

REPRINT
SUBSTITUTE FOR
SENATE BILL NO. 534

(As passed the Senate November 28, 2001)

A bill to amend 1968 PA 251, entitled
"Cemetery regulation act,"
by amending section 9 (MCL 456.529), as amended by 1982 PA 132.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 9. (1) The commissioner may hold hearings, administer
2 oaths, take testimony under oath, and request in writing the
3 appearance and testimony of witnesses, including the production
4 of books and records. Upon the refusal of a witness to appear,
5 testify, or submit books and records after a written request, the
6 commissioner or a party to a contested case may apply to the cir-
7 cuit court for Ingham county for a subpoena or a subpoena duces
8 tecum. The court shall issue a subpoena when reasonable grounds
9 are shown.

10 (2) When it appears to the commissioner that a person or
11 registrant has violated this act or a rule promulgated or order

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1 issued under this act, the commissioner may do 1 or more of the
2 following:

3 (a) Issue a cease and desist order.

4 (b) Accept an assurance of discontinuance.

5 (c) Bring an action in the circuit court for the county in
6 which the person resides or in the circuit court for the county
7 of Ingham, to enforce compliance with this act or a rule promul-
8 gated or order issued under this act.

9 (3) Upon a proper showing REGARDING AN ACTION BROUGHT UNDER
10 SUBSECTION (2)(C), a permanent or temporary injunction or a
11 restraining order may be granted and a receiver or conservator
12 may be appointed ~~for the defendant or the defendant's assets.~~
13 ~~The court shall not require the commissioner to post a bond~~ BY
14 THE COURT. A RECEIVER OR CONSERVATOR APPOINTED BY THE COURT MAY
15 TAKE POSSESSION OF THE ASSETS AND MAY SELL, ASSIGN, TRANSFER, OR
16 CONVEY THE CEMETERY TO A MUNICIPAL CORPORATION OR OTHER PERSON
17 OTHER THAN THE HOLDER OF A LICENSE FOR THE PRACTICE OF MORTUARY
18 SCIENCE OR A PERSON WHO OWNS, MANAGES, SUPERVISES, OPERATES, OR
19 MAINTAINS, EITHER DIRECTLY OR INDIRECTLY, A FUNERAL ESTABLISH-
20 MENT, UNDER CONDITIONS PRESCRIBED BY THE COURT, IN ORDER TO DIS-
21 CHARGE OUTSTANDING CONTRACTUAL OBLIGATIONS. THE COURT MAY ALLOW
22 THE RECEIVER OR CONSERVATOR TO FILE FOR PROTECTION UNDER THE
23 BANKRUPTCY CODE.

24 (4) IN THE ORDER OF SALE OF THE CEMETERY, THE COURT SHALL
25 MAKE PROVISION FOR NOTICE TO CREDITORS AND THE FILING OF CLAIMS
26 AGAINST THE RECEIVERSHIP OR CONSERVATORSHIP. ANY REMAINING FUNDS
27 HELD BY THE CEMETERY IN ESCROW UNDER THIS ACT BELONG TO THE

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1 CONTRACT BUYERS OR BENEFICIARIES OF THE CONTRACT BUYERS AND SHALL
2 NOT BE DISTRIBUTED TO THE GENERAL CREDITORS OF THE CEMETERY.
3 THIS SECTION DOES NOT PROHIBIT THE COURT FROM ALLOWING THE SALE
4 OF THE CEMETERY TO A PERSON OTHER THAN THE HOLDER OF A LICENSE
5 FOR THE PRACTICE OF MORTUARY SCIENCE OR A PERSON WHO OWNS, MAN-
6 AGES, SUPERVISES, OPERATES, OR MAINTAINS, EITHER DIRECTLY OR
7 INDIRECTLY, A FUNERAL ESTABLISHMENT OR MUNICIPAL CORPORATION.

8 (5) ~~-(3)-~~ In addition to an action taken under this section,
9 the commissioner may deny an application or may suspend or revoke
10 a permit or registration after a hearing as set forth in this
11 act.

12 (6) AS USED IN THIS SECTION, "MUNICIPAL CORPORATION" MEANS
13 THAT TERM AS DEFINED IN SECTION 1 OF 1927 PA 10, MCL 456.181.

14 Enacting section 1. This amendatory act does not take
15 effect unless Senate Bill No. 535 of the 91st Legislature is
16 enacted into law.