

SUBSTITUTE FOR  
HOUSE BILL NO. 6033

A bill to amend 1968 PA 251, entitled  
"Cemetery regulation act,"  
by amending the title and sections 2, 2a, 8, 9, 10, 12, 12a, 13,  
15, 16, 18, 19, and 21 (MCL 456.522, 456.522a, 456.528, 456.529,  
456.530, 456.532, 456.532a, 456.533, 456.535, 456.536, 456.538,  
456.539, and 456.541), the title and sections 2, 8, 9, 10, 12, 12a,  
13, 15, 16, 18, 19, and 21 as amended by 2004 PA 22 and section 2a  
as added by 1982 PA 132, and by adding sections 9a, 9b, 9c, and  
16b; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1

TITLE

2

An act to regulate the creation, **OWNERSHIP**, and management of  
cemeteries; to provide for a cemetery commissioner ~~—~~and to  
prescribe the powers and duties of the commissioner; to require the

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1 registration, **INVESTIGATION**, and audit of cemeteries **AND LICENSURE**  
2 **OF CEMETERY OWNERS**; to provide for long-term care of certain  
3 cemeteries; to regulate persons selling burial, entombment, or  
4 columbarium rights **AND CERTAIN MERCHANDISE; TO PROVIDE FOR IMMUNITY**  
5 **AND INDEMNIFICATION TO CERTAIN PERSONS UNDER CERTAIN CIRCUMSTANCES;**  
6 and to prescribe **CIVIL AND ADMINISTRATIVE** remedies and penalties.

7 Sec. 2. As used in this act:

8 (a) "Cemetery" means 1 or a combination of more than 1 of the  
9 following:

10 (i) A burial ground for earth interments.

11 (ii) A mausoleum for crypt entombments.

12 (iii) A crematory for the cremation for human remains.

13 (iv) A columbarium for the inurnment of cremated remains.

14 (b) "Interment" means the disposition of human remains by  
15 earth interment, entombment, or inurnment.

16 (c) "Burial right" means a right of earth interment.

17 (d) "Entombment right" means the right of crypt entombment in  
18 a mausoleum or in an aboveground vault.

19 (e) "Columbarium right" means the right of inurnment in a  
20 columbarium for cremated remains.

21 (f) "Mausoleum" means a building or other aboveground  
22 structure that is affixed to land and is a permanent repository for  
23 human remains.

24 (g) "Crypt" means a chamber in a mausoleum of sufficient size  
25 to entomb the uncremated remains of a deceased person.

26 (h) "Columbarium" means a building or other aboveground  
27 structure that is affixed to land and is a permanent repository for

1 cremated human remains.

2 (i) "Crematory" means a building or structure, within which  
3 the remains of deceased persons are or are intended to be cremated.

4 (j) "Cremation" means the incineration of the body of the  
5 deceased person.

6 (k) "Cemetery commissioner" or "commissioner" means the  
7 director of the department of labor and economic growth or a  
8 designee of the director.

9 (l) "Municipal corporation" means ~~that term as defined in~~  
10 ~~section 1 of 1927 PA 10, MCL 456.181~~ **A COUNTY, CITY, VILLAGE, OR**  
11 **TOWNSHIP.**

12 (m) "Person" means an individual, group of individuals, sole  
13 proprietorship, partnership, limited liability company,  
14 association, corporation, government agency, cemetery, or a  
15 combination of these legal entities.

16 (N) "ENDOWMENT CARE" AND "PERPETUAL CARE" MEAN ALL GENERAL  
17 WORK NECESSARY TO KEEP THE CEMETERY PROPERTY IN A PRESENTABLE  
18 CONDITION AT ALL TIMES, INCLUDING, BUT NOT LIMITED TO, THE CUTTING  
19 OF GRASS AT REASONABLE INTERVALS; RAKING, CLEANING, FILLING,  
20 SEEDING, AND SODDING OF GRAVES; REPLACEMENT, PRUNING, OR REMOVAL OF  
21 SHRUBS AND TREES IN ORDER TO ASSURE ACCESS TO INTERMENT RIGHTS; AND  
22 THE REPAIR AND MAINTENANCE OF ENCLOSURES, BUILDINGS, DRIVES, WALKS,  
23 AND THE VARIOUS MEMORIAL GARDENS.

24 (O) "GOOD MORAL CHARACTER" MEANS THAT TERM AS DEFINED AND  
25 DETERMINED UNDER 1974 PA 381, MCL 338.41 TO 338.47.

26 (P) "LICENSEE" MEANS A PERSON LICENSED UNDER THIS ACT.

27 (Q) "CEMETERY OWNER" OR "OWNER" MEANS THE PERSON WHO HAS TITLE

1 TO THE CEMETERY.

2 (R) "A PERSON DIRECTLY OR INDIRECTLY CONTROLLING THE CEMETERY  
3 OWNER" MEANS ANY OF THE FOLLOWING:

4 (i) A PERSON, AN OFFICER OF A PERSON, A PARTNER OF A PERSON, OR  
5 A MEMBER OR MANAGER OF A LIMITED LIABILITY COMPANY, WHO HOLDS MORE  
6 THAN 50% VOTING RIGHTS IN A CEMETERY OWNER.

7 (ii) A PERSON WHO IS A MEMBER OF THE BOARD OF DIRECTORS OF A  
8 CEMETERY OWNER, A PARTNER IN A CEMETERY OWNER, OR A MEMBER OR  
9 MANAGER OF A LIMITED LIABILITY COMPANY THAT IS A CEMETERY OWNER.

10 (iii) AN ADMINISTRATIVE OFFICIAL OF THE CEMETERY OWNER OR THE  
11 PERSON DESCRIBED IN SUBPARAGRAPH (i), COMPARABLE TO A CHIEF  
12 ADMINISTRATIVE OFFICER, CHIEF EXECUTIVE OFFICER, OR CHIEF FINANCIAL  
13 OFFICER.

14 Sec. 2a. The cemetery commissioner, or the commissioner's  
15 spouse or child, shall not have a **DIRECT OR INDIRECT** financial  
16 interest in a cemetery, **CEMETERY OPERATIONS**, a supplier of cemetery  
17 services or cemetery memorials, or a funeral establishment as  
18 defined in section 1801 of ~~Act No. 299 of the Public Acts of 1980,~~  
19 ~~being section 339.1801 of the Michigan Compiled Laws~~ **THE**  
20 **OCCUPATIONAL CODE, 1980 PA 299, MCL 339.1801.**

21 Sec. 8. The commissioner may promulgate rules ~~in accordance~~  
22 ~~with and subject to~~ **UNDER** the administrative procedures act of  
23 1969, 1969 PA 306, MCL 24.201 to 24.328, to implement and  
24 administer this act, including, **BUT NOT LIMITED TO**, rules regarding  
25 all of the following:

26 (a) The maintenance of records relative to the financial  
27 aspects of cemeteries.

(b) Requirements for applications for the granting of  
 LICENSES, permits, and registrations required under this act,  
 INCLUDING, BUT NOT LIMITED TO, THE GOOD MORAL CHARACTER AND  
 FINANCIAL SECURITY AND STABILITY, AND RESPONSIBILITY, OF THE ACTUAL  
 OR PROPOSED PERSON DIRECTLY OR INDIRECTLY CONTROLLING THE CEMETERY  
 OWNER.

(c) The formal and informal procedures governing the conduct  
 of contested cases under this act before the commissioner or an  
 authorized hearing officer DESIGNATED BY THE COMMISSIONER.

(D) REQUIREMENTS FOR TRUST AGREEMENTS UNDER THIS ACT.

(E) THE ESTABLISHMENT, CONTROL, RECORD KEEPING, AND AUDITING  
 OF ENDOWMENT CARE TRUST OR PERPETUAL CARE TRUST FUNDS UNDER THIS  
 ACT, MERCHANDISE TRUST ACCOUNTS, MERCHANDISE ESCROW ACCOUNTS,  
 SPECIAL CONSTRUCTION TRUST FUNDS, CEMETERY DEVELOPMENT FUNDS, AND  
 FUNDS REGULATED UNDER THE PREPAID FUNERAL AND CEMETERY SALES ACT,  
 1986 PA 255, MCL 328.211 TO 328.235.

(F) THE PROVISION OF PERPETUAL CARE.

Sec. 9. (1) The commissioner may hold hearings, CONDUCT  
 INVESTIGATIONS, administer oaths, take testimony under oath, and  
 request in writing the appearance and testimony of witnesses,  
 including the production of books and records. ~~Upon the refusal of~~  
~~a witness to appear, testify, or submit books and records after a~~  
~~written request, the commissioner or a party to a contested case~~  
~~may apply to the circuit court for Ingham county for a subpoena or~~  
~~a subpoena duces tecum. The court shall issue a subpoena when~~  
~~reasonable grounds are shown.~~

(2) IN FURTHERANCE OF THE COMMISSIONER'S INVESTIGATIVE POWERS,

1 THE COMMISSIONER MAY PETITION THE INGHAM COUNTY CIRCUIT COURT OR  
2 ANOTHER COURT OF COMPETENT JURISDICTION TO ISSUE A SUBPOENA OR  
3 SUBPOENA DUCES TECUM REQUIRING A PERSON TO APPEAR BEFORE THE  
4 COMMISSIONER, OR A DESIGNEE, IN REFERENCE TO A MATTER WITHIN THE  
5 SCOPE OF AN INVESTIGATION. THE COMMISSIONER MAY FURTHER PETITION  
6 THE COURT FOR AN ORDER TO COMPEL COMPLIANCE OR AN ORDER OF CONTEMPT  
7 OR ANY OTHER APPROPRIATE ORDER IN CONNECTION WITH ANY PERSON'S  
8 REFUSAL OR NEGLECT TO COMPLY WITH A SUBPOENA.

9 (3) IN FURTHERANCE OF A HEARING OR OTHER ADMINISTRATIVE  
10 PROCEEDING HELD UNDER THIS ACT, THE COMMISSIONER MAY ISSUE A  
11 SUBPOENA TO REQUIRE A PERSON TO APPEAR OR TESTIFY OR PRODUCE  
12 RELEVANT DOCUMENTARY MATERIAL FOR EXAMINATION AT THE HEARING OR  
13 PROCEEDING. THE COMMISSIONER MAY PETITION THE INGHAM COUNTY CIRCUIT  
14 COURT OR ANOTHER COURT OF COMPETENT JURISDICTION FOR AN ORDER TO  
15 COMPEL COMPLIANCE OR ANY OTHER APPROPRIATE ORDER IN CONNECTION WITH  
16 ANY PERSON'S REFUSAL OR NEGLECT TO APPEAR AT THE HEARING OR  
17 PROCEEDING AFTER BEING SUBPOENAED. IF A PERSON FAILS TO APPEAR,  
18 REFUSES TO TESTIFY, OR REFUSES TO PRODUCE DOCUMENTS AFTER AN ORDER  
19 IS ENTERED BY THE COURT, ANY FAILURE TO OBEY THE ORDER MAY BE  
20 PUNISHABLE BY THE COURT AS CONTEMPT.

21 (4) THE COMMISSIONER MAY DO THE FOLLOWING:

22 (A) CONDUCT INVESTIGATIONS REASONABLE AND NECESSARY TO  
23 DETERMINE WHETHER ANY PERSON HAS VIOLATED OR IS ABOUT TO VIOLATE  
24 ANY PROVISION OF THIS ACT OR ANY RULE PROMULGATED OR ORDER ISSUED  
25 UNDER THIS ACT.

26 (B) REQUIRE OR ALLOW A PERSON TO FILE A STATEMENT IN WRITING,  
27 UNDER OATH OR OTHERWISE AS THE COMMISSIONER DETERMINES, AS TO THE

1   FACTS AND CIRCUMSTANCES CONCERNING THE MATTER INVESTIGATED.

2           (5) THE COMMISSIONER SHALL HAVE THE AUTHORITY TO CONTROL,  
3   MANAGE, AND DISPOSE OF OR TRANSFER AN ABANDONED CEMETERY, OR TO  
4   REQUIRE ACCEPTANCE OF RESPONSIBILITY FOR AN ABANDONED CEMETERY,  
5   ACCORDING TO LAW. THE COMMISSIONER MAY PROMULGATE RULES THAT ARE  
6   NECESSARY TO CARRY OUT HIS OR HER POWERS AND DUTIES UNDER THIS  
7   SUBSECTION.

8           (6) FOR THE PURPOSE OF ANY INVESTIGATION OR PROCEEDING UNDER  
9   THIS ACT, AN AUTHORIZED EMPLOYEE OR AGENT OF THE DEPARTMENT, WHO IS  
10   AN ATTORNEY, MAY REPRESENT THE COMMISSIONER OR THE DEPARTMENT IN  
11   SUCH INVESTIGATION OR PROCEEDING BROUGHT UNDER THIS ACT.

12          (7) ANY PERSON REQUIRED BY THIS ACT TO TAKE ANY OATH OR  
13   AFFIRMATION AND WHO MAKES ANY FALSE OATH OR AFFIRMATION IS  
14   CONSIDERED TO HAVE COMMITTED PERJURY.

15          (8) ~~(2)~~When it **REASONABLY** appears to the commissioner that a  
16   person ~~or registrant~~ has ~~violated~~ **ENGAGED IN, OR IS ABOUT TO ENGAGE**  
17   **IN, ANY ACT OR PRACTICE CONSTITUTING A VIOLATION OF** this act or a  
18   rule promulgated or order issued under this act, the commissioner  
19   may do 1 or more of the following:

20          (a) Issue a cease and desist order. **A PERSON ORDERED TO CEASE**  
21   **AND DESIST IS ENTITLED TO A HEARING BEFORE THE COMMISSIONER OR A**  
22   **HEARING OFFICER DESIGNATED BY THE COMMISSIONER IF A WRITTEN REQUEST**  
23   **FOR A HEARING IS FILED WITHIN 30 DAYS AFTER THE EFFECTIVE DATE OF**  
24   **THE ORDER. AT THE OPTION OF THE AFFECTED PERSON, THE HEARING SHALL**  
25   **BE HELD WITHIN 30 DAYS AFTER THE WRITTEN REQUEST.**

26          (b) AFTER AN INVESTIGATION, ISSUE A FORMAL COMPLAINT OR AN  
27   ORDER, PLACING A LIMITATION ON THE USE OF A LICENSE, REGISTRATION

1 OR PERMIT.

2 (C) ~~(b)~~ Accept an assurance of discontinuance OF THE  
3 VIOLATION.

4 (D) ~~(e)~~ Bring an action in the circuit court for the county in  
5 which the person resides OR HAS ITS PRINCIPAL PLACE OF BUSINESS, or  
6 in the circuit court for the county of Ingham, to enforce  
7 compliance with this act or a rule promulgated or order issued  
8 under this act.

9 (E) ASSESS ADMINISTRATIVE FINES UNDER SECTION 18 AFTER A  
10 CONTESTED CASE HEARING IS HELD RESULTING IN FINDINGS OF A VIOLATION  
11 OF THIS ACT OR A RULE PROMULGATED OR ORDER ISSUED UNDER THIS ACT.

12 (F) ISSUE AN ORDER TO REPLENISH A DEFICIT IN TRUST FUND  
13 ACCOUNTS.

14 (G) ISSUE AN ORDER PROHIBITING THE WITHDRAWAL OR TRANSFER OF  
15 ANY TRUST FUND MONEY.

16 (9) IN CONNECTION WITH SUBSECTION (8) (B), (E), (F), OR (G),  
17 THE COMMISSIONER SHALL PROVIDE THE RESPONDENT WITH AN OPPORTUNITY  
18 TO MEET AND CONFER WITH A DESIGNATED DEPARTMENT EMPLOYEE TO ALLOW  
19 THE RESPONDENT TO SHOW COMPLIANCE WITH THIS ACT OR A RULE  
20 PROMULGATED OR ORDER ISSUED UNDER THIS ACT PRIOR TO A CONTESTED  
21 CASE HEARING. THE RESPONDENT MUST ELECT AND REQUEST A CONFERENCE  
22 WITHIN 15 DAYS AFTER THE ISSUANCE OF AN ORDER OR A NOTICE OF INTENT  
23 TO CONDUCT A CONTESTED CASE HEARING. SETTLEMENT DISCUSSIONS MAY  
24 TAKE PLACE AT A CONFERENCE SUBJECT TO FINAL APPROVAL OF THE  
25 COMMISSIONER.

26 (10) ~~(3) Upon a proper showing regarding~~ IN CONNECTION WITH an  
27 action brought under subsection ~~(2)(e), a permanent or temporary~~



1 ~~injunction or a restraining order may be granted and (8) (D) , THE~~  
2 **COURT MAY GRANT INJUNCTIVE RELIEF AND MAY APPOINT** a receiver or  
3 ~~conservator may be appointed by the court OVER A CEMETERY, CEMETERY~~  
4 **OWNER, OR OTHER PERSON WHO ACTIVELY PARTICIPATED IN, AND BENEFITED**  
5 **FROM, THE VIOLATION OF THIS ACT, RULE, OR ORDER AND WHO IS THE**  
6 **SUBJECT OF THE ACTION. NOTWITHSTANDING THE PROVISION OF ANY OTHER**  
7 **STATUTE TO THE CONTRARY, THE QUALIFICATIONS OF THE RECEIVER OR**  
8 **CONSERVATOR SHALL BE DETERMINED BY THE COURT AFTER RECOMMENDATIONS**  
9 **BY THE COMMISSIONER.** A receiver or conservator appointed by the  
10 court may **OPERATE THE CEMETERY AND** take possession of the assets,  
11 **INCLUDING ALL TRUST ACCOUNTS OF THE CEMETERY, CEMETERY OWNER, OR**  
12 **OTHER PERSON WHO ACTIVELY PARTICIPATED IN, AND BENEFITED FROM, THE**  
13 **VIOLATION OF THIS ACT, RULE, OR ORDER AND WHO IS THE SUBJECT OF THE**  
14 **ACTION, and may sell, assign, transfer, or convey the ASSETS OF A**  
15 ~~cemetery, including a cemetery in receivership on the July 26, 2002~~  
16 ~~date of the amendatory act that amended this subsection, CEMETERY~~  
17 **OWNER, OR OTHER PERSON WHO ACTIVELY PARTICIPATED IN, AND BENEFITED**  
18 **FROM, THE VIOLATION OF THIS ACT, RULE, OR ORDER, AND WHO IS THE**  
19 **SUBJECT OF THE ACTION, to a municipal corporation or other person**  
20 **other than the holder of a license for the practice of mortuary**  
21 **science or a person who owns, manages, supervises, operates, or**  
22 **maintains, either directly or indirectly, a funeral establishment,**  
23 **under conditions prescribed by the court, in order to discharge**  
24 **outstanding contractual obligations. A receiver OR CONSERVATOR**  
25 **appointed under this section has all the powers, authority, and**  
26 **remedies of an assignee for the benefit of creditors under chapter**  
27 **52 of the revised judicature act of 1961, 1961 PA 236, MCL 600.5201**

1 to 600.5265. The court may allow the receiver or conservator to  
2 file for protection under the bankruptcy code. A RECEIVER OR  
3 CONSERVATOR APPOINTED BY THE COURT MAY BE AN EMPLOYEE OF THE STATE  
4 OR MAY BE SOME OTHER COMPETENT AND DISINTERESTED PERSON AND SHALL  
5 RECEIVE COMPENSATION FROM THE CEMETERY AS DETERMINED BY THE COURT.  
6 ALL EXPENSES OF A CONSERVATORSHIP SHALL BE PAID OUT OF THE ASSETS  
7 OF THE CEMETERY OR CEMETERY ENTITY UPON APPROVAL BY THE  
8 COMMISSIONER. THE EXPENSES SHALL BE A FIRST CHARGE UPON THE ASSETS  
9 OF THE CEMETERY OR CEMETERY ENTITY AND SHALL BE FULLY PAID BEFORE  
10 ANY FINAL DISTRIBUTION OR PAYMENT OF DIVIDENDS IS MADE TO CREDITORS  
11 OR SHAREHOLDERS. ALL COMPENSATION AND EXPENSES REQUIRED TO BE  
12 REIMBURSED TO THE COMMISSIONER IN CONNECTION WITH A CONSERVATORSHIP  
13 AND ALL EXPENSES FOR STATE SUPERVISION OF CONSERVATORSHIPS UNDER  
14 THIS ACT SHALL BE DEPOSITED IN THE STATE TREASURY IN A DESIGNATED  
15 FUND FOR THE ADMINISTRATION OF THIS ACT.

16 (11) SUBJECT TO COURT APPROVAL, A RECEIVER OR CONSERVATOR  
17 APPOINTED UNDER THIS ACT MAY DO ANY OF THE FOLLOWING:

18 (A) TAKE POSSESSION OF THE BOOKS, RECORDS, AND ASSETS OF THE  
19 CEMETERY, CEMETERY OWNER, OR OTHER PERSON WHO ACTIVELY PARTICIPATED  
20 IN, AND BENEFITED FROM, THE VIOLATION OF THIS ACT, RULE, OR ORDER  
21 AND WHO IS THE SUBJECT OF AN ACTION UNDER SUBSECTION (8) (D) .

22 (B) EMPLOY EMPLOYEES AND AGENTS, LEGAL COUNSEL, ACTUARIES,  
23 ACCOUNTANTS, APPRAISERS, CONSULTANTS, AND SUCH OTHER PERSONNEL AS  
24 HE OR SHE CONSIDERS NECESSARY.

25 (C) FIX THE REASONABLE COMPENSATION OF EMPLOYEES AND AGENTS,  
26 LEGAL COUNSEL, ACTUARIES, ACCOUNTANTS, APPRAISERS, AND CONSULTANTS.

27 (D) COLLECT ALL DEBTS AND MONEY DUE OR CLAIMS BELONGING TO THE

1 CEMETERY, CEMETERY OWNER, OR OTHER PERSON WHO ACTIVELY PARTICIPATED  
2 IN, AND BENEFITED FROM, THE VIOLATION OF THIS ACT, RULE, OR ORDER  
3 AND WHO IS THE SUBJECT OF AN ACTION UNDER SUBSECTION (8) (D) .

4 (E) SUE, DEFEND, COMPROMISE, AND SETTLE ALL DEBTS AND MONEY  
5 DUE OR CLAIMS INVOLVING THE CEMETERY, CEMETERY OWNER, OR OTHER  
6 PERSON WHO ACTIVELY PARTICIPATED IN, AND BENEFITED FROM, THE  
7 VIOLATION OF THIS ACT, RULE, OR ORDER AND WHO IS THE SUBJECT OF AN  
8 ACTION UNDER SUBSECTION (8) (D) .

9 (F) SELL ANY AND ALL REAL AND PERSONAL PROPERTY.

10 (G) BORROW MONEY ON THE SECURITY OF THE ASSETS OF THE  
11 CEMETERY, CEMETERY OWNER, OR OTHER PERSON WHO ACTIVELY PARTICIPATED  
12 IN, AND BENEFITED FROM, THE VIOLATION OF THIS ACT, RULE, OR ORDER  
13 AND WHO IS THE SUBJECT OF THE ACTION UNDER SUBSECTION (8) (D) OR  
14 BORROW MONEY WITHOUT SECURITY AND EXECUTE AND DELIVER ALL DOCUMENTS  
15 NECESSARY FOR THAT TRANSACTION.

16 (H) EXERCISE ALL FIDUCIARY FUNCTIONS OF THE CEMETERY, CEMETERY  
17 OWNER, OR OTHER PERSON WHO ACTIVELY PARTICIPATED IN, AND BENEFITED  
18 FROM, THE VIOLATION OF THIS ACT, RULE, OR ORDER AND WHO IS THE  
19 SUBJECT OF THE ACTION UNDER SUBSECTION (8) (D) AS OF THE DATE OF THE  
20 COMMENCEMENT OF THE RECEIVERSHIP OR CONSERVATORSHIP.

21 (I) EXERCISE OTHER POWERS AND DUTIES AS MAY BE PROVIDED BY THE  
22 COURT UNDER THE LAWS OF THIS STATE APPLICABLE TO THE APPOINTMENT OF  
23 RECEIVERS OR CONSERVATORS.

24 (J) PAY ALL EXPENSES OF THE RECEIVERSHIP OR CONSERVATORSHIP,  
25 INCLUDING ANY EXPENSES INCURRED BY THE STATE OF MICHIGAN, WHICH  
26 EXPENSES SHALL BE A FIRST CHARGE UPON THE ASSETS OF THE CEMETERY,  
27 CEMETERY OWNER, OR OTHER PERSON WHO ACTIVELY PARTICIPATED IN, AND

1 BENEFITED FROM, THE VIOLATION OF THIS ACT, RULE, OR ORDER AND WHO  
2 IS THE SUBJECT OF THE ACTION UNDER SUBSECTION (8) (D), AND BE FULLY  
3 PAID BEFORE ANY FINAL DISTRIBUTION OR PAYMENT TO CREDITORS,  
4 SHAREHOLDERS, OR INVESTORS.

5 (K) PAY PRO RATA ANY AND ALL DEBTS OF THE CEMETERY, CEMETERY  
6 OWNER, OR OTHER PERSON WHO ACTIVELY PARTICIPATED IN, AND BENEFITED  
7 FROM, THE VIOLATION OF THIS ACT, RULE, OR ORDER AND WHO IS THE  
8 SUBJECT OF THE ACTION UNDER SUBSECTION (8) (D), EXCEPT THAT DEBTS  
9 NOT EXCEEDING \$50.00 IN AMOUNT MAY BE PAID IN FULL, WITHOUT  
10 INTEREST.

11 (L) BORROW MONEY AS NECESSARY OR EXPEDIENT IN AIDING THE  
12 LIQUIDATION OF THE CEMETERY, CEMETERY OWNER, OR OTHER PERSON WHO  
13 ACTIVELY PARTICIPATED IN, AND BENEFITED FROM, THE VIOLATION OF THIS  
14 ACT, RULE, OR ORDER AND WHO IS THE SUBJECT OF THE ACTION UNDER  
15 SUBSECTION (8) (D), AND SECURE THE BORROWINGS BY THE PLEDGE,  
16 HYPOTHECATION, OR MORTGAGE OF ASSETS OF THE CEMETERY, CEMETERY  
17 OWNER, OR OTHER PERSON WHO ACTIVELY PARTICIPATED IN, AND BENEFITED  
18 FROM, THE VIOLATION OF THIS ACT, RULE, OR ORDER AND WHO IS THE  
19 SUBJECT OF THE ACTION UNDER SUBSECTION (8) (D).

20 (M) USE ASSETS OF THE CEMETERY, CEMETERY OWNER, OR OTHER  
21 PERSON WHO ACTIVELY PARTICIPATED IN, AND BENEFITED FROM, THE  
22 VIOLATION OF THIS ACT, RULE, OR ORDER AND WHO IS THE SUBJECT OF THE  
23 ACTION PURSUANT TO SUBSECTION (8) (D) UNDER A LIQUIDATION ORDER TO  
24 TRANSFER OBLIGATIONS.

25 (N) ENTER INTO CONTRACTS NECESSARY TO CARRY OUT THE ORDER TO  
26 LIQUIDATE AND AFFIRM OR DISAVOW ANY CONTRACTS TO WHICH THE  
27 CEMETERY, CEMETERY OWNER, OR OTHER PERSON WHO ACTIVELY PARTICIPATED

1 IN, AND BENEFITED FROM, THE VIOLATION OF THIS ACT, RULE, OR ORDER  
 2 AND WHO IS THE SUBJECT OF THE ACTION IS A PARTY.

3 (O) DELAY THE SALE OF THE ASSETS OF THE CEMETERY, CEMETERY  
 4 OWNER, OR OTHER PERSON WHO ACTIVELY PARTICIPATED IN, AND BENEFITED  
 5 FROM, THE VIOLATION OF THIS ACT, RULE, OR ORDER AND WHO IS THE  
 6 SUBJECT OF THE ACTION UNDER SUBSECTION (8) (D) IF THE RECEIVER OR  
 7 CONSERVATOR DETERMINES A DELAY IN THE SALE WOULD BE PRUDENT IN  
 8 ORDER TO OBTAIN A MORE FAVORABLE RATE OF RETURN ON THE SALE OF THE  
 9 ASSETS.

10 (P) REPORT TO THE COMMISSIONER AT TIME INTERVALS REQUESTED BY  
 11 THE COMMISSIONER WITH RESPECT TO ALL OF HIS OR HER ACTS AND  
 12 PROCEEDINGS IN CONNECTION WITH THE RECEIVERSHIP OR CONSERVATORSHIP.

13 (Q) OTHER REASONABLE AND NECESSARY ACTIONS AND POWERS  
 14 PERMITTED BY LAW.

15 (12) ~~(4)~~—In the order of sale of the cemetery, the court shall  
 16 make provision for notice to creditors and the filing of claims  
 17 against the receivership or conservatorship. ~~Any remaining funds~~  
 18 **FUNDS** held by ~~IN TRUST OR ESCROW FOR~~ the cemetery ~~in escrow under~~  
 19 ~~this act belong to the contract buyers or beneficiaries of the~~  
 20 ~~contract buyers and~~ **BY THE CEMETERY OWNER, TRUSTEE, OR CUSTODIAN OF**  
 21 **THOSE FUNDS** shall not be distributed to the general creditors of  
 22 the cemetery **OWNER**. This section does not prohibit the court from  
 23 allowing the sale of the cemetery to a person other than the holder  
 24 of a license for the practice of mortuary science or a person who  
 25 owns, manages, supervises, operates, or maintains, either directly  
 26 or indirectly, a funeral establishment, or **FROM ALLOWING THE SALE**  
 27 **OF THE CEMETERY TO A** municipal corporation.

1       (13) ~~(5)~~—In addition to an action taken under this section,  
2 the commissioner may deny an application or may suspend or revoke a  
3 **LICENSE**, permit, or registration after a ~~an~~ **ADMINISTRATIVE** hearing  
4 as ~~set forth~~ **PROVIDED FOR** in ~~this act~~ **SECTION 19**.

5       (14) IF IT APPEARS FROM AN AUDIT OR OTHER INVESTIGATION MADE  
6 BY THE COMMISSIONER UNDER THIS ACT, OR FROM A REPORT MADE TO THE  
7 COMMISSIONER, THAT A CRIME HAS BEEN COMMITTED IN VIOLATION OF A  
8 PROVISION OF THIS ACT OR OTHER LAW OF THE STATE, THE COMMISSIONER  
9 SHALL IMMEDIATELY REPORT THE CRIME TO THE ATTORNEY GENERAL OR THE  
10 PROPER PROSECUTING ATTORNEY IN WRITING, AND THE ATTORNEY GENERAL OR  
11 PROSECUTING ATTORNEY SHALL TAKE SUCH ACTION ON THE REPORT AS THE  
12 FACTS WARRANT.

13       SEC. 9A. ALL DEPARTMENTS, STATE AGENCIES, PUBLIC BODIES  
14 CORPORATE, COMMITTEES, COMMISSIONERS, OR OFFICERS OF THIS STATE,  
15 AND ANY POLITICAL SUBDIVISION OF THIS STATE, SO FAR AS IS  
16 COMPATIBLE WITH THEIR DUTIES, SHALL GIVE THE COMMISSIONER OR HIS OR  
17 HER DESIGNEE ANY NECESSARY ASSISTANCE REQUIRED BY THE COMMISSIONER  
18 IN THE PERFORMANCE OF THE DUTIES OF THE COMMISSIONER. ALL  
19 DEPARTMENTS, STATE AGENCIES, PUBLIC BODIES CORPORATE, COMMITTEES,  
20 COMMISSIONERS, OR OFFICERS OF THIS STATE, AND ANY POLITICAL  
21 SUBDIVISION OF THIS STATE, SHALL PROVIDE THE COMMISSIONER FREE  
22 ACCESS TO ANY BOOK, RECORD, OR DOCUMENT IN THEIR CUSTODY RELATING  
23 TO THE MATTERS WITHIN THE SCOPE OF THE COMMISSIONER IN THE  
24 PERFORMANCE OF HIS OR HER DUTIES.

25       SEC. 9B. (1) THE COMMISSIONER MAY APPOINT DEPUTY COMMISSIONERS  
26 OR ASSISTANTS TO PERFORM ANY DUTY, ACT, OR FUNCTION OR TO TAKE  
27 CHARGE DURING THE COMMISSIONER'S ABSENCE, INCLUDING THE FOLLOWING

1   DISTINCT ACTIVITIES:

2           (A) AUDIT.

3           (B) LEGAL AFFAIRS.

4           (C) LICENSING OR REGISTRATION.

5           (D) INVESTIGATION.

6           (2) THE COMMISSIONER MAY APPOINT AND EMPLOY ACCOUNTANTS,  
7   AUDITORS, APPRAISERS, AND OTHER NECESSARY ASSISTANTS OR SUPPORT  
8   STAFF. THE COMMISSIONER MAY DESIGNATE SPECIAL DEPUTIES FROM  
9   AVAILABLE PERSONNEL TO PERFORM SPECIFIED DUTIES, INCLUDING  
10   SUPERVISION OF OFFICE OPERATIONS DURING THE ABSENCE OF THE  
11   COMMISSIONER AND DEPUTY COMMISSIONERS.

12          (3) THE COMMISSIONER MAY ENTER INTO CONTRACTS TO ACCOMPLISH  
13   REQUIREMENTS UNDER THIS ACT, INCLUDING FOR THE ENGAGEMENT OF  
14   CONSULTANTS.

15          (4) THE COMMISSIONER MAY SELECT AND APPOINT A RECEIVER OR  
16   CONSERVATOR IN THE MANNER PROVIDED FOR IN SECTION 9(10), SUBJECT TO  
17   APPROVAL BY A COURT OF COMPETENT JURISDICTION.

18          (5) THE COMMISSIONER MAY REVOKE APPOINTMENTS, DESIGNATIONS,  
19   AND DELEGATIONS OF AUTHORITY MADE PURSUANT TO THIS SECTION, AT HIS  
20   OR HER DISCRETION. APPOINTEES AND DESIGNEES PROVIDED FOR IN THIS  
21   SECTION SHALL BE PAID IN THE MANNER PRESCRIBED BY LAW OR CIVIL  
22   SERVICE CLASSIFICATION.

23          SEC. 9C. (1) THE COMMISSIONER OR HIS OR HER REPRESENTATIVES  
24   ARE IMMUNE FROM CIVIL LIABILITY, BOTH PERSONALLY AND  
25   PROFESSIONALLY, FOR ANY OF THEIR ACTS OR OMISSIONS IF THE FOLLOWING  
26   CONDITIONS ARE MET:

27           (A) THE COMMISSIONER OR HIS OR HER REPRESENTATIVES ACTED, OR

1 REASONABLY BELIEVED HE OR SHE ACTED, WITHIN THE SCOPE OF HIS OR HER  
2 AUTHORITY.

3 (B) THE COMMISSIONER'S OR HIS OR HER REPRESENTATIVES' CONDUCT  
4 DID NOT AMOUNT TO GROSS NEGLIGENCE THAT WAS THE PROXIMATE CAUSE OF  
5 THE INJURY OR DAMAGES SUFFERED.

6 (2) THE COMMISSIONER OR HIS OR HER REPRESENTATIVES SHALL NOT  
7 BE PERSONALLY LIABLE FOR THE ACTS OR OMISSIONS OF OTHERS, UNLESS  
8 THE CONDITIONS CONTAINED IN SUBSECTION (1) ARE NOT MET.

9 (3) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, DEFENSE AND  
10 INDEMNIFICATION OF THE COMMISSIONER OR HIS OR HER REPRESENTATIVES  
11 FOR AN ACT OR OMISSION UNDER THIS ACT SHALL BE CONDUCTED IN  
12 ACCORDANCE WITH 1964 PA 170, MCL 691.1401 TO 691.1419.

13 (4) IF A CLAIM IS MADE OR A CIVIL ACTION IS COMMENCED AGAINST  
14 THE COMMISSIONER OR HIS OR HER REPRESENTATIVES, EITHER PERSONALLY  
15 OR PROFESSIONALLY, FOR AN ACT OR OMISSION OCCURRING WITHIN THE  
16 COURSE OF EMPLOYMENT AS IT PERTAINS TO THIS ACT, OR ANY SUCCESSOR  
17 ACT, LEGAL REPRESENTATION SHALL BE PROVIDED BY THE ATTORNEY GENERAL  
18 OR A SPECIAL ASSISTANT ATTORNEY GENERAL APPOINTED TO PROVIDE SUCH  
19 REPRESENTATION, UNLESS THE CONDITIONS CONTAINED IN SUBSECTION (1)  
20 ARE NOT MET.

21 (5) IF A JUDGMENT IS AWARDED OR A SETTLEMENT IS ENTERED INTO  
22 IN A CIVIL ACTION AGAINST THE COMMISSIONER OR HIS OR HER  
23 REPRESENTATIVES FOR AN ACT OR OMISSION PERTAINING TO THIS ACT, OR  
24 ANY SUCCESSOR ACT, THE STATE SHALL INDEMNIFY THE COMMISSIONER OR  
25 HIS OR HER REPRESENTATIVES, UNLESS THE CONDITIONS CONTAINED IN  
26 SUBSECTION (1) ARE NOT MET.

27 (6) THIS SECTION DOES NOT APPLY TO THOSE PERSONS APPOINTED ON



1 A CONTRACTUAL BASIS AS A CONSERVATOR, RECEIVER, CONSULTANT,  
 2 ATTORNEY, OR APPRAISER, OR ACTING AS THE COMMISSIONER'S AGENT  
 3 PURSUANT TO A CONTRACTUAL AGREEMENT.

4 (7) AS USED IN THIS SECTION:

5 (A) "GROSS NEGLIGENCE" MEANS CONDUCT SO RECKLESS AS TO  
 6 DEMONSTRATE SUBSTANTIAL LACK OF CONCERN FOR WHETHER INJURY RESULTS.

7 (B) "REPRESENTATIVE" MEANS ANY EMPLOYEE ASSIGNED BY, OR UNDER  
 8 THE SUPERVISION OF, THE COMMISSIONER OR ANY PERSON EXERCISING POWER  
 9 DELEGATED BY THE COMMISSIONER IN ACCORDANCE WITH THIS ACT, BUT DOES  
 10 NOT INCLUDE ACCOUNTANTS, CONSULTANTS, CONSERVATORS, RECEIVERS,  
 11 APPRAISERS, OR ATTORNEYS RETAINED AS INDEPENDENT CONTRACTORS AND  
 12 ACTING IN THEIR PROFESSIONAL CAPACITY.

13 Sec. 10. (1) The commissioner shall institute and maintain a  
 14 system of auditing trust funds required by this act, **OF LICENSING**  
 15 **CEMETERY OWNERS**, and of registering each cemetery authorized to be  
 16 created, maintained, and operated ~~under 1869 PA 12, MCL 456.101 to~~  
 17 ~~456.119, and 1855 PA 87, MCL 456.1 to 456.36~~ **IN THIS STATE**, and  
 18 conducting sales under the prepaid funeral and cemetery sales act,  
 19 1986 PA 255, MCL 328.211 to 328.235, as well as any other cemetery  
 20 operating under state law or local ordinance. A cemetery owned and  
 21 operated by a municipal corporation, church, or religious  
 22 institution is exempt from this act. However, a municipal  
 23 corporation may pass ordinances necessary for regulating that  
 24 municipal corporation's cemeteries.

25 (2) A cemetery for earth interment of 10 acres or less in  
 26 size, which is owned and operated entirely and exclusively by an  
 27 existing nonprofit entity and in which a burial has taken place

1 before September 15, 1968, is exempt from the fee provisions of  
 2 this act, shall have the trust fund required by this act audited at  
 3 the discretion of the commissioner, and is exempt from the  
 4 endowment care trust fund requirements of section 16, except for  
 5 the report requirements if the cemetery maintains **ENDOWMENT OR**  
 6 **PERPETUAL** care ~~or memorial~~ **TRUST** funds.

7 Sec. 12. (1) A person shall not establish a cemetery without a  
 8 valid permit ~~or operate~~ **AND SHALL NOT OWN** an existing cemetery  
 9 except under a valid ~~registration~~ **LICENSE** issued under this act **AND**  
 10 **A REGISTRATION FOR EACH CEMETERY.**

11 (2) If a person proposes to purchase or otherwise acquire a  
 12 controlling interest ~~in~~ **REGARDING** an existing cemetery ~~company~~ **OR**  
 13 **CEMETERY OWNER**, that person shall first apply to the commissioner  
 14 for a certificate of approval of a proposed change of control ~~of a~~  
 15 ~~cemetery company~~ **OR APPROVAL AS A SUCCESSOR BEFORE ACQUIRING A**  
 16 **CONTROLLING INTEREST IN AN EXISTING CEMETERY OR CEMETERY OWNER AND**  
 17 **BEFORE PURCHASING OR OTHERWISE ACQUIRING A CEMETERY OR CEMETERY**  
 18 **OWNER.** The application shall **BE IN A FORM APPROVED BY THE**  
 19 **COMMISSIONER AND** contain the **FOLLOWING:**

20 (A) **THE** name and address of the proposed new owner. ~~or~~  
 21 ~~operator and~~

22 (B) **THE NAME AND ADDRESS OF THE PROPOSED SUCCESSOR.**

23 (C) **A SWORN STATEMENT FROM THE SELLER LISTING THE ASSETS AND**  
 24 **LIABILITIES RELATED TO THE CEMETERY, INCLUDING ALL TRUST ACCOUNTS**  
 25 **AND THE VALUE OF THE TRUST ACCOUNTS.**

26 (D) **SWORN STATEMENTS FROM BOTH THE SELLER AND THE PURCHASER**  
 27 **STATING WHO WILL ASSUME THE ASSETS AND LIABILITIES RELATED TO THE**

1 CEMETERY.

2 (E) A SWORN STATEMENT FROM THE PURCHASER THAT THE PRINCIPAL  
3 FROM THE ENDOWMENT CARE TRUST OR PERPETUAL CARE TRUST ACCOUNTS WILL  
4 BE HELD IN ESCROW FOR 6 MONTHS FROM THE LATER OF THE FOLLOWING:

5 (i) THE COMMISSIONER'S APPROVAL OF THE APPLICATION.

6 (ii) THE CLOSE OF THE SALE OF A CONTROLLING INTEREST IN THE  
7 CEMETERY OWNER OR THE SALE OF A SUBSTANTIAL PORTION OF THE ASSETS  
8 OF THE CEMETERY OWNER.

9 (iii) THE TRANSFER OF TITLE OF THE CEMETERY.

10 (F) PROOF THAT THE PROPOSED NEW OWNER HAS, OR WILL HAVE, TITLE  
11 TO THE CEMETERY OR, IF LEASED PURSUANT TO SECTION 2 OF 1855 PA 87,  
12 MCL 456.2, A COPY OF THE LEASE.

13 (G) THE NAME AND ADDRESS OF THE TRUSTEES AND CONSENT TO  
14 SERVICE OF PROCESS FOR THE TRUSTEES.

15 (H) A \$1,500.00 NONREFUNDABLE PROCESSING AND INVESTIGATION  
16 FEE.

17 (I) ANY other information as the commissioner requires.

18 (3) The commissioner shall issue a certificate of approval **FOR**  
19 **A CHANGE OF CONTROL OR THE ISSUANCE OF A LICENSE TO A SUCCESSOR**  
20 only after he or she is satisfied that the proposed new owner **OR**  
21 **SUCCESSOR** is qualified by **GOOD MORAL** character, experience, and  
22 financial **SECURITY AND STABILITY, AND** responsibility to control and  
23 operate the cemetery in a legal and proper manner, and that the  
24 interest of the public generally will not be jeopardized by the  
25 proposed change in ownership and management. ~~The application for a~~  
26 ~~purchase or change of control must be accompanied by an initial~~  
27 ~~filing or investigation fee of \$500.00.~~

(4) IF THE APPLICANT IS NOT AN INDIVIDUAL, THE INVESTIGATION DESCRIBED IN SUBSECTION (3) MAY BE MADE OF ANY PERSON DIRECTLY OR INDIRECTLY CONTROLLING THE CEMETERY OWNER. THE INVESTIGATION DESCRIBED IN SUBSECTION (3) MAY BE MADE OF ANY PROPOSED TRUSTEES OF FUNDS REGULATED UNDER THIS ACT FOR THE PURPOSE OF DETERMINING PAST CRIMINAL ACTIVITY AND COMPLIANCE WITH THIS ACT, RELATED ACTS, RULE, OR ORDER AND ANY SIMILAR RELEVANT INFORMATION.

~~(5) If a person fails to comply with this section, the commissioner shall order that an administrative hearing be held. If~~  
a transfer of controlling interest is found to have taken place without prior commissioner approval, the commissioner may ~~suspend~~  
**DO ANY OF THE FOLLOWING:**

(A) **SUSPEND** or revoke the **LICENSE OF THE CEMETERY OWNER** OR registration of the cemetery, or ~~take~~ **BOTH**.

(B) **ISSUE A CEASE AND DESIST ORDER** OR OTHER ORDER REQUIRING A PERSON TO IMMEDIATELY TAKE CURATIVE OR REMEDIAL ACTION.

(C) **SEEK INJUNCTIVE OR OTHER EQUITABLE ACTION** FROM A COURT OF COMPETENT JURISDICTION.

(D) **TAKE** other appropriate action ~~until it demonstrates compliance with this section~~ **AUTHORIZED UNDER THIS ACT**.

(6) ~~(3)~~ As used in this section, "controlling interest" means the capability to decide the operating and financial policies of the cemetery ~~company~~ **OWNER** or to select the officers or directors with majority control of the cemetery ~~company~~ **OWNER**.

Sec. 12a. (1) The commissioner or an examiner, investigator, or other person the commissioner may appoint, may visit and examine the affairs of any **OF THE FOLLOWING:**

1 (A) A cemetery or ~~person required to register under CEMETERY~~  
 2 OWNER SUBJECT TO this act. ~~and~~

3 (B) TRUSTEES OF FUNDS REGULATED UNDER THIS ACT AS THEY PERTAIN  
 4 TO CEMETERY TRUST FUNDS.

5 (2) THE COMMISSIONER shall have free access to the books,  
 6 papers, records, and documents that relate to the business of the  
 7 cemetery ~~corporation, OR CEMETERY OWNER OR person, or agent, OR~~  
 8 TRUSTEE acting on its behalf FOR MATTERS RELATED TO THIS ACT.

9 ~~——(2) The books, papers, records, and documents shall be~~  
 10 available for inspection or audit at any time during regular  
 11 business hours with reasonable notice. One or more qualified  
 12 persons DESIGNATED BY THE COMMISSIONER shall conduct the audit,  
 13 whose services shall be charged to and paid by the cemetery OWNER  
 14 at the rate of ~~\$10.00 per hour, but not more than \$1,000.00 total~~  
 15 DETERMINED BY THE COMMISSIONER, NOT TO EXCEED THE ACTUAL COST OF  
 16 THE INSPECTION OR AUDIT.

17 Sec. 13. (1) Any person desiring to establish a cemetery shall  
 18 file with the commissioner, on forms furnished by the commissioner,  
 19 an application for a permit to establish a cemetery. The  
 20 application shall be accompanied by ~~an~~ A NONREFUNDABLE  
 21 investigation fee of ~~\$500.00~~ \$1,500.00.

22 (2) After a receipt of an application, the commissioner shall  
 23 conduct an investigation pertaining to the physical plans, the  
 24 community need for the planned cemetery, and pertinent information  
 25 pertaining to the applicant's experience, financial ~~stability,~~  
 26 SECURITY AND STABILITY, RESPONSIBILITY, ability, ~~and~~ integrity, AND  
 27 GOOD MORAL CHARACTER, AND THE SOURCE, NATURE, AND AMOUNT OF

1 CONSIDERATION TO BE USED IN THE PURCHASE OF THE CEMETERY. If the  
 2 applicant is not ~~a natural person~~ **AN INDIVIDUAL**, the same  
 3 investigation shall be made of ~~the general manager and principal~~  
 4 ~~owners~~ **ANY PERSON DIRECTLY OR INDIRECTLY CONTROLLING THE CEMETERY**  
 5 **OWNER. AN INVESTIGATION MAY BE MADE OF ANY PROPOSED TRUSTEES OF**  
 6 **FUNDS REGULATED UNDER THIS ACT FOR THE PURPOSE OF DETERMINING PAST**  
 7 **CRIMINAL ACTIVITY AND COMPLIANCE WITH THIS ACT, RELATED ACT, RULE,**  
 8 **OR ORDER, AND ANY SIMILAR RELEVANT INFORMATION.**

9 Sec. 15. (1) ~~Each person operating a cemetery~~ **LICENSEE** shall  
 10 register ~~the~~ **EACH** cemetery **IT OWNS** by filing with the commissioner  
 11 a registration application ~~before June 2 of each year,~~ on a form  
 12 furnished by the commissioner, ~~and accompanied by the registration~~  
 13 ~~fee. A registration expires on July 1 of each year.~~

14 ~~—— (2) If the commissioner intends to deny registration, the~~  
 15 ~~procedure set forth in section 19 shall be followed. The~~  
 16 ~~commissioner may impose a late penalty filing fee of \$10.00 per day~~  
 17 ~~on a person which filed a registration application after June 1.~~

18 (2) **A LICENSE AND REGISTRATION ISSUED UNDER THIS ACT EXPIRES**  
 19 **ON JULY 1 OF EACH YEAR AND SHALL BE RENEWED ANNUALLY UNLESS THE**  
 20 **COMMISSIONER DETERMINES THAT, UNDER THE PROVISIONS OF THIS ACT, THE**  
 21 **CEMETERY OWNER DOES NOT QUALIFY FOR LICENSURE OR THAT THE CEMETERY**  
 22 **DOES NOT QUALIFY FOR REGISTRATION.**

23 (3) **THE COMMISSIONER SHALL CHARGE AN ANNUAL FEE OF \$100.00 PER**  
 24 **YEAR FOR EACH CEMETERY REGISTERED. NOT LESS THAN 90 DAYS BEFORE THE**  
 25 **EXPIRATION DATE OF THE LICENSE AND REGISTRATION, THE COMMISSIONER**  
 26 **SHALL MAIL A RENEWAL APPLICATION TO EACH LICENSEE, TOGETHER WITH A**  
 27 **NOTICE ADVISING OF THE TIME AND PROCEDURES FOR RENEWAL OF THE**

1 LICENSE AND REGISTRATION. THE COMMISSIONER MAY IMPOSE A LATE  
2 PENALTY FILING FEE OF \$25.00 PER DAY ON A LICENSEE WHICH FILED A  
3 RENEWAL APPLICATION AFTER JUNE 1.

4 (4) IF THE NAME OF THE CEMETERY IS DIFFERENT FROM THE NAME OF  
5 THE CEMETERY OWNER, THE CEMETERY SHALL SUBMIT A COPY OF THE  
6 CERTIFICATE OF ASSUMED NAME TO THE COMMISSIONER. A CEMETERY OWNER  
7 MAY TRANSACT BUSINESS UNDER AN ASSUMED NAME AFTER THE CERTIFICATE  
8 HAS BEEN FILED WITH THE APPROPRIATE FILING OFFICIAL AND A COPY  
9 SUBMITTED TO THE COMMISSIONER.

10 Sec. 16. (1) ~~The commissioner shall require each~~ EACH cemetery  
11 ~~to~~ OWNER SHALL establish and maintain an irrevocable endowment CARE  
12 TRUST FUND OR PERPETUAL care TRUST fund ~~as required by section 35a~~  
13 ~~of 1855 PA 87, MCL 456.35a, or section 7a of 1869 PA 12, MCL~~  
14 ~~456.107a, and to~~ FOR EACH CEMETERY UNDER ITS OWNERSHIP OR CONTROL,  
15 THE INCOME OR PROCEEDS FROM WHICH SHALL BE PERPETUALLY DEVOTED FOR  
16 ENDOWMENT CARE OR PERPETUAL CARE OF THAT PARTICULAR CEMETERY. EACH  
17 CEMETERY OWNER SHALL report annually before July 1 of each year, on  
18 forms approved and furnished by the commissioner, care fund  
19 information required to be reported to the commissioner by THIS  
20 ACT, other statutes, and information regarding the funds as the  
21 commissioner considers pertinent in the public interest. ~~A cemetery~~  
22 ~~applying to the commissioner as authorized by other statutes for a~~  
23 ~~care fund deposit modification or waiver shall be assessed the~~  
24 ~~actual expenses for an examination or investigation by the~~  
25 ~~commissioner. The commissioner shall require each~~ THE REPORT SHALL  
26 BE CERTIFIED TO BY THE CEMETERY OWNER AND THE TRUSTEES OF FUNDS.  
27 FINANCIAL INFORMATION FOR THE CEMETERY OWNER OR TRUSTEES NOT

1 RELATED TO THE CEMETERY OR CEMETERY OPERATIONS IS EXEMPT FROM  
2 DISCLOSURE UNDER THE FREEDOM OF INFORMATION ACT, 1976 PA 442, MCL  
3 15.231 TO 15.246.

4 (2) ALL RECORDS PERTINENT TO THE MAINTENANCE, ESTABLISHMENT,  
5 AND REPORTING OF A CEMETERY OWNER'S REQUIRED TRUST FUNDS SHALL BE  
6 AVAILABLE FOR INSPECTION BY THE COMMISSIONER AT THE CEMETERY  
7 OWNER'S REGISTERED OFFICE IN MICHIGAN OR AT ANOTHER MICHIGAN  
8 LOCATION ON FILE WITH THE DEPARTMENT. THE COMMISSIONER SHALL BE  
9 IMMEDIATELY NOTIFIED OF ANY CHANGE IN THE LOCATION OF THE RECORDS.

10 (3) AN IRREVOCABLE ENDOWMENT CARE TRUST FUND OR PERPETUAL CARE  
11 TRUST FUND SHALL BE CREATED BY THE DEPOSIT OF AT LEAST \$75,000.00  
12 INTO THE FUND BEFORE ANY SALE OF BURIAL RIGHTS, ENTOMBMENT RIGHTS,  
13 OR COLUMBARIUM RIGHTS IS MADE.

14 (4) EACH MONTH, THE CEMETERY OWNER SHALL ADD TO THE ENDOWMENT  
15 CARE TRUST OR PERPETUAL CARE TRUST FUND FOR EACH CEMETERY BY  
16 PAYMENT OF NOT LESS THAN 15% OF ALL PROCEEDS RECEIVED DURING THE  
17 PREVIOUS MONTH FROM THE SALES OF BURIAL RIGHTS, ENTOMBMENT RIGHTS,  
18 OR COLUMBARIUM RIGHTS. NO TOTAL DEPOSIT FOR A SINGLE ADULT BURIAL  
19 RIGHT SALE OR ASSIGNMENT SHALL BE LESS THAN \$20.00. EXCESS SUMS ON  
20 DEPOSIT IN THE FUND CAN BE APPLIED BY A CEMETERY OWNER AGAINST  
21 FUTURE DEPOSITS, BUT SHALL NOT BE WITHDRAWN.

22 (5) EACH person engaged as agent or seller, as a means of  
23 livelihood either part time or full time, in the selling of burial  
24 rights, entombment rights, or columbarium rights owned by a party  
25 other than a cemetery OWNER or ~~corporation~~ OTHER PERSON subject to  
26 the irrevocable endowment CARE OR PERPETUAL care TRUST fund  
27 requirements of THIS ACT AND other laws, ~~to~~ SHALL deposit 15% of



1 all gross proceeds received from the sales of those rights into the  
2 irrevocable endowment **CARE OR PERPETUAL** care **TRUST** fund of the  
3 cemetery in which the rights are located if an irrevocable  
4 endowment **CARE OR PERPETUAL** care **TRUST** fund exists for that  
5 cemetery. ~~Excess sums on deposit in the fund can be applied by a~~  
6 ~~cemetery against future deposits. THE TOTAL DEPOSIT FOR A SINGLE~~  
7 **ADULT BURIAL, ENTOMBMENT, OR COLUMBARIUM RIGHT SALE OR ASSIGNMENT**  
8 **SHALL BE NOT LESS THAN \$20.00.**

9 (6) NOTWITHSTANDING THE MINIMUM AMOUNT REQUIRED TO BE PAID  
10 INTO THE IRREVOCABLE ENDOWMENT CARE TRUST OR PERPETUAL CARE TRUST  
11 FUND FROM THE PROCEEDS OF SALES OF LOTS OR BURIAL RIGHTS, THE OWNER  
12 OF ANY CEMETERY THAT HAS AN IRREVOCABLE ENDOWMENT CARE TRUST OR  
13 PERPETUAL CARE TRUST FUND OF MORE THAN \$750,000.00 AND EXCEEDING  
14 \$60,000.00 PER ACRE OF THE DEVELOPED PORTION OF THE CEMETERY MAY  
15 APPLY TO THE COMMISSIONER FOR A WAIVER OF THE 15% OR \$20.00 MINIMUM  
16 REQUIREMENT FOR FUTURE CONTRIBUTIONS. A CEMETERY OWNER APPLYING TO  
17 THE COMMISSIONER AS AUTHORIZED BY THIS ACT AND OTHER STATUTES FOR  
18 AN IRREVOCABLE ENDOWMENT CARE TRUST OR PERPETUAL CARE TRUST FUND  
19 DEPOSIT MODIFICATION OR WAIVER SHALL BE ASSESSED THE ACTUAL  
20 EXPENSES FOR AN EXAMINATION OR INVESTIGATION BY THE COMMISSIONER.  
21 THE COMMISSIONER, OR HIS OR HER DESIGNEE, MAY TAKE TESTIMONY AND  
22 INVESTIGATE AS HE OR SHE CONSIDERS ADVISABLE PURSUANT TO THE  
23 APPLICATION FOR MODIFICATION OR WAIVER.

24 (7) A deposit required to be made ~~by those persons~~ **PURSUANT TO**  
25 **SUBSECTION (4)** shall be modified or waived if the cemetery **OWNER**  
26 has received an irrevocable endowment **CARE TRUST OR PERPETUAL** care  
27 **TRUST** fund deposit modification or waiver approved by the

1 commissioner. ~~The total deposit for a single adult burial right~~  
2 ~~sale or assignment shall not be less than \$20.00.~~

3 (8) ~~(2)~~ Subject to subsection ~~(8)~~ **(14)**, a cemetery which is  
4 **OWNER** required to register **BE LICENSED** pursuant to this act and an  
5 ~~agent which is authorized by a cemetery or acting on its behalf~~  
6 ~~under an agreement or sales contract to sell cemetery merchandise~~  
7 ~~or cemetery services~~ shall establish a merchandise trust account  
8 **FOR EACH CEMETERY** and deposit a percentage of the gross proceeds  
9 received from the sales as determined by the commissioner. The  
10 merchandise trust account shall be maintained exclusively for the  
11 deposit of the money into a state or national bank, a state or  
12 federally chartered savings and loan association, or a trust  
13 company under the terms of a written trust agreement approved by  
14 the commissioner. ~~It shall be the responsibility of each registrant~~  
15 ~~under this act to assure that documents relating to the merchandise~~  
16 ~~trust account are provided to the commissioner upon request. If a~~  
17 ~~subpoena is issued to obtain these documents, the registrant shall~~  
18 ~~pay all costs related to obtaining the documents regardless of the~~  
19 ~~\$100.00 charge limitation contained in section 12a(2). The funds~~  
20 ~~shall be deposited not later than the month following their~~  
21 ~~receipt.~~

22 (9) ~~(3)~~ Subject to subsection ~~(8)~~ **(14)**, the total deposits to  
23 a merchandise trust for the sale of cemetery burial vaults or other  
24 outside containers, other than crypts installed underground and  
25 sold as part of a cemetery lot, shall at all times be not less than  
26 the greater of \$100.00 per vault or outside container or 130% of  
27 the total costs of the containers covered by the trust. Money

1 deposited in connection with a sale shall be repaid within 30 days  
 2 upon written demand of purchaser. A burial vault shall be installed  
 3 only at need or by separate written authorization of the purchaser.  
 4 The cemetery shall have the right to withdraw the amount on deposit  
 5 for the delivered vault or outside container.

6 (10) ~~(4)~~ Subject to subsection ~~(8)~~ **(14)**, a contract or  
 7 agreement made with a purchaser of cemetery merchandise and  
 8 cemetery services shall contain a complete description of the  
 9 cemetery merchandise purchased and of the cemetery services to be  
 10 rendered.

11 (11) ~~(5) The commissioner shall require each~~ **EACH** cemetery ~~or~~  
 12 ~~agent authorized by it acting on its behalf to~~ **OWNER SHALL** report  
 13 annually before July 1 of each year on forms provided by the  
 14 commissioner. The reports shall contain information as the  
 15 commissioner considers necessary to ascertain that **THE LICENSEE IS**  
 16 **COMPLYING WITH** this act ~~is being implemented~~ **AND RULES PROMULGATED**  
 17 **UNDER THIS ACT. INDIVIDUAL REPORTS SHALL BE SUBMITTED FOR EACH**  
 18 **CEMETERY. ALL DOCUMENTS, REPORTS, AND RECORDS REGARDING ANY TRUST**  
 19 **ACCOUNTS REQUIRED UNDER THIS ACT SHALL BE KEPT AT THE CEMETERY**  
 20 **OWNER'S REGISTERED OFFICE IN MICHIGAN OR AT ANOTHER MICHIGAN**  
 21 **LOCATION ON FILE WITH THE DEPARTMENT. THE CEMETERY OWNER SHALL**  
 22 **IMMEDIATELY NOTIFY THE COMMISSIONER OF ANY CHANGE IN THE LOCATION**  
 23 **OF THE RECORDS. IT IS THE RESPONSIBILITY OF EACH CEMETERY OWNER**  
 24 **REQUIRED TO BE LICENSED UNDER THIS ACT TO ASSURE THAT DOCUMENTS**  
 25 **RELATING TO ANY ACCOUNTS REQUIRED UNDER THIS ACT ARE PROVIDED TO**  
 26 **THE COMMISSIONER UPON REQUEST. IF A SUBPOENA IS ISSUED TO OBTAIN**  
 27 **THESE DOCUMENTS, THE CEMETERY OWNER SHALL PAY ALL COSTS RELATED TO**

1 **OBTAINING THE DOCUMENTS.**

2       (12) ~~(6)~~ If, after an audit by the commissioner's staff, a  
 3 deficit in the amount of required deposits to the trust funds is  
 4 found, the commissioner may assess a penalty ~~not to exceed 10% of~~  
 5 **UP TO** the amount ~~of the deficit~~ **ALLOWED UNDER THIS ACT.** The  
 6 ~~cemetery or entity of a cemetery OWNER~~ may request an  
 7 administrative hearing before the commissioner **OR A HEARING OFFICER**  
 8 **DESIGNATED BY THE COMMISSIONER** within 30 days after being notified  
 9 ~~of a deficit~~ by the commissioner. If, following the administrative  
 10 hearing, the commissioner determines that a deficit does exist, an  
 11 additional penalty not to exceed 1.5% may be assessed each month on  
 12 the unpaid monthly balance until the deficit is paid in full.

13       (13) ~~(7)~~ All fees, charges, and penalties, **OR OTHER MONEY FROM**  
 14 **ANY SOURCE**, collected under this act, other than fines prescribed  
 15 in section 21, shall be paid to the commissioner **AND DEPOSITED INTO**  
 16 **THE CEMETERY REGULATION FUND CREATED WITHIN THE STATE TREASURY.**  
 17 Upon receipt **OF FUNDS**, the commissioner shall remit **THE** funds  
 18 ~~received~~ to the department of treasury for deposit in the ~~general~~  
 19 ~~fund. of the state.~~ **THE FUND SHALL BE USED SOLELY BY THE**  
 20 **COMMISSIONER IN CARRYING OUT REQUIREMENTS OF THIS ACT. MONEY**  
 21 **REMAINING AT THE END OF THE FISCAL YEAR SHALL BE CARRIED FORWARD TO**  
 22 **THE NEXT FISCAL YEAR AND SHALL NOT REVERT TO THE GENERAL FUND. ANY**  
 23 **INTEREST OR EARNINGS FROM THE FUND SHALL BE CREDITED TO THE FUND.**  
 24 **THE STATE TREASURER SHALL DIRECT THE INVESTMENT OF THE FUND. THE**  
 25 **DEPARTMENT OF ENERGY, LABOR, AND ECONOMIC GROWTH SHALL BE THE**  
 26 **ADMINISTRATOR OF THE FUND FOR AUDITING PURPOSES.**

27       (14) ~~(8)~~ Any preneed contracts for cemetery merchandise or

1 services entered into on or after January 1, 2005 are subject to  
2 the prepaid funeral and cemetery sales act, 1986 PA 255, MCL  
3 328.211 to 328.235.

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

12 (15) NO PORTION OF THE IRREVOCABLE ENDOWMENT CARE TRUST OR  
13 PERPETUAL CARE TRUST FUNDS OR MERCHANDISE TRUST FUNDS REQUIRED TO  
14 BE SET ASIDE UNDER THIS SECTION SHALL BE USED DIRECTLY OR  
15 INDIRECTLY FOR SALARIES OF A PERSON WHO IS A MEMBER OF THE BOARD OF  
16 DIRECTORS OF A CEMETERY OWNER, A PARTNER IN A CEMETERY OWNER, OR A  
17 MEMBER OR MANAGER OF A LIMITED LIABILITY COMPANY THAT IS A CEMETERY  
18 OWNER, AND ONLY THE EARNINGS FROM ENDOWMENT CARE TRUST OR PERPETUAL  
19 CARE TRUST FUNDS SHALL BE USED FOR ENDOWMENT CARE OR PERPETUAL  
20 CARE.

21 (16) EACH TRUST FUND REQUIRED UNDER THIS ACT SHALL BE UNDER  
22 THE CONTROL OF AT LEAST 2 TRUSTEES. AT LEAST 1 OF THE TRUSTEES  
23 SHALL BE A RESIDENT OF MICHIGAN, AND AT LEAST 1 OF THE TRUSTEES  
24 SHALL BE LICENSED IN THE STATE OF MICHIGAN AS A CERTIFIED PUBLIC  
25 ACCOUNTANT, ATTORNEY, INVESTMENT ADVISOR, OR SECURITIES BROKER OR  
26 DEALER.

27 (17) FOR THE PURPOSES OF THE STATUTORY AUTHORIZATION REQUIRED

1 BY SECTION 1105(2)(E) OF THE BANKING CODE OF 1999, 1999 PA 276, MCL  
2 487.11105, TO ACT AS A FIDUCIARY IN THIS STATE, IF THE COMMISSIONER  
3 APPROVES A PROFIT OR NONPROFIT CORPORATION ORGANIZED UNDER THE LAWS  
4 OF THIS STATE OR FORMED IN ANOTHER JURISDICTION WITH A CERTIFICATE  
5 OF AUTHORITY TO TRANSACT BUSINESS IN THIS STATE TO SERVE IN A  
6 FIDUCIARY CAPACITY UNDER THIS ACT, THE NONBANKING CORPORATION IS  
7 AUTHORIZED TO ACT IN THAT FIDUCIARY CAPACITY. THE AUTHORIZATION  
8 UNDER THIS SUBSECTION CONFERS THE FIDUCIARY CAPACITY ONLY TO THE  
9 EXTENT NECESSARY REGARDING THE PARTICULAR APPROVED CEMETERY AND  
10 TRUST FUNDS AND IS NOT A GENERAL GRANT OF FIDUCIARY AUTHORITY. A  
11 NONBANKING CORPORATION IS NOT AUTHORIZED TO ACT IN ANY OTHER  
12 FIDUCIARY CAPACITY.

13 (18) THE COMMISSIONER MAY APPROVE TRUSTEES, NOTWITHSTANDING  
14 THE REQUIREMENTS OF SUBSECTION (16), IF AN APPROVED SURETY BOND IS  
15 PLACED ON FILE WITH THE COMMISSIONER EQUAL TO, OR GREATER THAN, THE  
16 SUM OF THE TRUST MONEY REQUIRED, OR IF THE TOTAL TRUST MONEY DOES  
17 NOT EXCEED \$150,000.00. THE COMMISSIONER OR THE ATTORNEY GENERAL  
18 MAY PROSECUTE ANY CLAIM AGAINST THE BOND ON BEHALF OF THE TRUST.

19 (19) THE INVESTMENT OF TRUST ASSETS IS SUBJECT TO THE MICHIGAN  
20 PRUDENT INVESTMENT RULE AS SET FORTH IN SECTIONS 1501 TO 1511 AND  
21 7302 OF THE ESTATES AND PROTECTED INDIVIDUALS CODE, 1998 PA 386,  
22 MCL 700.1501 TO 700.1511 AND 700.7302, EXCEPT THAT AN AGREEMENT  
23 SHALL NOT BE AMENDED OR MODIFIED, AS ALLOWED UNDER SECTIONS 1502(2)  
24 AND 7302 OF THE ESTATES AND PROTECTED INDIVIDUALS CODE, 1998 PA  
25 386, MCL 700.1502 AND 700.7302, TO PROVIDE LESS THAN THE STANDARD  
26 OF CARE IN THE PRUDENT INVESTOR RULE.

27 SEC. 16B. (1) BUNDLING OF FUNDS HELD IN TRUST OR ESCROW, FOR

1 EACH CEMETERY OR AMONG CEMETERIES WITH COMMON OWNERSHIP, IS  
2 PERMISSIBLE ONLY UNDER THE FOLLOWING CIRCUMSTANCES:

3 (A) EACH CEMETERY MAINTAINS SEPARATE TRUST AND ESCROW ACCOUNT  
4 RECORDS PURSUANT TO STATUTORY AND RULE REQUIREMENTS FOR ENDOWED  
5 CARE, MERCHANDISE, OR PREPAID FUNERAL AND CEMETERY SALES.

6 (B) A CEMETERY, OR CEMETERIES WITH COMMON OWNERSHIP, HAS ALL  
7 ITS TRUST OR ESCROW ACCOUNTS ON DEPOSIT WITH 1 OR MORE REGULATED  
8 FINANCIAL INSTITUTIONS WITH TRUST POWERS IN THIS STATE.

9 (C) THE TRUSTEE, OR THE TRUSTEE'S TRADING BLOCK NOMINEE, HOLDS  
10 TITLE IN THE NAME OF EACH INDIVIDUAL TRUST OR ESCROW ACCOUNT FOR  
11 THAT TRUST OR ESCROW ACCOUNT ASSETS AND THE ASSETS ARE PROMPTLY  
12 SETTLED BACK TO THE INDIVIDUAL ACCOUNTS BY THE TRUSTEE IN THE  
13 ORDINARY COURSE OF BUSINESS.

14 (2) NOTWITHSTANDING SUBSECTION (1), OTHER COMPARABLE METHODS  
15 OF BUNDLING OR POOLING OF TRUST OR ESCROW FUNDS FOR INVESTMENT  
16 PURPOSES MAY BE PERMISSIBLE UPON TERMS AND CONDITIONS APPROVED IN  
17 WRITING BY THE COMMISSIONER AND ONLY AFTER THE COMMISSIONER IS  
18 REASONABLY SATISFIED THAT THE TITLE TO, CHARACTER OF, AND  
19 ACCOUNTING FOR FUNDS HELD IN TRUST OR ESCROW IS PRESERVED.

20 Sec. 18. (1) The commissioner may deny an application filed  
21 under this act and refuse to issue **OR RENEW** a permit, **LICENSE**, or  
22 registration, or may suspend or revoke a permit, **LICENSE**, or  
23 registration, or may reprimand, place on probation, or take other  
24 disciplinary action against the applicant if the commissioner's  
25 investigation reveals facts which, with reference to the  
26 establishment of a cemetery, show inappropriate physical plans;  
27 lack of community need; inadequate experience, financial stability,

1 or integrity to protect the public welfare; or when the  
2 commissioner finds that the applicant **OR LICENSEE** or its officers,  
3 **OWNERS, DIRECTORS, MEMBERS,** or general manager has done 1 or more  
4 of the following:

5 (a) Made a false statement of a material fact in the  
6 application.

7 (b) Not complied with this act.

8 (c) Been ~~guilty~~**CONVICTED** of an unlawful or fraudulent act in  
9 connection with selling or otherwise dealing in cemetery lots and  
10 burial rights regulated by this act or funeral or cemetery  
11 merchandise and services regulated by the prepaid funeral and  
12 cemetery sales act, 1986 PA 255, MCL 328.211 to 328.235.

13 (d) ~~Been guilty in the judgment of the commissioner of other~~  
14 **DEMONSTRATED A LACK OF GOOD MORAL CHARACTER OR ENGAGED IN** conduct,  
15 whether of the same or different character than specified in this  
16 act, ~~which~~**THAT** constitutes dishonest and unfair dealing.

17 (e) Violated article 18 of the occupational code, 1980 PA 299,  
18 MCL 339.1801 to 339.1812.

19 (f) Violated the terms of an assurance of discontinuance  
20 entered into with the commissioner pursuant to section ~~9(2)~~**9(6)**.

21 (g) Violated the prepaid funeral and cemetery sales act, 1986  
22 PA 255, MCL 328.211 to 328.235.

23 (h) Failed to comply with section 2080 of the insurance code  
24 of 1956, 1956 PA 218, MCL 500.2080.

25 (i) Adopted, enforced, or attempted to enforce a regulation of  
26 the cemetery that prohibits the installation of a grave memorial or  
27 burial vault unless the grave memorial or burial vault was



1 purchased from the cemetery. This subdivision does not prohibit a  
 2 ~~cemetery~~**LICENSEE** from adopting and enforcing consistent rules and  
 3 regulations to be followed by both the cemetery and outside vendors  
 4 as to the quality, size, shape, type, installation, and maintenance  
 5 of the grave memorial or burial vault.

6 (2) If the commissioner denies an application for a permit,  
 7 **LICENSE**, or registration, or suspends or revokes an existing  
 8 permit, **LICENSE**, or registration required by this act, the denial,  
 9 revocation, or suspension shall ~~revoke~~**PROHIBIT** the ~~cemetery~~  
 10 ~~operation as to~~**APPLICANT OR LICENSEE FROM CONDUCTING CEMETERY**  
 11 **OPERATIONS INCLUDING, BUT NOT LIMITED TO**, the sale or assignment of  
 12 burial rights, entombment rights, or columbarium rights, cemetery  
 13 merchandise, or cemetery services after the date of the suspension,  
 14 revocation, or denial **EXCEPT TO THE EXTENT EXPRESSLY PERMITTED IN**  
 15 **THE ORDER OF DENIAL, SUSPENSION, OR REVOCATION**. The ~~corporation~~  
 16 **CEMETERY OWNER** shall fulfill all contractual obligations and  
 17 agreements entered into before the date of the suspension,  
 18 revocation, or denial, and shall make required interments for the  
 19 owners of burial rights, entombment rights, or columbarium rights  
 20 purchased before the date of suspension, revocation, or denial.

21 (3) The commissioner may impose an administrative fine of not  
 22 more than ~~\$5,000.00~~**\$10,000.00** for each separate violation of this  
 23 act.

24 Sec. 19. If the commissioner intends to deny, **SUSPEND, OR**  
 25 **REVOKE** an application for a permit, ~~to establish a cemetery, to~~  
 26 ~~refuse registration of an existing cemetery, or to suspend or~~  
 27 ~~revoke a registration~~**LICENSE, OR REGISTRATION**, the commissioner

1 shall give written notice to the person involved of that intent.  
 2 The notice shall state a time and a place for hearing before the  
 3 commissioner or a designated hearing officer, and a summary  
 4 statement of the reasons for the proposed action. The notice of  
 5 intent shall be mailed by certified mail to the applicant,  
 6 **LICENSEE, PERMITTEE, OR REGISTRANT** at least 15 days before the  
 7 scheduled hearing date. The ~~commissioner HEARING~~ shall hold a  
 8 ~~hearing~~ **BE HELD** pursuant to the notice in the manner required by  
 9 the administrative procedures act of 1969, 1969 PA 306, MCL 24.201  
 10 to 24.328, and the rules of procedure adopted by the commissioner.  
 11 The commissioner shall issue a written decision.

12       Sec. 21. (1) ~~A-EXCEPT AS OTHERWISE PROVIDED FOR IN SUBSECTIONS~~  
 13 ~~(2) AND (3), A~~ person who violates this act is guilty of a  
 14 misdemeanor, ~~and, if a natural person, the first offense shall be~~  
 15 ~~punishable by a fine of not more than \$100.00 or imprisonment for~~  
 16 ~~not more than 90 days, and a second offense shall be punishable by~~  
 17 ~~a fine of not more than \$500.00 or imprisonment for not more than 1~~  
 18 ~~year, or both \$10,000.00.~~

19       (2) If the violator is ~~other than a natural person~~ **AN**  
 20 **INDIVIDUAL**, the ~~first offense shall be~~ **IS** punishable by a fine of  
 21 not more than ~~\$100.00~~ **\$10,000.00** and the ~~second offense shall be~~  
 22 ~~punishable by a fine of not more than \$1,000.00~~ **IMPRISONMENT FOR**  
 23 **NOT MORE THAN 1 YEAR, OR BOTH.**

24       (3) **A VIOLATION OF SECTION 18 INVOLVING THE MISUSE OF TRUST**  
 25 **ACCOUNTS IS SUBJECT TO SECTION 180A OF THE MICHIGAN PENAL CODE,**  
 26 **1931 PA 328, MCL 750.180A.**

27       Enacting section 1. Section 11 of the cemetery regulation act,

1 1968 PA 251, MCL 456.531, is repealed.

2 Enacting section 2. This amendatory act does not take effect  
3 unless all of the following bills of the 94th Legislature are  
4 enacted into law:

5 (a) House Bill No. 6036.

6 (b) House Bill No. 6037.