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CONVEYANCE OF CEMETERY BY RECEIVER OR CONSERVATOR

House Bill 5172 as introduced
First Analysis (11-10-03)

Sponsor: Rep. John Stakoe
Committee: Commerce

THE APPARENT PROBLEM:

Public Act 550 of 2002 (Senate Bill 534) amended the Cemetery Regulation Act to allow a court-appointed receiver or conservator to sell, assign, transfer, or convey a cemetery to a municipal corporation or other person (except to a funeral home owner, operator, or supervisor, or a person licensed in mortuary science). Prior to that, the Cemetery Regulation Act allowed a court to appoint a receiver or conservator for a cemetery in violation of the act (e.g. because it was neglected or mismanaged), but did not allow the receiver or conservator to dispose of cemetery property or assets. The act appeared to allow only that the cemetery stay in the hands of the receiver or conservator or be returned to the control of the owner who was in violation of the act. Reportedly, state regulators believe that Public Act 550 applies prospectively only and does not apply to cemeteries in receivership at the time the act took effect. Legislation to address this has been introduced.

THE CONTENT OF THE BILL:

The bill would specify that the provision in Public Act 550 of 2002 allowing a court-appointed receiver or conservator to sell, assign, transfer, or convey a cemetery to a municipal corporation or other person (except to a funeral home owner, operator, or supervisor, or a person licensed in mortuary science) would apply to a cemetery in receivership on the July 26, 2002 effective date of Public Act 550.

MCL 456.529

BACKGROUND INFORMATION:

For further information on this topic see the Senate Fiscal Agency analysis dated 11-26-01 of Senate Bills 534 and 535 of the 2001-2002 legislative session.

FISCAL IMPLICATIONS:

The House Fiscal Agency reports that the bill would have no fiscal implications to state or local government. (HFA analysis dated 11-4-03)

ARGUMENTS:

For:

This bill would allow a cemetery in receivership at the time Public Act 550 of 2002 took effect to be covered by that act; this means the bill would allow such cemeteries to be disposed of by the receiver or conservator. This would be of particular benefit, say proponents, to a cemetery in Independence Township that has suffered financial and physical neglect and mismanagement and which has been in receivership for a number of years.

POSITIONS:

The Department of Consumer and Industry Services has indicated support for the bill. (11-4-03)

The Michigan Cemetery Association has indicated support for the bill. (11-4-03)

Analyst: C. Couch

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.