

# HOUSE BILL No. 6034

May 1, 2008, Introduced by Reps. Farrah, Sak, Virgil Smith, Shaffer, Wojno, Hammon, Accavitti, Amos, Pavlov, Knollenberg, Condino, Green, Meadows, Dean and Cushingberry and referred to the Committee on Regulatory Reform.

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 into the fund before any sale of burial  
7       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

1 to by payment, perpetually, each month of not less than 15% of all  
2 proceeds received during the previous month from the sales of  
3 burial rights, entombment rights, or columbarium rights made after  
4 March 10, 1967. No total deposit for a single adult burial right  
5 sale or assignment shall be less than \$20.00. Notwithstanding the  
6 minimum amount required to be paid into the endowment care fund,  
7 any cemetery which has an endowment care fund of more than  
8 \$125,000.00 and exceeding \$10,000.00 per acre of the developed  
9 portion of the cemetery may apply to the cemetery commission for a  
10 waiver of the 15% or \$20.00 minimum requirement. The cemetery  
11 commission shall take testimony and investigate as it considers  
12 advisable pursuant to the application. If the cemetery commission  
13 determines that the applicant has an endowment care fund of more  
14 than \$125,000.00 and exceeding \$10,000.00 per acre of the developed  
15 portion of the cemetery and that the income from the fund is  
16 sufficient to meet the then current cost of keeping the applicant's  
17 cemetery in good condition, it shall grant a waiver of the 15% and  
18 \$20.00 minimum requirement and allow such modifications with  
19 respect to contributions to the fund as it 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 Senate Bill No.\_\_\_\_ or House Bill No. 6033(request no.  
18 03313'07 \*\*) of the 94th Legislature is enacted into law.