

SUBSTITUTE FOR
HOUSE BILL NO. 6034

A bill to amend 1855 PA 87, entitled
"An act relative to burying grounds; and to impose certain duties
upon the department of commerce,"
by amending section 35a (MCL 456.35a), as amended by 2003 PA 91.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 35a. (1) The endowment care fund required to be set aside
2 under section 35 for the purpose of keeping and maintaining the
3 grounds of cemeteries established after March 10, 1967, or
4 mausoleums not located in the confines of a dedicated cemetery and
5 are established after March 10, 1967, shall be created by the
6 deposit of ~~\$25,000.00~~ **\$75,000.00** into the fund before any sale of
7 burial rights, entombment rights, or columbarium rights.
8 (2) With respect to all cemeteries or mausoleums, whether
9 established before or after March 10, 1967, the fund shall be added
10 to by payment, perpetually, each month of not less than 15% of all
11 proceeds received during the previous month from the sales of

1 burial rights, entombment rights, or columbarium rights made after
2 March 10, 1967. No total deposit for a single adult burial right
3 sale or assignment shall be less than \$20.00. Notwithstanding the
4 minimum amount required to be paid into the endowment care fund,
5 any cemetery which has an endowment care fund of more than
6 ~~\$125,000.00~~ **\$750,000.00** and exceeding ~~\$10,000.00~~ **\$60,000.00** per
7 acre of the developed portion of the cemetery may apply to the
8 cemetery ~~commission~~ **COMMISSIONER** for a waiver of the 15% or \$20.00
9 minimum requirement. The cemetery ~~commission~~ **COMMISSIONER** shall
10 take testimony and investigate as it considers advisable pursuant
11 to the application. If the cemetery ~~commission~~ **COMMISSIONER**
12 determines that the applicant has an endowment care fund of more
13 than ~~\$125,000.00~~ **\$750,000.00** and exceeding ~~\$10,000.00~~ **\$60,000.00**
14 per acre of the developed portion of the cemetery and that the
15 income from the fund is sufficient to meet the then current cost of
16 keeping the applicant's cemetery in good condition, it shall grant
17 a waiver of the 15% and \$20.00 minimum requirement and allow such
18 modifications with respect to contributions to the fund as it
19 considers advisable.

20 (3) The endowment care fund may be administered by the board
21 of directors, or by the fund's trustees, individual or corporate,
22 as the fund may select under the terms of a trust instrument or
23 declaration. If the fund selects trustees to administer the
24 endowment care fund, the fund's liability shall be limited to
25 reasonable care in the selection. Directors may serve as trustees
26 if at least 2 members of the board are selected.

27 (4) The funds established under this section shall be invested

1 subject to the provisions of section 7302 of the estates and
2 protected individuals code, 1998 PA 386, MCL 700.7302, **AND ARE**
3 **SUBJECT TO THE PRESCRIPTIONS OF THE CEMETERY REGULATION ACT, 1968**
4 **PA 251, MCL 456.521 TO 456.543.**

5 (5) No portion of the funds required to be set aside under
6 section 35 shall be used directly or indirectly for salaries of the
7 officers or directors of the cemetery association or corporation,
8 only the earnings from the funds shall be used for endowment care.

9 (6) In addition to all other remedies at law or in equity, the
10 attorney general and the circuit court of the county in which the
11 cemetery is located shall have all the powers and jurisdiction
12 granted to the attorney general and court as to trusts covered by
13 1915 PA 280, MCL 554.351 to 554.353. The remedies granted include
14 all endowment care fund trusts without regard to uncertainty or
15 indefiniteness of its beneficiaries.

16 Enacting section 1. This amendatory act does not take effect
17 unless House Bill No. 6033 of the 94th Legislature is enacted into
18 law.