CEMETERY OR BURIAL GROUNDS
Act 215 of 1937

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.

History: 1937, Act 215, Imd. Eff. July 21, 1937;—Am. 1980, Act 366, Imd. Eff. Dec. 30, 1980;—Am. 2014, Act 422, Imd. Eff. Dec. 30, 2014.

The People of the State of Michigan enact:

128.1 Perpetual care and maintenance of cemetery or burial lot; resolution or ordinance; payment; investment in mutual funds; petition to transfer money to municipality.

Sec. 1. (1) The legislative body of a municipality owning or controlling a cemetery or burial grounds may by resolution or ordinance provide for the perpetual care and maintenance of the cemetery or a burial lot upon the payment by the owner of the lot or another person of the agreed upon sum, and in consideration for which the municipality may bind itself to perpetually care for and maintain the lot.

(2) Subject to subsection (3), money deposited in a perpetual care and maintenance fund for a cemetery owned or controlled by a municipality may be invested in mutual funds consisting of fixed income securities, equity securities, or both, if both of the following requirements are met:

(a) The equity position of the perpetual care and maintenance fund does not exceed 60% of the perpetual care and maintenance fund balance and the equity position does not contain more than 40% in any given asset category.

(b) Each mutual fund is rated in the top 2 of 5 or more tiers by Morningstar, Inc. or another nationally recognized mutual fund rating agency at the time of purchase.

(3) Subsection (2) does not prohibit any other investments that may be authorized by law.

(4) A testamentary trustee appointed by a probate court of a trust fund, the income from which is to be used to maintain a cemetery or burial lot, may, upon petition to the probate court that authorized the trustee's appointment, be authorized and directed by the court to transfer the money in the trustee's possession in the corpus of the trust to a municipality under an ordinance or resolution adopted under subsection (1). Upon receipt of the money filed with the probate court the testamentary trustee may be discharged from the trust.

History: 1937, Act 215, Imd. Eff. July 21, 1937;—CL 1948, 128.1;—Am. 1980, Act 366, Imd. Eff. Dec. 30, 1980;—Am. 2016, Act 13, Eff. May 16, 2016.

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128.2 Joint cemetery authority; formation and purpose.

Sec. 2. The legislative body of 2 or more municipalities may authorize the formation of a nonprofit corporation as a joint cemetery authority to acquire, own, operate, maintain, and sell real and personal property used for a cemetery or burial ground.

History: Add. 1980, Act 366, Imd. Eff. Dec. 30, 1980.

128.3 "Community foundation" and "municipality" defined.

Sec. 3. As used in this act:

(a) "Community foundation" means an organization that meets all of the following requirements:

(*i*) Has been in existence for at least 10 years.

(*ii*) Has assets of at least $10,000,000.00.

(*iii*) Qualifies for exemption from federal income taxation under 501(c)(3) of the internal revenue code, 26 USC 501(c)(3).

(*iv*) Supports a broad range of charitable activities within the specific geographic area of this state that it serves, such as a municipality.

(*v*) Maintains an ongoing program to attract new endowment funds by seeking gifts and bequests from a wide range of potential donors in the geographic area served.

(*vi*) Is publicly supported, as defined by 26 CFR 1.170A-9(f).

(*vii*) Meets the requirements for treatment as a single entity under 26 CFR 1.170A-9(f)(11).

(*viii*) Is not an organization described in section 509(a)(3) of the internal revenue code, 26 USC 509(a)(3).

(*ix*) Has an independent governing body representing the general public's interest and that is not appointed by a single outside entity.

(*x*) Maintains continually at least 1 part-time or full-time employee beginning not later than 6 months after the community foundation is incorporated or established.

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(*xi*) Is subject to an annual independent financial audit.

(*xii*) For a community foundation that is incorporated or established after January 9, 2001, operates in a county of this state that was not served by a community foundation when the community foundation was incorporated or established or operates as a geographic component of an existing community foundation.

(b) "Municipality" means a city, village, township, or county.

History: Add. 1980, Act 366, Imd. Eff. Dec. 30, 1980;—Am. 2014, Act 422, Imd. Eff. Dec. 30, 2014.

128.4 Irrevocable endowment and perpetual care fund; establishment as component fund within community foundation; powers and duties of community foundation; "fund" defined.

Sec. 4. (1) Subject to this section, to lessen the burden of government, each municipality with a municipally owned cemetery may establish and maintain an irrevocable endowment and perpetual care fund as a component fund within a community foundation by entering into an irrevocable agreement with the community foundation.

(2) The amounts deposited into the fund shall be held in perpetuity by the community foundation except that the community foundation shall annually authorize 2 distributions of interest and other earnings to the municipality for care and maintenance of the cemetery. The withdrawals shall be documented. The cemetery shall maintain records showing that earnings from the fund are used exclusively for endowment and for care and maintenance of the cemetery. The community foundation is not responsible for ascertaining that money paid to the municipality is expended for the limited purposes authorized in this subsection.

(3) Subject to the terms of the agreement, the fees and costs of the community foundation for services under this section and the agreement may be paid from the principal of the fund.

(4) The community foundation shall submit to the legislative body of the municipality an annual fund statement that includes all of the following information for the reporting period:

(a) Beginning and ending fund balances.

(b) Deposits to the fund, including interest and earnings from fund investments.

(c) Documentation of distributions from the fund under subsection (2).

(d) Documentation of any expenditures under subsection (3).

(5) As used in this section, "fund" means an endowment and perpetual care fund established under subsection (1).

History: Add. 2014, Act 422, Imd. Eff. Dec. 30, 2014.

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