



HOUSE BILL No. 5173

November 2, 1993, Introduced by Reps. Randall and Palamara and referred to the Committee on Business and Finance.

A bill to amend section 16 of Act No. 251 of the Public Acts of 1968, entitled as amended "Cemetery regulation act," as amended by Act No. 132 of the Public Acts of 1982, being section 456.536 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 16 of Act No. 251 of the Public Acts of
2 1968, as amended by Act No. 132 of the Public Acts of 1982, being
3 section 456.536 of the Michigan Compiled Laws, is amended to read
4 as follows:

5 Sec. 16. (1) The commissioner shall require each cemetery
6 to establish and maintain an irrevocable endowment care fund as
7 required by section 35a of Act No. 87 of the Public Acts of
8 1855, being section 456.35a of the Michigan Compiled Laws, or
9 section 7a of Act No. 12 of the Public Acts of 1869, as amended,

1 being section 456.107a of the Michigan Compiled Laws, and to
2 report annually before July 1 of each year, on forms approved and
3 furnished by the commissioner, care fund information required to
4 be reported to the commissioner by other statutes and information
5 regarding the funds as the commissioner considers pertinent in
6 the public interest. A cemetery applying to the commissioner as
7 authorized by other statutes for a care fund deposit modification
8 or waiver shall be assessed the actual expenses for an examina-
9 tion or investigation by the commissioner. The commissioner
10 shall require each person engaged as agent or seller, as a means
11 of livelihood either part time or full time, in the selling of
12 burial rights, entombment rights, or columbarium rights owned by
13 a party other than a cemetery or corporation subject to the care
14 fund requirements of other laws, to deposit 15% of all gross pro-
15 ceeds received from the sales of those rights into the
16 ~~irrevocable~~ ENDOWMENT care fund of the cemetery in which the
17 rights are located if an ~~irrevocable~~ ENDOWMENT care fund exists
18 for that cemetery. Excess sums on deposit in the fund can be
19 applied by a cemetery against future deposits. A deposit
20 required to be made by those persons shall be modified or waived
21 if the cemetery has received a care fund deposit modification or
22 waiver approved by the commissioner. The total deposit for a
23 single adult burial right sale or assignment shall not be less
24 than \$20.00.

25 ~~(2) A cemetery which is required to register pursuant to~~
26 ~~this act and an agent which is authorized by a cemetery or acting~~
27 ~~on its behalf under an agreement or sales contract to sell~~

~~1 cemetery merchandise or cemetery services shall establish a
2 merchandise trust account and deposit a percentage of the gross
3 proceeds received from the sales as determined by the
4 commissioner. The merchandise trust account shall be maintained
5 exclusively for the deposit of the money into a bank or trust
6 company located in this state under the terms of a written trust
7 agreement approved by the commissioner. The funds shall be
8 deposited not later than the month following their receipt.~~

~~9 (3) The total deposits to a merchandise trust for the sale
10 of cemetery burial vaults or other outside containers, other than
11 crypts installed underground and sold as part of a cemetery lot,
12 shall at all times be not less than the greater of \$100.00 per
13 vault or outside container or 130% of the total costs of the con-
14 tainers covered by the trust. Money deposited in connection with
15 a sale shall be repaid within 30 days upon written demand of
16 purchaser. A burial vault shall be installed only at need or by
17 separate written authorization of the purchaser. The cemetery
18 shall have the right to withdraw the amount on deposit for the
19 delivered vault or outside container.~~

~~20 (4) A contract or agreement made with a purchaser of ceme-
21 tery merchandise and services shall contain a complete descrip-
22 tion of the cemetery merchandise purchased and of the services to
23 be rendered.~~

~~24 (2) (5) The commissioner shall require each cemetery or
25 agent authorized by it acting on its behalf to report annually
26 before July 1 of each year on forms provided by the
27 commissioner. The reports shall contain information as the~~

1 commissioner considers necessary to ascertain that this act is
2 being implemented.

3 (3) ~~(6)~~ If, after an audit by the commissioner's staff, a
4 deficit in the amount of required deposits to the ~~trust funds~~
5 ENDOWMENT CARE FUND is found, the commissioner may assess a pen-
6 alty not to exceed 10% of the amount of the deficit. The ceme-
7 tery or entity of a cemetery may request a hearing before the
8 commissioner within 30 days after being notified of a deficit, by
9 the commissioner. If, following the hearing, the commissioner
10 determines that a deficit does exist, an additional penalty not
11 to exceed 1.5% may be assessed each month on the unpaid monthly
12 balance until the deficit is paid in full.

13 (4) ~~(7)~~ All fees, charges, and penalties collected under
14 this act, other than fines prescribed in section 21, shall be
15 paid to the commissioner. Upon receipt, the commissioner shall
16 remit funds received to the department of treasury for deposit in
17 the general fund of the state.

18 Section 2. This amendatory act shall not take effect unless
19 Senate Bill No. _____ or House Bill No. 5172 (request
20 no. 04089'93) of the 87th Legislature is enacted into law.