

# HOUSE BILL No. 6035

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

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), as amended by 2003 PA 90.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 7a. (1) The fund required to be set aside under section 7  
2 for perpetual care regarding cemeteries established after March 10,  
3 1967, or mausoleums which are not located in the confines of a  
4 dedicated cemetery and are established after March 10, 1967, shall  
5 be created by the deposit of \$25,000.00 into the fund before any  
6 sale of burial rights, entombment rights or columbarium rights is

1 made.

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

24 (3) No portion of the funds required to be set aside under  
25 section 7 shall be used directly or indirectly for salaries of the  
26 officers or directors of the cemetery association or corporation  
27 and only the earnings from the funds shall be used for perpetual

1 care.

2 (4) The endowment care fund may be administered by the board  
3 of directors itself, or by the trustees, individual or corporate,  
4 as it may select under the terms of a trust instrument or  
5 declaration. If it selects trustees to administer the fund, its  
6 liability shall be limited to reasonable care in the selection.  
7 Directors may serve as trustees if at least 2 members of the board  
8 are selected.

9 (5) The funds established under this section shall be invested  
10 subject to section 7302 of the estates and protected individuals  
11 code, 1998 PA 386, MCL 700.7302, **AND ARE SUBJECT TO THE**  
12 **PRESCRIPTIONS OF THE CEMETERY REGULATION ACT, 1968 PA 251, MCL**  
13 **456.521 TO 456.543.**

14 (6) In addition to all other remedies at law or in equity that  
15 any interested party may have, the attorney general and the circuit  
16 court of the county in which the cemetery is located shall have all  
17 the powers and jurisdiction granted to the attorney general and  
18 court as to trusts covered by 1915 PA 280, MCL 554.351 to 554.353.  
19 The remedies granted include all endowment care fund trusts without  
20 regard to uncertainty or indefiniteness of its beneficiaries.

21 (7) As used in this section, "perpetual care" means all  
22 general work necessary to keep the cemetery property in a  
23 presentable condition at all times, including, but not limited to,  
24 the cutting of grass at reasonable intervals; raking, cleaning,  
25 filling, seeding, and sodding of graves; replacement, pruning, or  
26 removal of shrubs and trees in order to assure access to interment  
27 rights; and the repair and maintenance of enclosures, buildings,

1 drives, walks, and the various memorial gardens.

2 Enacting section 1. This amendatory act does not take effect  
3 unless Senate Bill No. \_\_\_\_\_ or House Bill No. 6033(request no.  
4 03313'07 \*\*) of the 94th Legislature is enacted into law.