

SUBSTITUTE FOR
SENATE BILL NO. 38

A bill to amend 1869 PA 12, entitled

"An act to authorize and encourage the formation of corporations to establish rural cemeteries; to provide for the care and maintenance thereof; to provide for the revision and codification of the laws relating to cemeteries, mausoleums, crypts, vaults, crematoriums, and other means of disposing of the dead; to make an appropriation therefor; and to impose certain duties upon the department of commerce,"

by amending section 7a (MCL 456.107a).

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 7a. (1) The fund required to be set aside under
2 section 7 for ~~the purpose of keeping and maintaining the grounds~~
3 ~~of such cemeteries established after the effective date of this~~
4 ~~1966 amendatory act~~ **perpetual care regarding cemeteries**
5 **established after March 10, 1967**, or mausoleums which are not
6 located in the confines of a dedicated cemetery and are
7 established after ~~the effective date of this 1966 amendatory~~
8 ~~act~~ **March 10, 1967**, shall be created by the deposit of

1 \$25,000.00 into the fund before any sale of burial rights,
2 entombment rights or columbarium rights is made.

3 (2) With respect to all cemeteries or mausoleums, whether
4 established before or after ~~the effective date of this 1966 act~~
5 **March 10, 1967**, the fund shall be added to by payment,
6 perpetually, ~~into the same~~ each month of not less than 15% of
7 all proceeds received during the previous month from the sales of
8 burial rights, entombment rights, or columbarium rights made
9 after the ~~effective date of this 1966 amendatory act~~ **March 10,**
10 **1967**. No total deposit for a single adult burial right sale or
11 assignment shall be less than \$20.00. Notwithstanding the
12 minimum amount required to be paid into ~~such~~ **the** endowment fund
13 from the proceeds of sales of lots or burial rights, ~~as provided~~
14 ~~herein,~~ any cemetery ~~which~~ **that** has an endowment fund of more
15 than \$125,000.00 and exceeding \$10,000.00 per acre of the
16 developed portion of ~~such~~ **the** cemetery, may ~~make application~~
17 **apply** to the cemetery commission for a waiver of the 15% or
18 \$20.00 minimum requirement. The cemetery commission shall take
19 ~~such~~ testimony and ~~make such investigation~~ **investigate** as it
20 ~~deems~~ **considers** advisable pursuant to ~~such~~ **the** application.
21 If the cemetery commission determines that the applicant has an
22 endowment fund of more than \$125,000.00 and exceeding \$10,000.00
23 per acre of the developed portion of ~~such~~ **the** cemetery and that
24 the income from ~~such~~ **the** fund is sufficient to meet the then
25 current cost of keeping the applicant's cemetery in good
26 condition, it shall grant a waiver of the 15% and \$20.00 minimum
27 requirement ~~,~~ and it shall grant ~~such~~ **appropriate**

1 modifications with respect to contributions to ~~such~~ **the** fund.
2 ~~as it deems advisable.~~

3 (3) No portion of the funds required to be set aside under
4 section 7 shall be used directly or indirectly for salaries of
5 the officers or directors of the cemetery association or
6 corporation ~~—~~ **and** only the earnings from ~~such~~ **the** funds shall
7 be used ~~to keep the grounds and graves in good condition~~ **for**
8 **perpetual care.**

9 (4) The endowment care fund may be administered by the board
10 of directors itself, or by ~~such~~ **the** trustees, individual or
11 corporate, as it may select under the terms of a trust instrument
12 or declaration. If it selects trustees to administer the fund,
13 its liability shall be limited to reasonable care in ~~such~~ **the**
14 selection. Directors may serve as trustees if at least 2 members
15 of the board are selected.

16 (5) The funds established under this section shall be
17 invested subject to ~~the provisions of sections 1 and 2 of Act~~
18 ~~No. 177 of the Public Acts of 1937, as amended, being sections~~
19 ~~555.201 and 555.202 of the Compiled Laws of 1948, and the~~
20 ~~investment of any fund for endowment care heretofore or hereafter~~
21 ~~made which meets the requirements of said act is ratified and~~
22 ~~confirmed~~ **section 7302 of the estates and protected individuals**
23 **code, 1998 PA 386, MCL 700.7302.**

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

Senate Bill No. 38 as amended April 30, 2003

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

7 (7) <<As used in this section, "perpetual care" means all general
8 work necessary to keep the cemetery property in a presentable condition
9 at all times, including, but not limited to, the cutting of grass at
10 reasonable intervals; raking, cleaning, filling, seeding, and sodding of
11 graves; replacement, pruning, or removal of shrubs and trees in order to
12 assure access to interment rights; and the repair and maintenance of
13 enclosures, buildings, drives, walks, and the various memorial gardens.

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16 Enacting section 1. This amendatory act does not take
17 effect unless all of the following bills of the 92nd Legislature
18 are enacted into law:

19 (a) Senate Bill No. 37.

20 (b) Senate Bill No. 39.