

The draft amendments to several statutes address the limitation of the limitation in section 251 of the Business Corporation Act, MCL 450.1251, which prohibits a business (profit) corporation from forming under the Business Corporation Act if formed "to engage in a business for which a corporation may be formed under any other statute of this state unless that statute permits formation under this act." Also included is amendment to section 123 of the Business Corporation Act, MCL 450.1123, to remove requirement that profit cemeteries form under the cemetery corporation acts.

1. Business Corporation Act, 1972 PA 284

Section 123, MCL 450.1123

(1) Unless otherwise provided in, or inconsistent with, the act under which a corporation is or has been formed, this act applies to deposit and security companies, summer resort associations, brine pipeline companies, telegraph companies, telephone companies, safety and collateral deposit companies, canal, river, and harbor improvement companies, railroad, bridge, and tunnel companies, agricultural and horticultural fair societies, and professional service corporations formed under the professional service corporation act, 1962 PA 192, MCL 450.221 to 450.235. The entities specified in this subsection shall not be incorporated under this act.

Deleted: cemetery, burial, and cremation associations

(2) This act does not apply to insurance, surety, savings and loan associations, fraternal benefit societies, and banking corporations.

2. Rural Cemetery Corporation Act, 1869 PA 12

Section 1, MCL 456.101

A) 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.

B) A CORPORATION FORMED FOR THE PURPOSE OF PURCHASING LAND FOR A CEMETERY IN THIS STATE, AND FOR FENCING, LAYING OUT, IMPROVING, MAINTAINING AND ESTABLISHING A CEMETERY MAY ELECT TO FORM A DISTINCT LEGAL ENTITY UNDER THE BUSINESS CORPORATION ACT, 1972 PA 284, MCL 450.1101-450.2098. NONPROFIT CORPORATIONS SHALL COMPLY WITH SECTION 16 OF THIS ACT, MCL 456.116.

2. Cemetery Corporation Act, 1855 PA 87

Section 1, MCL 456.1

(A) That any 5 or more persons of lawful age, may organize themselves into a corporation, by such name as they shall adopt, for the purpose of acquiring land for a burial ground for the dead, to dispose of rights of burial therein, and to fence, improve, ornament and keep the same in suitable condition, in the manner hereinafter provided.

(B) A CORPORATION FORMED FOR THE PURPOSE OF ACQUIRING LAND FOR A BURIAL GROUND FOR THE DEAD, TO DISPOSE OF RIGHTS OF BURIAL THERIN, AND TO FENCE, IMPROVE, ORNAMENT AND KEEP THE SAME IN SUITABLE CONDITION, MAY ELECT TO FORM A DISTINCT LEGAL ENTITY UNDER THE BUSINESS CORPORATION ACT, 1972 PA 284, MCL 450.1101-450.2098.

3. Cremation Companies, 1915 PA 58

Section 1, MCL 456.201

(A) Five or more persons, 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 providing the necessary appliances for the disposal by cremation of the bodies of the dead, and for the purpose of purchasing land for a crematorium or columbarium, or both, in this state, and for fencing, laying out, improving, establishing and maintaining said land, and who shall comply with sections 2, 3 and 4 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.

(B) A CORPORATION FORMED FOR THE PURPOSE OF PROVIDING THE NECESSARY APPLIANCES FOR THE DISPOSAL BY CREMATION OF THE BODIES OF THE DEAD, AND FOR THE PURPOSE OF PURCHASING LAND FOR A CREMATORIUM OR COLUMBARIUM, OR BOTH, IN THIS STATE AND FOR FENCING, LAYING OUT, IMPROVING, ESTABLISHING AND MAINTAINING SAID LAND MAY ELECT TO FORM A DISTINCT LEGAL ENTITY UNDER THE BUSINESS CORPORATION ACT, 1972 PA 284, MCL 450.1101-450.2098.

4. Vault Associations, 1882 PA 13 (Ex. Session)

Section 1, MCL 456.251

(A) That any 5 or more persons desirous to organize an association for the purpose of preserving and protecting bodies of deceased persons before burial, may execute under their hands and acknowledge before some person authorized to take the acknowledgment of deeds, the duplicate articles of agreement, as hereinafter specified, 1 copy whereof shall be filed with the corporation and securities bureau of the department of commerce, and upon the execution and acknowledgment of such articles and the filing thereof, the signers thereof, and those who may hereafter become associated with them, shall become a body politic and corporate for the purpose set forth in said articles.

(B) A CORPORATION FORMED FOR THE PURPOSE OF PRESERVING AND PROTECTING BODIES OF DECEASED PERSON BEFORE BURIAL MAY ELECT TO FORM A DISTINCT LEGAL ENTITY UNDER THE BUSINESS CORPORATION ACT, 1972 PA 284, MCL 450.1101-450.2098.

REVISED JUDICATURE ACT OF 1961 (EXCERPT)
Act 236 of 1961

600.2926a Cemetery receivers; appointment; qualifications; term; accounting; compensation and expenses.

Sec. 2926a.

Circuit court judges in the exercise of their equitable powers in matters relating to cemeteries regulated by the cemetery commissioner pursuant to state statute may appoint receivers and conservators.

~~Such appointments shall be limited to persons who have had at least 5 years' experience in cemetery management.~~ Such appointments shall be limited to 1 year with reappointment permissible. Any person appointed under this section shall be required to make an accounting to the court at least once each 90 days.

Compensation and reimburseable expenses for such receivers and conservators shall, shall be determined and approved by the appointing court.

History: Add. 1967, Act 180, Eff. Nov. 2, 1967

Deleted: operating under the provisions of Act No. 87 of the ¶ Public Acts of 1855, as amended, being sections 456.1 to 456.36 of the Compiled ¶ Laws of 1948, and Act No. 12 of the Public Acts of 1869, as amended, being ¶ sections 456.101 to 456.119 of the Compiled Laws of 1948,

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Deleted: not exceed \$200.00 per week, which ¶ compensation and expenses

Sec. 9.

(1) The commissioner may hold hearings, administer oaths, take testimony under oath, and request in writing the appearance and testimony of witnesses, including the production of books and records. Upon the refusal of a witness to appear, testify, or submit books and records after a written request, the commissioner or a party to a contested case may apply to the circuit court for Ingham county for a subpoena or a subpoena duces tecum. The court shall issue a subpoena when reasonable grounds are shown. **AT THE COMMISSIONER'S DISCRETION THE COMMISSIONER MAY:**

(A) MAKE SUCH PUBLIC OR PRIVATE INVESTIGATIONS WITHIN OR WITHOUT THE STATE AS THE COMMISSIONER DEEMS NECESSARY TO DETERMINE WHETHER ANY PERSON HAS VIOLATED OR IS ABOUT TO VIOLATE ANY PROVISION OF THIS ACT OR ANY RULE OR ORDER HEREUNDER, OR TO AID IN THE ENFORCEMENT OF THIS ACT OR IN THE PRESCRIBING OF RULES HEREUNDER.

(B) REQUIRE OR PERMIT ANY PERSON TO FILE A STATEMENT IN WRITING, UNDER OATH OR OTHERWISE AS THE COMMISSIONER DETERMINES, AS TO ALL THE FACTS AND CIRCUMSTANCES CONCERNING THE MATTER TO BE INVESTIGATED.

(10) AUTHORITY IS CONFERRED UPON THE CEMETERY COMMISSIONER TO CONTROL, MANAGE, AND DISPOSE OF OR TRANSFER ABANDONED CEMETERIES OR TO REQUIRE ACCEPTANCE OF RESPONSIBILITY FOR AN ABANDONED CEMETERY ACCORDING TO LAW. THE CEMETERY COMMISSIONER MAY PROMULGATE RULES THAT ARE NECESSARY FOR THE DEPARTMENT TO CARRY OUT ITS POWERS AND DUTIES UNDER THIS SECTION.