RURAL CEMETERY CORPORATIONS
Act 12 of 1869

AN ACT to authorize and encourage the formation of corporations to establish rural cemeteries; to provide for the care and maintenance thereof; to provide for the revision and codification of the laws relating to cemeteries, mausoleums, crypts, vaults, crematoriums, and other means of disposing of the dead; to make an appropriation therefor; and to impose certain duties upon the department of commerce.

History: 1869, Act 12, Imd. Eff. Feb. 19, 1869;—Am. 1929, Act 215, Eff. Aug. 28, 1929;—Am. 1982, Act 110, Imd. Eff. Apr. 19, 1982.

The People of the State of Michigan enact:

456.101 Cemetery corporations; incorporators, name.

Sec. 1. That any number of persons not less than 10, who shall by articles of agreement in writing, associate themselves according to the provisions of this act, under any name assumed by them, for the purpose of purchasing land for a cemetery in this state, and for fencing, laying out, improving, maintaining and establishing the same and who shall comply with sections 2 and 3 of this act, shall, with their successors and assigns, constitute a body politic or corporate, under the name assumed by them in their articles of association: Provided, however, That no 2 corporations shall assume the same name.

History: 1869, Act 12, Imd. Eff. Feb. 19, 1869;—CL 1871, 3408;—How. 4763;—CL 1897, 8399;—CL 1915, 11160;—CL 1929, 10440;—CL 1948, 456.101.

456.102 Articles; signing, acknowledgment, contents.

Sec. 2. The articles of agreement of every such association shall be signed by the persons associating in the first instance, and acknowledged before some person authorized by the laws of this state, to take the acknowledgment of deeds, and shall state—

1st The amount of land which it is proposed to purchase for such cemetery, and the town and county in which it is situated.—

2nd The amount of capital which it is estimated will be required to make such purchase, and to fence and improve the grounds, and the number of shares into which the same shall be divided.—

3rd The name by which such corporation shall be known.—

4th The number of persons who shall constitute the board of directors, being not less than 5 nor more than 13.—

5th The names of those who shall constitute the first board of directors, and the name of the first treasurer.—

6th The names of the subscribers to the articles of association, and the number of shares subscribed by each, towards the required capital.—

7th The term of duration of such corporation, which shall not exceed 30 years.

History: 1869, Act 12, Imd. Eff. Feb. 19, 1869;—CL 1871, 3409;—How. 4764;—CL 1897, 8400;—CL 1915, 11161;—CL 1929, 10441;—CL 1948, 456.102.

456.103 Payment by subscribers to articles of association.

Sec. 3. The subscribers to such articles of association, shall at the time of subscription thereto, severally pay to the treasurer named therein at least 20 per cent of the amount subscribed by each, and when the whole amount of capital mentioned in said articles shall be subscribed and said portion thereof actually paid in, the directors shall cause a copy of their articles of association, together with an affidavit of such treasurer that 20 per cent of the amount of capital subscribed has actually been paid in, to be filed in the corporation and securities bureau of the department of commerce.

History: 1869, Act 12, Imd. Eff. Feb. 19, 1869;—CL 1871, 3410;—Am. 1875, Act 219, Imd. Eff. May 3, 1875;—How. 4765;—CL 1897, 8401;—CL 1915, 11162;—CL 1929, 10442;—CL 1948, 456.103;—Am. 1953, Act 167, Eff. Oct. 2, 1953;—Am. 1982, Act 110, Imd. Eff. Apr. 19, 1982.

456.104 Annual meeting; election of board of directors; right to vote; special meetings.

Sec. 4. The annual meeting of every such corporation shall be held on the second Monday of May in each year, unless some other day shall be fixed by the by-laws thereof, and in such case, it shall be held upon the day so fixed. Such meeting shall elect a board of directors, who shall serve for the ensuing year, and until their successors shall be chosen, and transact such other business of the corporation, as may properly come before it. At such meeting the owners of scrip, hereinafter provided for, shall have the right to vote, either in

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person or by proxy, in proportion to the amount of scrip held by them respectively, each owner thereof being entitled to 1 vote for each 10 dollars of scrip. Special meetings of any such corporation may be provided for by the by-laws thereof, and shall be held when called in accordance with such provision.

History: 1869, Act 12, Imd. Eff. Feb. 19, 1869;—CL 1871, 3411;—How. 4766;—CL 1897, 8402;—Am. 1899, Act 126, Imd. Eff. June 15, 1899;—CL 1915, 11163;—CL 1929, 10443;—CL 1948, 456.104.

456.105 Board of directors; selection of officers.

Sec. 5. It shall be the duty of said board of directors to choose from their own number a president and vice-president, and also to elect suitable persons as treasurer and secretary of such corporation, and from time to time to appoint a superintendent and such other subordinate officers as may be required by the by-laws.

History: 1869, Act 12, Imd. Eff. Feb. 19, 1869;—CL 1871, 3412;—How. 4767;—CL 1897, 8403;—CL 1915, 11164;—CL 1929, 10444;—CL 1948, 456.105.

456.106 Board of directors; powers.

Sec. 6. The board of directors shall have the general management of such corporation and shall have the power,—

To purchase land for the use of such association, but for no other purpose, and not exceeding in all 300 acres;

To levy assessments upon the subscribers to the articles of association, not exceeding the amount severally subscribed by them, payable at such times as the directors shall determine, and to enforce the collection thereof either by suit or forfeiture;

To cause to be prepared a plan or design for laying out such lands so purchased by them for cemetery purposes; and when such plan or design is adopted by them, it shall be their duty to cause the same to be recorded in a book to be kept by them for that purpose, and it shall not thereafter be altered or modified, unless by a 2/3 vote of all the directors, after a special notice of such proposed change shall have been given, and after said proposition shall have been submitted in writing to the board at a meeting thereof, to be held prior to the one at which the vote upon such proposed change shall be taken; Provided, That no such alteration shall be made which shall interfere with rights of burial already granted;

To dispose of rights of burial, fix the prices thereof, make conditions in relation to burials within the cemetery grounds, and guarantee to grantees of burial rights the care and preservation of the grounds;

To establish such rules and regulations for the control and management of the grounds and all matters and things incident thereto, as they shall deem for the best interests of the corporation;

To sell any part or portion of the lands owned by such corporation, in case the same shall not be occupied or required for burial purposes, or for the uses of such cemetery;

To invest the moneys received from the sale of burial rights, and to prescribe, from time to time the interest or dividends which shall be paid to holders of the scrip of such corporation, subject to the restrictions hereinafter named.

History: 1869, Act 12, Imd. Eff. Feb. 19, 1869;—CL 1871, 3413;—How. 4768;—CL 1897, 8404;—CL 1915, 11165;—CL 1929, 10445;—CL 1948, 456.106.

456.106a Conveyance of land.

Sec. 6a. The corporation shall not convey any part or portions of land owned by it if the land is part of the plan or design of the cemetery adopted and recorded as provided in section 6 unless at least $5,000.00 for each acre so conveyed is allocated to the irrevocable endowment fund established in section 7 of this act.

History: Add. 1964, Act 54, Eff. Aug. 28, 1964.

456.107, 456.107a Repealed. 2008, Act 478, Imd. Eff. Jan. 12, 2009.

Compiler's note: The repealed sections pertained to appointment and duties of board of directors and requirements for setting aside endowment care funds.

456.108 Tax exemption.

Sec. 8. All the lands of said corporation enclosed and set apart for cemetery purposes, and all rights of burial therein, shall be wholly exempt from taxation of any kind whatsoever.

History: 1869, Act 12, Imd. Eff. Feb. 19, 1869;—CL 1871, 3415;—How. 4770;—CL 1897, 8406;—CL 1915, 11167;—CL 1929, 10447;—CL 1948, 456.108.

456.109 Burial rights; granting in lands subject to lien or tax delinquent lands prohibited.

Sec. 9. No mortgage, or other lien or incumbrance, shall be executed upon any of the lands of such corporation, actually used for burial purposes, and no rights of burial upon any mortgaged lands of such

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corporation, lands which are delinquent for taxes or special assessments or lands to which such corporation does not have title in fee, shall at any time be granted or sold by it.

History: 1869, Act 12, Imd. Eff. Feb. 19, 1869;—CL 1871, 3416;—How. 4771;—CL 1897, 8407;—CL 1915, 11168;—CL 1929, 10448;—Am. 1941, Act 169, Eff. Jan. 10, 1942;—CL 1948, 456.109.

456.110 Highways, sewers or other public thoroughfares through grounds; right to purchase additional property.

Sec. 10. No streets, highways, railways, sewers or canals shall be opened or constructed through the grounds of such corporation, without the assent of the board of directors, granted at a meeting of such board, called for the purpose of considering the propriety of granting such assent: Provided, That such assent shall not be required when lands owned, used or controlled by said corporation are taken under condemnation proceedings by the state, or any county, city or village for the purpose of widening an established street or highway: Provided further, That any such corporation whose property has been so condemned, shall have the right to purchase additional property for cemetery purposes within the corporate limits of any such village or city.

History: 1869, Act 12, Imd. Eff. Feb. 19, 1869;—CL 1871, 3417;—How. 4772;—CL 1897, 8408;—CL 1915, 11169;—Am. 1921, Act 177, Eff. Aug. 18, 1921;—Am. 1925, Act 32, Eff. Aug. 27, 1925;—CL 1929, 10449;—CL 1948, 456.110.

456.111 Saloons and amusements prohibited.

Sec. 11. After any such corporation shall have been formed, and their cemetery site shall have been purchased, no saloon or place of entertainment shall thereafter be set up or established for the sale of intoxicating drinks, and no sporting festival shall be held within 1/4 of a mile of the entrance to the grounds of such corporation.

History: 1869, Act 12, Imd. Eff. Feb. 19, 1869;—CL 1871, 3418;—How. 4773;—CL 1897, 8409;—CL 1915, 11170;—CL 1929, 10450;—CL 1948, 456.111.

456.112 Burial rights; transfer, rights of surviving spouse and next of kin.

Sec. 12. All rights of burial granted by such corporation shall be transferable and as fully alienable as any other personal property in this state, subject only to such conditions in reference thereto as shall be prescribed by the board of directors and subject to rights of the surviving spouse and next of kin now existing at law or in equity as to any individual burial space or grave in which there is an actual interment.

History: 1869, Act 12, Imd. Eff. Feb. 19, 1869;—CL 1871, 3419;—How. 4774;—CL 1897, 8410;—CL 1915, 11171;—CL 1929, 10451;—CL 1948, 456.112;—Am. 1956, Act 207, Eff. Aug. 11, 1956.

456.113 Repealed. 1977, Act 67, Imd. Eff. July 20, 1977.

Compiler's note: The repealed section pertained to arrests by employees of cemetery corporation.

456.114 Use of firearms in cemetery; entering over fence; penalty.

Sec. 14. No person shall use firearms upon the grounds of any cemetery owned and inclosed by any such corporation, nor hunt game therein. No person shall enter into such inclosed cemetery by climbing or leaping over or through any fence or wall around the same, nor direct or cause any animal to enter therein in any such manner. Any person offending against any of the provisions of this section shall be punished by a fine not exceeding 50 dollars or by imprisonment not exceeding 3 months, or by both, in the discretion of the court.

History: 1869, Act 12, Imd. Eff. Feb. 19, 1869;—CL 1871, 3421;—Am. 1875, Act 218, Eff. Aug. 3, 1875;—How. 4776;—CL 1897, 8412;—CL 1915, 11173;—CL 1929, 10453;—CL 1948, 456.114.

456.114a Witness fee; prohibition.

Sec. 14a. A corporation established under the provisions of this act shall not charge a fee for witnessing the lowering of a casket into the ground.

History: Add. 1996, Act 110, Imd. Eff. Mar. 5, 1996.

456.115 Perpetual care fund; receipts; investment; bond; account.

Sec. 15. All corporations established under the provisions of this act may receive and hold any grant, donation or bequest made to them for the purpose of perpetually caring for and maintaining the lots of said donors, and may apply the income thereof under the direction of the board of directors for the improvement, embellishment and care of the ground, and the different lots, tombs and monuments. Such funds so received by grant, donation or bequest shall be kept in a separate fund and shall constitute a perpetual care or repair fund, the income of which shall be devoted to the perpetual keeping of the lots, monuments, markers and tombs of the donors in order. Such funds shall be held in trust and the principal shall not be encroached upon

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or the income be used for any purpose except that to which it is devoted. Any and all funds received by grant, donation or bequest by any corporation or association formed under the provisions of this act shall be invested by the board of directors in any of the investments authorized in section 7 hereof. From this fund so created there shall be drawn annually and credited to each donor, such an amount of the total income as the amount donated by the donor bears to the income of the entire amount contributed for the purposes of this section. The treasurer of every association or corporation formed under the provisions of this act, shall furnish annually to the board of directors a bond in double the amount of all moneys received under the provisions of this section, which bond shall provide for the safekeeping of all money, bonds, mortgages or securities, that the said treasurer shall render an account annually of all moneys received by him under the provisions hereof and pay and deliver all moneys, bonds and securities to his successor in office, said bond to be approved by a majority vote of and members-elect of the board of directors.

History: Add. 1903, Act 209, Eff. Sept. 17, 1903;—CL 1915, 11175;—CL 1929, 10455;—Am. 1941, Act 330, Eff. Jan. 10, 1942;—CL 1948, 456.115.

456.116 Non-profit corporation.

Sec. 16. Any corporation organized under this act may, by suitable provision in its articles of association, or by suitable amendment thereto filed in the same manner as required hereunder for the filing of the articles of association, provide that it is a non-profit corporation and may operate and conduct business as such.

History: Add. 1953, Act 167, Eff. Oct. 2, 1953.

Former law: See section 16 of Act 12 of 1869 and section 16 of Act 215 of 1929.

456.117 Charter not deemed forfeited; filing articles; affidavit, report.

Sec. 17. Notwithstanding the provisions of any other laws, the charter of any corporation organized under this act shall not be deemed to be forfeited and the existence of such corporation shall not be deemed to be terminated because of its failure to file annual reports with any state official and/or to pay annual fees as required by any law of this state, provided that prior to July 1, 1954, such corporation shall file, or cause to be filed, with the corporation and securities commission true copies of its articles of association, any amendments thereto, and the affidavit of its treasurer, as required by section 3 hereof, duly authenticated by the clerk of the county in which such instruments were filed, and shall file therewith an affidavit of 1 of its officers setting forth that it has continued to exist and function as a corporation since its organization under the provisions of this act, and shall also file therewith the current annual report and pay such fee as is required by law, and thereafter such corporation shall file all annual reports and pay such fees as shall be required by any applicable law.

History: Add. 1953, Act 167, Eff. Oct. 2, 1953.

Compiler's note: Original section 17 of Act 12 of 1869, which attempted to confer the power of eminent domain, was held unconstitutional in Portage Township Board of Health v. Van Hoesen, 87 Mich. 533, 535 N.W. 894 (1891).

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456.118 Corporate name.

Sec. 18. Prior to the filing by any corporation, in accordance with section 17, of the instruments thereby required with the corporation and securities commission, the corporation shall ascertain from the commission whether its corporate name is in conflict with that of any other corporation whose articles of association or articles of incorporation have previously been filed with the commission. If, in the judgment of the commission, there shall be a conflict in corporate names, then the corporation filing under the provisions of the section shall amend its name by adding thereto the name of the locality in which it is organized or operating, or in such other manner as shall be approved by the corporation and securities commission to distinguish it from any corporation whose articles have previously been filed as aforesaid.

History: Add. 1953, Act 167, Eff. Oct. 2, 1953.

Compiler's note: Original section 18 of Act 12 of 1869, which attempted to confer the power of eminent domain, was held unconstitutional in Portage Township Board of Health v. Van Hoesen, 87 Mich. 533, 535 N.W. 894 (1891).

456.119 List of corporations; compilation; forwarding to corporation and securities commission.

Sec. 19. Upon instructions from the corporation and securities commission, every county clerk shall forthwith compile a list of corporations whose articles have been filed in his office in accordance with the provisions of this act, and shall forthwith forward such list, together with the last known address of the corporations, to the corporation and securities commission, which shall forthwith notify every such corporation of the provisions and requirements of this act, as amended, by mailing such notice addressed to the corporation at its last known address as given by the county clerk.

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History: Add. 1953, Act 167, Eff. Oct. 2, 1953.

Compiler's note: Original section 19 of Act 12 of 1869, which attempted to confer the power of eminent domain, was held unconstitutional in Portage Township Board of Health v. Van Hoesen, 87 Mich. 533, 535 N.W. 894 (1891).

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