



# HOUSE BILL No. 6008

September 10, 1996, Introduced by Rep. Brackenridge and referred to the Committee on Commerce.

A bill to amend section 7a of Act No. 12 of the Public Acts of 1869, entitled as amended

"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,"

being section 456.107a of the Michigan Compiled Laws.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 7a of Act No. 12 of the Public Acts of  
2 1869, being section 456.107a of the Michigan Compiled Laws, is  
3 amended to read as follows:

4 Sec. 7a. (1) The ENDOWMENT CARE fund required to be set  
5 aside under section 7 ~~for the purpose of keeping and maintaining~~  
6 ~~the grounds of such cemeteries established after the effective~~  
7 ~~date of this 1966 amendatory act, or mausoleums which are not~~

1 ~~located in the confines of a dedicated cemetery and are~~  
2 ~~established after the effective date of this 1966 amendatory~~  
3 ~~act,~~ shall be created by the deposit of \$25,000.00 into the fund  
4 before any sale of burial rights, entombment rights, or columbar-  
5 ium rights is made.

6 (2) With respect to all cemeteries or mausoleums, ~~whether~~  
7 ~~established before or after the effective date of this 1966 act,~~  
8 the ENDOWMENT CARE fund shall be added to by payment, perpetual-  
9 ly, into the ~~same~~ FUND each month of not less than 15% of all  
10 proceeds received during the previous month from the sales of  
11 burial rights, entombment rights, or columbarium rights. ~~made~~  
12 ~~after the effective date of this 1966 amendatory act. No~~ A  
13 total deposit for a single adult burial right sale or assignment  
14 shall NOT be less than \$20.00. Notwithstanding the minimum  
15 amount required to be paid into such endowment CARE fund from the  
16 proceeds of sales of lots or burial rights, ~~as provided herein,~~  
17 any cemetery which has an endowment CARE fund of more than  
18 \$125,000.00 and exceeding \$10,000.00 per acre of the developed  
19 portion of such cemetery ~~, may make application~~ APPLY to the  
20 cemetery ~~commission~~ COMMISSIONER for a waiver of the 15% or  
21 \$20.00 minimum requirement. The cemetery ~~commission~~  
22 COMMISSIONER shall take such testimony and ~~make such~~  
23 ~~investigation~~ INVESTIGATE as it ~~deems~~ CONSIDERS advisable.  
24 ~~pursuant to such application.~~ If the cemetery ~~commission~~  
25 COMMISSIONER determines that the applicant has an endowment CARE  
26 fund of more than \$125,000.00 and exceeding \$10,000.00 per acre  
27 of the developed portion of ~~such~~ THAT cemetery and that the

1 income from such fund is sufficient to meet the then current cost  
2 of keeping the applicant's cemetery in good condition, it shall  
3 grant a waiver of the 15% and \$20.00 minimum requirement ~~—~~ and  
4 ~~it~~ shall grant such modifications with respect to contributions  
5 to ~~such~~ THE fund as it ~~deems~~ CONSIDERS advisable.

6 (3) No portion of the funds required to be set aside under  
7 section 7 shall be used directly or indirectly for salaries of  
8 the officers or directors of the cemetery association or  
9 corporation. ~~, only the~~ THE earnings from ~~such~~ THOSE funds  
10 shall be used to keep the grounds and graves in good condition.

11 (4) ~~The~~ EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (7),  
12 THE endowment care fund may be administered by the board of  
13 directors itself, or by such trustees, individual or corporate,  
14 as it may select under the terms of a trust instrument or  
15 declaration. If ~~it~~ THE BOARD OF DIRECTORS selects trustees to  
16 administer the fund, its liability shall be limited to reasonable  
17 care in such selection. Directors may serve as trustees if at  
18 least 2 members of the board are selected.

19 (5) The funds established under this section shall be  
20 invested subject to the provisions of sections 1 and 2 of Act  
21 No. 177 of the Public Acts of 1937, ~~as amended,~~ being sections  
22 555.201 and 555.202 of the MICHIGAN Compiled Laws. ~~of 1948, and~~  
23 ~~the~~ THE investment of any fund for endowment care ~~heretofore or~~  
24 ~~hereafter~~ made BEFORE OR AFTER THE EFFECTIVE DATE OF THE 1996  
25 AMENDATORY ACT THAT AMENDED THIS SECTION which meets the require-  
26 ments of ~~said act~~ THOSE SECTIONS is ratified and confirmed.

1       (6) In addition to all other remedies at law or in equity  
2 which any interested party may have, the attorney general and the  
3 circuit court of the county in which the cemetery is located  
4 shall have all the powers and jurisdiction granted to the attor-  
5 ney general and court as to trusts covered by Act No. 280 of the  
6 Public Acts of 1915, ~~as amended,~~ being sections 554.351 to  
7 554.353 of the MICHIGAN Compiled Laws. ~~of 1948.~~ The remedies  
8 granted shall include all such endowment care fund trusts without  
9 regard to uncertainty or indefiniteness of the beneficiaries  
10 ~~thereof~~ OF THOSE FUNDS.

11       (7) IN THE CASE OF A CORPORATION THAT IS ALSO A REGISTRANT  
12 UNDER THE CEMETERY REGULATION ACT, ACT NO. 251 OF THE PUBLIC ACTS  
13 OF 1968, BEING SECTIONS 456.521 TO 456.543 OF THE MICHIGAN  
14 COMPILED LAWS, AND THAT HAS BEEN FOUND BY THE CEMETERY COMMIS-  
15 SIONER TO HAVE VIOLATED THAT ACT OR A RULE PROMULGATED UNDER THAT  
16 ACT REGARDING THE OPERATION OR MAINTENANCE OF AN ENDOWMENT CARE  
17 FUND, THE CEMETERY COMMISSIONER MAY INVESTIGATE ANY ENDOWMENT  
18 CARE FUND MAINTAINED OR OPERATED BY THE CORPORATION UNDER THIS  
19 ACT AND MAY ORDER THE CORPORATION TO PLACE THAT ENDOWMENT CARE  
20 FUND UNDER THE CONTROL OF A FINANCIAL INSTITUTION OR TRUST COM-  
21 PANY, ACCEPTABLE TO THE CEMETERY COMMISSIONER, AS TRUSTEE OF THE  
22 FUND. CONTROL OF THE ENDOWMENT CARE FUND BY THE FINANCIAL INSTI-  
23 TUTION OR TRUST COMPANY SHALL BE AUTHORIZED PURSUANT TO A WRITTEN  
24 TRUST AGREEMENT APPROVED BY THE CEMETERY COMMISSIONER AND SHALL  
25 PROVIDE THAT THE AGREEMENT OPERATE UNTIL FURTHER NOTICE OF THE  
26 CEMETERY COMMISSIONER.

1       Section 2. This amendatory act shall not take effect unless  
2 both of the following bills of the 88th Legislature are enacted  
3 into law:

4       (a) Senate Bill No. \_\_\_\_\_ or House Bill No. 6006 (request  
5 no. 07697'96).

6       (b) Senate Bill No. \_\_\_\_\_ or House Bill No. 6007 (request  
7 no. 07697'96 a).