaration. If ~~it~~ THE BOARD OF DIRECTORS selects trustees to
9 administer the fund, its liability shall be limited to reasonable
10 care in the selection. Directors may serve as trustees if at
11 least 2 members of the board are selected.

12 (4) The funds established under this section shall be
13 invested subject to the provisions of sections 1 and 2 of Act
14 No. 177 of the Public Acts of 1937, ~~as amended,~~ being sections
15 555.201 and 555.202 of the MICHIGAN Compiled Laws. ~~of 1948, and~~
16 ~~the~~ THE investment of any fund for endowment care ~~heretofore or~~
17 ~~hereafter~~ made BEFORE OR AFTER THE EFFECTIVE DATE OF THE 1996
18 AMENDATORY ACT THAT AMENDED THIS SECTION which meets the require-
19 ments of ~~said act~~ THOSE SECTIONS is ratified and confirmed.

20 (5) No portion of the funds required to be set aside under
21 section 35 shall be used directly or indirectly for salaries of
22 the officers or directors of the cemetery association or
23 corporation. ~~only the~~ THE earnings from ~~such~~ THOSE funds
24 shall be used to keep the grounds and graves in good condition.

25 (6) In addition to all other remedies at law or in equity
26 which any interested party may have, the attorney general and the
27 circuit court of the county in which the cemetery is located

1 shall have all the powers and jurisdiction granted to the
2 attorney general and court as to trusts covered by Act No. 280
3 of the Public Acts of 1915, ~~as amended,~~ being sections 554.351
4 to 554.353 of the MICHIGAN Compiled Laws. ~~of 1948.~~ The remedies
5 granted shall include all such endowment care fund trusts without
6 regard to uncertainty or indefiniteness of the beneficiaries
7 ~~thereof~~ OF THOSE FUNDS.

8 (7) IN THE CASE OF A CORPORATION THAT IS ALSO A REGISTRANT
9 UNDER THE CEMETERY REGULATION ACT, ACT NO. 251 OF THE PUBLIC ACTS
10 OF 1968, BEING SECTIONS 456.521 TO 456.543 OF THE MICHIGAN
11 COMPILED LAWS, AND THAT HAS BEEN FOUND BY THE CEMETERY COMMIS-
12 SIONER TO HAVE VIOLATED THAT ACT OR A RULE PROMULGATED UNDER THAT
13 ACT REGARDING THE OPERATION OR MAINTENANCE OF AN ENDOWMENT CARE
14 FUND, THE CEMETERY COMMISSIONER MAY INVESTIGATE ANY ENDOWMENT
15 CARE FUND MAINTAINED OR OPERATED BY THE CORPORATION UNDER THIS
16 ACT AND MAY ORDER THE CORPORATION TO PLACE THAT ENDOWMENT CARE
17 FUND UNDER THE CONTROL OF A FINANCIAL INSTITUTION OR TRUST COM-
18 PANY, ACCEPTABLE TO THE CEMETERY COMMISSIONER, AS TRUSTEE OF THE
19 FUND. CONTROL OF THE ENDOWMENT CARE FUND BY THE FINANCIAL INSTI-
20 TUTION OR TRUST COMPANY SHALL BE AUTHORIZED PURSUANT TO A WRITTEN
21 TRUST AGREEMENT APPROVED BY THE CEMETERY COMMISSIONER AND SHALL
22 PROVIDE THAT THE AGREEMENT OPERATE UNTIL FURTHER NOTICE OF THE
23 CEMETERY COMMISSIONER.

24 Section 2. This amendatory act shall not take effect unless
25 both of the following bills of the 88th Legislature are enacted
26 into law:

1 (a) Senate Bill No. _____ or House Bill No. 6006 (request
2 no. 07697'96).

3 (b) Senate Bill No. _____ or House Bill No. 6008 (request
4 no. 07697'96 b).