

CEMETERY CORPORATIONS (EXCERPT)
Act 87 of 1855

456.35a Endowment care fund; creation; minimum requirements; administration; investment; prohibited use; legal remedies.

Sec. 35a. (1) The endowment care fund required to be set aside under section 35 for the purpose of keeping and maintaining the grounds of cemeteries established after March 10, 1967, or mausoleums not located in the confines of a dedicated cemetery and are established after March 10, 1967, shall be created by the deposit of \$25,000.00 into the fund before any sale of burial rights, entombment rights, or columbarium rights.

(2) With respect to all cemeteries or mausoleums, whether established before or after March 10, 1967, the fund shall be added to by payment, perpetually, each month of not less than 15% of all proceeds received during the previous month from the sales of burial rights, entombment rights, or columbarium rights made after March 10, 1967. No total deposit for a single adult burial right sale or assignment shall be less than \$20.00. Notwithstanding the minimum amount required to be paid into the endowment care fund, any cemetery which has an endowment care fund of more than \$125,000.00 and exceeding \$10,000.00 per acre of the developed portion of the cemetery may apply to the cemetery commission for a waiver of the 15% or \$20.00 minimum requirement. The cemetery commission shall take testimony and investigate as it considers advisable pursuant to the application. If the cemetery commission determines that the applicant has an endowment care fund of more than \$125,000.00 and exceeding \$10,000.00 per acre of the developed portion of the cemetery and that the income from the fund is sufficient to meet the then current cost of keeping the applicant's cemetery in good condition, it shall grant a waiver of the 15% and \$20.00 minimum requirement and allow such modifications with respect to contributions to the fund as it considers advisable.

(3) The endowment care fund may be administered by the board of directors, or by the fund's trustees, individual or corporate, as the fund may select under the terms of a trust instrument or declaration. If the fund selects trustees to administer the endowment care fund, the fund's liability shall be limited to reasonable care in the selection. Directors may serve as trustees if at least 2 members of the board are selected.

(4) The funds established under this section shall be invested subject to the provisions of section 7302 of the estates and protected individuals code, 1998 PA 386, MCL 700.7302.

(5) No portion of the funds required to be set aside under section 35 shall be used directly or indirectly for salaries of the officers or directors of the cemetery association or corporation, only the earnings from the funds shall be used for endowment care.

(6) In addition to all other remedies at law or in equity, the attorney general and the circuit court of the county in which the cemetery is located shall have all the powers and jurisdiction granted to the attorney general and court as to trusts covered by 1915 PA 280, MCL 554.351 to 554.353. The remedies granted include all endowment care fund trusts without regard to uncertainty or indefiniteness of its beneficiaries.

History: Add. 1966, Act 338, Eff. Mar. 10, 1967;—Am. 2003, Act 91, Imd. Eff. July 24, 2003.