

HOUSE SUBSTITUTE FOR  
SENATE BILL NO. 1125

A bill to amend 1937 PA 215, entitled

"An act to authorize municipalities to own or control cemetery or burial grounds; to provide for perpetual care and maintenance; and to permit municipalities to authorize the creation of joint cemetery associations,"

by amending the title and section 3 (MCL 128.3), the title as amended and section 3 as added by 1980 PA 366, and by adding section 4.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

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TITLE

An act to authorize municipalities to own or control cemetery or burial grounds; to provide for perpetual care and maintenance; **TO PROVIDE FOR ENDOWMENT AND PERPETUAL CARE FUNDS;** and to permit municipalities to authorize the creation of joint cemetery associations.

1           Sec. 3. As used in this act: ~~,"municipality"~~

2           (A) "COMMUNITY FOUNDATION" MEANS AN ORGANIZATION THAT MEETS  
3 ALL OF THE FOLLOWING REQUIREMENTS:

4           (i) HAS BEEN IN EXISTENCE FOR AT LEAST 10 YEARS.

5           (ii) HAS ASSETS OF AT LEAST \$10,000,000.00.

6           (iii) QUALIFIES FOR EXEMPTION FROM FEDERAL INCOME TAXATION UNDER  
7 501(C) (3) OF THE INTERNAL REVENUE CODE, 26 USC 501(C) (3).

8           (iv) SUPPORTS A BROAD RANGE OF CHARITABLE ACTIVITIES WITHIN THE  
9 SPECIFIC GEOGRAPHIC AREA OF THIS STATE THAT IT SERVES, SUCH AS A  
10 MUNICIPALITY.

11           (v) MAINTAINS AN ONGOING PROGRAM TO ATTRACT NEW ENDOWMENT  
12 FUNDS BY SEEKING GIFTS AND BEQUESTS FROM A WIDE RANGE OF POTENTIAL  
13 DONORS IN THE GEOGRAPHIC AREA SERVED.

14           (vi) IS PUBLICLY SUPPORTED, AS DEFINED BY 26 CFR 1.170A-9(F).

15           (vii) MEETS THE REQUIREMENTS FOR TREATMENT AS A SINGLE ENTITY  
16 UNDER 26 CFR 1.170A-9(F) (11).

17           (viii) IS NOT AN ORGANIZATION DESCRIBED IN SECTION 509(A) (3) OF  
18 THE INTERNAL REVENUE CODE, 26 USC 509(A) (3).

19           (ix) HAS AN INDEPENDENT GOVERNING BODY REPRESENTING THE GENERAL  
20 PUBLIC'S INTEREST AND THAT IS NOT APPOINTED BY A SINGLE OUTSIDE  
21 ENTITY.

22           (x) MAINTAINS CONTINUALLY AT LEAST 1 PART-TIME OR FULL-TIME  
23 EMPLOYEE BEGINNING NOT LATER THAN 6 MONTHS AFTER THE COMMUNITY  
24 FOUNDATION IS INCORPORATED OR ESTABLISHED.

25           (xi) IS SUBJECT TO AN ANNUAL INDEPENDENT FINANCIAL AUDIT.

26           (xii) FOR A COMMUNITY FOUNDATION THAT IS INCORPORATED OR  
27 ESTABLISHED AFTER JANUARY 9, 2001, OPERATES IN A COUNTY OF THIS

1 STATE THAT WAS NOT SERVED BY A COMMUNITY FOUNDATION WHEN THE  
2 COMMUNITY FOUNDATION WAS INCORPORATED OR ESTABLISHED OR OPERATES AS  
3 A GEOGRAPHIC COMPONENT OF AN EXISTING COMMUNITY FOUNDATION.

4 (B) "MUNICIPALITY" means a city, village, township, or county.

5 SEC. 4. (1) SUBJECT TO THIS SECTION, TO LESSEN THE BURDEN OF  
6 GOVERNMENT, EACH MUNICIPALITY WITH A MUNICIPALLY OWNED CEMETERY MAY  
7 ESTABLISH AND MAINTAIN AN IRREVOCABLE ENDOWMENT AND PERPETUAL CARE  
8 FUND AS A COMPONENT FUND WITHIN A COMMUNITY FOUNDATION BY ENTERING  
9 INTO AN IRREVOCABLE AGREEMENT WITH THE COMMUNITY FOUNDATION.

10 (2) THE AMOUNTS DEPOSITED INTO THE FUND SHALL BE HELD IN  
11 PERPETUITY BY THE COMMUNITY FOUNDATION EXCEPT THAT THE COMMUNITY  
12 FOUNDATION SHALL ANNUALLY AUTHORIZE 2 DISTRIBUTIONS OF INTEREST AND  
13 OTHER EARNINGS TO THE MUNICIPALITY FOR CARE AND MAINTENANCE OF THE  
14 CEMETERY. THE WITHDRAWALS SHALL BE DOCUMENTED. THE CEMETERY SHALL  
15 MAINTAIN RECORDS SHOWING THAT EARNINGS FROM THE FUND ARE USED  
16 EXCLUSIVELY FOR ENDOWMENT AND FOR CARE AND MAINTENANCE OF THE  
17 CEMETERY. THE COMMUNITY FOUNDATION IS NOT RESPONSIBLE FOR  
18 ASCERTAINING THAT MONEY PAID TO THE MUNICIPALITY IS EXPENDED FOR  
19 THE LIMITED PURPOSES AUTHORIZED IN THIS SUBSECTION.

20 (3) SUBJECT TO THE TERMS OF THE AGREEMENT, THE FEES AND COSTS  
21 OF THE COMMUNITY FOUNDATION FOR SERVICES UNDER THIS SECTION AND THE  
22 AGREEMENT MAY BE PAID FROM THE PRINCIPAL OF THE FUND.

23 (4) THE COMMUNITY FOUNDATION SHALL SUBMIT TO THE LEGISLATIVE  
24 BODY OF THE MUNICIPALITY AN ANNUAL FUND STATEMENT THAT INCLUDES ALL  
25 OF THE FOLLOWING INFORMATION FOR THE REPORTING PERIOD:

26 (A) BEGINNING AND ENDING FUND BALANCES.

27 (B) DEPOSITS TO THE FUND, INCLUDING INTEREST AND EARNINGS FROM

1 FUND INVESTMENTS.

2 (C) DOCUMENTATION OF DISTRIBUTIONS FROM THE FUND UNDER  
3 SUBSECTION (2).

4 (D) DOCUMENTATION OF ANY EXPENDITURES UNDER SUBSECTION (3).

5 (5) AS USED IN THIS SECTION, "FUND" MEANS AN ENDOWMENT AND  
6 PERPETUAL CARE FUND ESTABLISHED UNDER SUBSECTION (1).