

HOUSE BILL No. 5172

October 15, 2003, Introduced by Rep. Stakoe and referred to the Committee on Commerce.

A bill to amend 1968 PA 251, entitled
"Cemetery regulation act,"
by amending section 9 (MCL 456.529), as amended by 2002 PA 550.

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
7 circuit court for Ingham county for a subpoena or a subpoena
8 duces tecum. The court shall issue a subpoena when reasonable
9 grounds 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

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
8 promulgated 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 by the court. A receiver or conservator
13 appointed by the court may take possession of the assets and may
14 sell, assign, transfer, or convey the cemetery, **including a**
15 **cemetery in receivership on the July 26, 2002 date of the**
16 **amendatory act that amended this subsection,** to a municipal
17 corporation or other person other than the holder of a license
18 for the practice of mortuary science or a person who owns,
19 manages, supervises, operates, or maintains, either directly or
20 indirectly, a funeral establishment, under conditions prescribed
21 by the court, in order to discharge outstanding contractual
22 obligations. The court may allow the receiver or conservator to
23 file for protection under the 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

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,
6 manages, supervises, operates, or maintains, either directly or
7 indirectly, a funeral establishment or municipal corporation.

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

11 (6) As used in this section, "municipal corporation" means
12 that term as defined in section 1 of 1927 PA 10, MCL 456.181.