

Merchandise  
Trust Fund  
(pre-2005)

\*Current as  
of 3/16/2009

456.521-456.543 (1968 PA 251) (Cemetery Regulation Act)

- \* All cemeteries that entered contracts for merchandise or services prior to January 1, 2005, shall establish a merchandise trust account and deposit a percentage, as determined by the commissioner, of the gross proceeds received from sales.
- \* Provide documents to commissioner upon request.
- \* Deposit funds no later than the month following receipt.
- \* All trust fund records shall be available for inspection by the Commissioner in Michigan
- \* The funds must be deposited with a regulated financial institution
- \* Cemetery can withdraw the amount on deposit for the delivered vault or outside container.
- \* Annual reporting to the Commissioner before July 1 including sworn statements

R456.101-456.196 (Cemetery Admin Code – rules promulgated under 1968 PA 251)

- \* Agreement shall provide Prudent Investor Rule, 700.1501 et seq., 700.7302 and no investment in life insurance, company owned or operated by cemetery, or loans to any person directly connected.
- \* Deposits certified by an officer of the trustor or designee
- \* Withdrawals made on presentation of an affidavit that merchandise or service has been delivered, installed, performed or terminated.
- \* Withdrawals not in excess of the allocated deposit, trustor shall so certify.
- \* Trustee shall furnish an accounting annually including:
  - i. All assets held by cost and fair market value
  - ii. Total deposits during year and total to date.
  - iii. Total withdrawals during year and to date.
  - iv. Certification by the trustor to the trustee that the total assets are at least equal to total obligations.
  - v. Net income including ordinary income and capital gains paid to trustor during the year.
- \* If the commission makes a determination that the account is under funded, the commission may order the trustor to deposit all future trust income to the principal of the trust.
- \* The purpose of the trust is to protect the purchaser
- \* Commission may inspect the records of the trustor and trustee relating to the trust.
- \* Trust funds shall be deposited with a bank or trust company located in Michigan.
- \* May withdrawal only after delivered, stored, installed, performed or ended. If delivered or stored only the current cost, balance when installed.
- \* Commissioner shall be immediately notified of any change in location of the records.
- \* No portion of the funds required to be in the trusts shall be used for salaries, directly or indirectly, of an member of the board of directors, cemetery owner, partner, or LLC member or manager.
- \* Each trust fund shall be under the control of at least 2 trustees. At least 1 shall be licensed as a CPA, Attorney, Investment Advisor, or securities broker or dealer.
- \* Governed by the laws and statutes of Michigan.

**700.1501 et seq.** (part 5 of 1998 PA 386) (Prudent Investor standard)

**700.7302** (Prudent Investor standard)

**700.7401** (Specific powers of trustee) (EPIC 1998 PA 386)