

CEMETERY REGULATION ACT (EXCERPT)
Act 251 of 1968

456.532 Permit for registration required; acquisition of controlling interest in cemetery company; application for certificate of approval; contents; issuance; fee; noncompliance; escrow of endowment and perpetual care trust fund; prohibited use of funds; "controlling interest" defined.

Sec. 12.

(1) A person shall not establish a cemetery without a valid permit or operate an existing cemetery except under a valid registration issued under this act.

(2) If a person proposes to purchase or otherwise acquire a controlling interest in an existing cemetery company, that person shall first apply to the commissioner for a certificate of approval of a proposed change of control of a cemetery company. The application shall contain all of the following:

(a) The name and address of the proposed new owner or operator.

(b) A sworn statement from the seller attesting to the assets and liabilities related to the cemetery, including all trust accounts and the value of those accounts.

(c) Sworn statements from both the seller and the purchaser stating who will assume the assets and liabilities related to the cemetery.

(d) A sworn statement that the principal from the endowment and perpetual care trust accounts will be held in escrow for 6 months from the later of the following:

(i) The commissioner's approval of the application.

(ii) The close of the sale of a controlling interest in the cemetery owner or the sale of a substantial portion of the assets of the cemetery owner.

(iii) The transfer of title of the cemetery.

(e) Any other information the commissioner requires.

(3) The commissioner shall issue a certificate of approval for a change of control only after he or she is satisfied that the proposed new cemetery owner or operator is qualified by good moral character, experience, and financial stability, responsibility, and security to control and operate the cemetery in a legal and proper manner, and that the interest of the public generally will not be jeopardized by the proposed change in ownership and management. The application for a purchase or change of control must be accompanied by an initial filing or investigation fee of \$1,500.00.

(4) If a person fails to comply with this section, the commissioner may do any of the following if a transfer of controlling interest is found to have taken place without prior commissioner approval:

(a) Suspend or revoke the registration of the cemetery.

(b) Issue a cease and desist order or other order requiring a person to immediately take remedial action as prescribed by the commissioner.

(c) Seek injunctive or other equitable action from a court of competent jurisdiction.

(d) Take other appropriate action until the person purchasing or otherwise acquiring a controlling interest in an existing cemetery, purchasing an existing cemetery, or otherwise acquiring the cemetery demonstrates compliance with this section or divests itself of any interest or control of the cemetery.

(5) After the sale, transfer, purchase, or acquisition of a controlling interest in a cemetery is completed, the endowment and perpetual care trust fund for the cemetery shall be escrowed into an account for the first 6 months of the new ownership. This subsection shall not be construed to prevent or prohibit the cemetery from receiving interest or income from the endowment and perpetual care trust fund to maintain the cemetery.

(6) The endowment and perpetual care trust funds of a cemetery being sold shall not be used by the new owner of an existing cemetery in any manner to purchase or otherwise finance the purchase of that cemetery from the previous owner.

(7) As used in this section, "controlling interest" means the capability to decide the operating and financial policies of the cemetery company or to select the officers or directors with majority control of the cemetery company.

History: 1968, Act 251, Eff. Sept. 15, 1968 ;-- Am. 1972, Act 290, Imd. Eff. Oct. 30, 1972 ;-- Am. 1978, Act 102, Imd. Eff. Apr. 6, 1978 ;-- Am. 1982, Act 132, Imd. Eff. Apr. 20, 1982 ;-- Am. 2004, Act 22, Eff. Jan. 1, 2005 ;-- Am. 2008, Act 478, Imd. Eff. Jan. 12, 2009

Compiler's Notes: For transfer of powers and duties of certain occupational functions, boards, and commissions from the Department of Licensing and Regulation to the Department of Commerce, see E.R.O. No. 1991-9, compiled at MCL 338.3501 of the Michigan Compiled Laws.