

SENATE BILL No. 1125

October 22, 2014, Introduced by Senator HANSEN and referred to the Committee on Local Government and Elections.

A bill to amend 1937 PA 215, entitled

"An act to authorize municipalities to own or control cemetery or burial grounds; to provide for perpetual care and maintenance; and to permit municipalities to authorize the creation of joint cemetery associations,"

by amending the title and section 3 (MCL 128.3), the title as amended and section 3 as added by 1980 PA 366, and by adding section 4.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

TITLE

An act to authorize municipalities to own or control cemetery or burial grounds; to provide for perpetual care and maintenance; **TO PROVIDE FOR ENDOWMENT AND PERPETUAL CARE FUNDS;** and to permit municipalities to authorize the creation of joint cemetery associations.

Sec. 3. As used in this act: ~~"municipality"~~

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1 (A) "COMMUNITY FOUNDATION" MEANS AN ORGANIZATION THAT MEETS
2 ALL OF THE FOLLOWING REQUIREMENTS:

3 (i) HAS BEEN IN EXISTENCE FOR AT LEAST 10 YEARS.

4 (ii) HAS ASSETS OF AT LEAST \$10,000,000.00.

5 (iii) QUALIFIES FOR EXEMPTION FROM FEDERAL INCOME TAXATION UNDER
6 501(C) (3) OF THE INTERNAL REVENUE CODE, 26 USC 501(C) (3).

7 (iv) SUPPORTS A BROAD RANGE OF CHARITABLE ACTIVITIES WITHIN THE
8 SPECIFIC GEOGRAPHIC AREA OF THIS STATE THAT IT SERVES, SUCH AS A
9 MUNICIPALITY.

10 (v) MAINTAINS AN ONGOING PROGRAM TO ATTRACT NEW ENDOWMENT
11 FUNDS BY SEEKING GIFTS AND BEQUESTS FROM A WIDE RANGE OF POTENTIAL
12 DONORS IN THE GEOGRAPHIC AREA SERVED.

13 (vi) IS PUBLICLY SUPPORTED, AS DEFINED BY 26 CFR 1.170A-9(F).

14 (vii) MEETS THE REQUIREMENTS FOR TREATMENT AS A SINGLE ENTITY
15 UNDER 26 CFR 1.170A-9(F) (11).

16 (viii) IS NOT AN ORGANIZATION DESCRIBED IN SECTION 509(A) (3) OF
17 THE INTERNAL REVENUE CODE, 26 USC 509(A) (3).

18 (ix) HAS AN INDEPENDENT GOVERNING BODY REPRESENTING THE GENERAL
19 PUBLIC'S INTEREST AND THAT IS NOT APPOINTED BY A SINGLE OUTSIDE
20 ENTITY.

21 (x) MAINTAINS CONTINUALLY AT LEAST 1 PART-TIME OR FULL-TIME
22 EMPLOYEE BEGINNING NOT LATER THAN 6 MONTHS AFTER THE COMMUNITY
23 FOUNDATION IS INCORPORATED OR ESTABLISHED.

24 (xi) IS SUBJECT TO AN ANNUAL INDEPENDENT FINANCIAL AUDIT.

25 (xii) FOR A COMMUNITY FOUNDATION THAT IS INCORPORATED OR
26 ESTABLISHED AFTER JANUARY 9, 2001, OPERATES IN A COUNTY OF THIS
27 STATE THAT WAS NOT SERVED BY A COMMUNITY FOUNDATION WHEN THE

1 COMMUNITY FOUNDATION WAS INCORPORATED OR ESTABLISHED OR OPERATES AS
2 A GEOGRAPHIC COMPONENT OF AN EXISTING COMMUNITY FOUNDATION.

3 (B) "MUNICIPALITY" means a city, village, township, or county.

4 SEC. 4. (1) SUBJECT TO THIS SECTION, TO LESSEN THE BURDEN OF
5 GOVERNMENT, EACH MUNICIPALITY WITH A MUNICIPALLY OWNED CEMETERY MAY
6 ESTABLISH AND MAINTAIN AN IRREVOCABLE ENDOWMENT AND PERPETUAL CARE
7 FUND AS A COMPONENT FUND WITHIN A COMMUNITY FOUNDATION BY ENTERING
8 INTO AN IRREVOCABLE AGREEMENT WITH THE COMMUNITY FOUNDATION.

9 (2) THE AMOUNTS DEPOSITED INTO THE FUND SHALL BE HELD IN
10 PERPETUITY BY THE COMMUNITY FOUNDATION EXCEPT THAT THE COMMUNITY
11 FOUNDATION SHALL AUTHORIZE DISTRIBUTIONS TO THE MUNICIPALITY OF
12 INTEREST AND OTHER EARNINGS FOR CARE AND MAINTENANCE OF THE
13 CEMETERY. THE WITHDRAWALS SHALL BE DOCUMENTED. THE CEMETERY SHALL
14 MAINTAIN RECORDS SHOWING THAT EARNINGS FROM THE FUND ARE USED
15 EXCLUSIVELY FOR ENDOWMENT AND FOR CARE AND MAINTENANCE OF THE
16 CEMETERY. THE COMMUNITY FOUNDATION IS NOT RESPONSIBLE FOR
17 ASCERTAINING THAT MONEY PAID TO THE MUNICIPALITY IS EXPENDED FOR
18 THE LIMITED PURPOSES AUTHORIZED IN THIS SUBSECTION.

19 (3) SUBJECT TO THE TERMS OF THE AGREEMENT, THE FEES AND COSTS
20 OF THE COMMUNITY FOUNDATION FOR SERVICES UNDER THIS SECTION AND THE
21 AGREEMENT MAY BE PAID FROM THE PRINCIPAL OF THE FUND.

22 (4) THE COMMUNITY FOUNDATION SHALL INCLUDE IN AN ANNUAL AUDIT
23 THE FOLLOWING INFORMATION CONCERNING THE FUND, THE ACCURACY OF
24 WHICH SHALL BE CERTIFIED BY A CERTIFIED PUBLIC ACCOUNTANT:

25 (A) BEGINNING AND ENDING BALANCES.

26 (B) RECEIPTS FROM THE SALE OF BURIAL, ENTOMBMENT, AND
27 COLUMBARIUM RIGHTS.

1 (C) DEPOSITS TO THE FUND.

2 (D) DOCUMENTATION OF ANY EXPENDITURES UNDER SUBSECTION (3).

3 (5) AS USED IN THIS SECTION, "FUND" MEANS AN ENDOWMENT AND

4 PERPETUAL CARE FUND ESTABLISHED UNDER SUBSECTION (1).