

**SUBSTITUTE FOR
SENATE BILL NO. 37**

A bill to amend 1968 PA 251, entitled
"Cemetery regulation act,"
by amending section 16 (MCL 456.536), as amended by 1982 PA 132.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 16. (1) The commissioner shall require each cemetery
2 to establish and maintain an irrevocable endowment care fund as
3 required by section 35a of ~~Act No. 87 of the Public Acts of~~
4 ~~1855, being section 456.35a of the Michigan Compiled Laws— 1855~~
5 **PA 87, MCL 456.35a**, or section 7a of ~~Act No. 12 of the Public~~
6 ~~Acts of 1869, as amended, being section 456.107a of the Michigan~~
7 ~~Compiled Laws— 1869 PA 12, MCL 456.107a~~, and to report annually
8 before July 1 of each year, on forms approved and furnished by
9 the commissioner, care fund information required to be reported
10 to the commissioner by other statutes and information regarding
11 the funds as the commissioner considers pertinent in the public

1 interest. A cemetery applying to the commissioner as authorized
2 by other statutes for a care fund deposit modification or waiver
3 shall be assessed the actual expenses for an examination or
4 investigation by the commissioner. The commissioner shall
5 require each person engaged as agent or seller, as a means of
6 livelihood either part time or full time, in the selling of
7 burial rights, entombment rights, or columbarium rights owned by
8 a party other than a cemetery or corporation subject to the
9 **irrevocable endowment** care fund requirements of other laws, to
10 deposit 15% of all gross proceeds received from the sales of
11 those rights into the irrevocable **endowment** care fund of the
12 cemetery in which the rights are located if an irrevocable
13 **endowment** care fund exists for that cemetery. Excess sums on
14 deposit in the fund can be applied by a cemetery against future
15 deposits. A deposit required to be made by those persons shall
16 be modified or waived if the cemetery has received ~~a~~ **an**
17 **irrevocable endowment** care fund deposit modification or waiver
18 approved by the commissioner. The total deposit for a single
19 adult burial right sale or assignment shall not be less than
20 \$20.00.

21 (2) A cemetery which is required to register pursuant to this
22 act and an agent which is authorized by a cemetery or acting on
23 its behalf under an agreement or sales contract to sell cemetery
24 merchandise or cemetery services shall establish a merchandise
25 trust account and deposit a percentage of the gross proceeds
26 received from the sales as determined by the commissioner. The
27 merchandise trust account shall be maintained exclusively for the

Senate Bill No. 37 (S-1) as amended June 26, 2003

1 deposit of the money into a ~~bank~~ **state or national bank**, a
2 **state or federally chartered savings and loan association**, or a
3 trust company ~~located in this state~~ under the terms of a
4 written trust agreement approved by the commissioner. **[It shall be the
responsibility of each registrant under this act to assure that documents
relating to the merchandise trust account are provided to the
commissioner upon request. If a subpoena is issued to obtain these
documents, the registrant shall pay all costs related to obtaining the
documents regardless of the \$100.00 charge limitation contained in
section 12a(2).]** The funds
5 shall be deposited not later than the month following their
6 receipt.

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

18 (4) A contract or agreement made with a purchaser of cemetery
19 merchandise and **cemetery** services shall contain a complete
20 description of the cemetery merchandise purchased and of the
21 **cemetery** services to be rendered.

22 (5) The commissioner shall require each cemetery or agent
23 authorized by it acting on its behalf to report annually before
24 July 1 of each year on forms provided by the commissioner. The
25 reports shall contain information as the commissioner considers
26 necessary to ascertain that this act is being implemented.

27 (6) If, after an audit by the commissioner's staff, a deficit
S00662'03 (S-1)

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1 in the amount of required deposits to the trust funds is found,
2 the commissioner may assess a penalty not to exceed 10% of the
3 amount of the deficit. The cemetery or entity of a cemetery may
4 request a hearing before the commissioner within 30 days after
5 being notified of a deficit by the commissioner. If, following
6 the hearing, the commissioner determines that a deficit does
7 exist, an additional penalty not to exceed 1.5% may be assessed
8 each month on the unpaid monthly balance until the deficit is
9 paid in full.

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

15 (8) <<As used in this section, "endowment care" means all general
16 work necessary to keep the cemetery property in a presentable condition
17 at all times, including, but not limited to, the cutting of grass at
18 reasonable intervals; raking, cleaning, filling, seeding, and sodding of
19 graves; replacement, pruning, or removal of shrubs and trees in order to
20 assure access to internment rights; and the repair and maintenance of
21 enclosures, buildings, drives, walks, and the various memorial gardens.

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24 Enacting section 1. This amendatory act does not take
25 effect unless all of the following bills of the 92nd Legislature
26 are enacted into law:

27 (a) Senate Bill No. 38.

1 (b) Senate Bill No. 39.