

Act No. 289
Public Acts of 2003
Approved by the Governor
January 8, 2004
Filed with the Secretary of State
January 8, 2004
EFFECTIVE DATE: January 8, 2004

**STATE OF MICHIGAN
92ND LEGISLATURE
REGULAR SESSION OF 2003**

Introduced by Rep. Stakoe

ENROLLED HOUSE BILL No. 5172

AN ACT to amend 1968 PA 251, entitled "An act to regulate the creation and management of cemeteries; to regulate the sale of cemetery services and merchandise; to provide for a cemetery commissioner, and to prescribe the powers and duties of the commissioner; to require the registration and audit of cemeteries; to regulate persons selling burial, entombment, or columbarium rights, cemetery services, or cemetery merchandise; and to prescribe penalties," by amending section 9 (MCL 456.529), as amended by 2002 PA 550.

The People of the State of Michigan enact:

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

(2) When it appears to the commissioner that a person or registrant has violated this act or a rule promulgated or order issued under this act, the commissioner may do 1 or more of the following:

- (a) Issue a cease and desist order.
- (b) Accept an assurance of discontinuance.

(c) Bring an action in the circuit court for the county in which the person resides or in the circuit court for the county of Ingham, to enforce compliance with this act or a rule promulgated or order issued under this act.

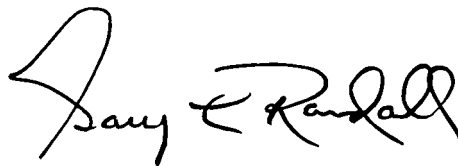
(3) Upon a proper showing regarding an action brought under subsection (2)(c), a permanent or temporary injunction or a restraining order may be granted and a receiver or conservator may be appointed by the court. A receiver or conservator appointed by the court may take possession of the assets and may sell, assign, transfer, or convey the cemetery, including a cemetery in receivership on the July 26, 2002 date of the amendatory act that amended this subsection, to a municipal corporation or other person other than the holder of a license for the practice of mortuary science or a person who owns, manages, supervises, operates, or maintains, either directly or indirectly, a funeral establishment, under conditions prescribed by the court, in order to discharge outstanding contractual obligations. The court may allow the receiver or conservator to file for protection under the bankruptcy code.

(4) In the order of sale of the cemetery, the court shall make provision for notice to creditors and the filing of claims against the receivership or conservatorship. Any remaining funds held by the cemetery in escrow under this act belong to the contract buyers or beneficiaries of the contract buyers and shall not be distributed to the general creditors of the cemetery. This section does not prohibit the court from allowing the sale of the cemetery to a person other than the holder of a license for the practice of mortuary science or a person who owns, manages, supervises, operates, or maintains, either directly or indirectly, a funeral establishment or municipal corporation.

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

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

This act is ordered to take immediate effect.



Clerk of the House of Representatives



Secretary of the Senate

Approved _____

Governor