

2018 Regular Session

SENATE BILL NO. 540

BY SENATOR RISER

CEMETERIES. Provides relative to the Louisiana Cemetery Board. (gov sig)

1 AN ACT

2 To amend and reenact R.S. 8:454, the introductory paragraph of R.S. 8:456(A)(1) and (B),
3 and 457(B) and to enact R.S. 8:456(C), relative to the Louisiana Cemetery Board;
4 to provide for the creation of a master trust fund; to provide for requirements of a
5 master trust fund; to provide for reporting requirements; to provide for certain terms
6 and conditions; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 8:454, the introductory paragraph of R.S. 8:456(A)(1) and (B), and
9 457(B) are hereby amended and reenacted and R.S. 8:456(C) is hereby enacted to read as
10 follows:

11 §454. Trust funds required; **master trust fund**

12 A. No corporation hereafter organized for the operation of a perpetual or
13 endowed care cemetery and no cemetery authority not operating prior to August 1,
14 1962, as a perpetual or endowed care cemetery shall advertise or sell interment
15 spaces in ~~said~~ **the** cemetery under the representation that ~~said~~ **such** cemetery or any
16 individual interment space therein is entitled to perpetual or endowed care, until
17 there has been established a trust fund to provide for such care in the sum of fifty

1 thousand dollars in cash, or in lieu thereof securities listed upon a national exchange
2 or obligations of the United States government, any state, parish, county, or
3 municipality, having a fair market value equal to said amount of cash on the date of
4 deposit.

5 B. The trust fund so created shall be evidenced by an instrument in writing
6 and shall be placed with a designated trustee which shall be a federally insured
7 financial institution or trust company located in Louisiana and authorized to exercise
8 trust or fiduciary powers under the laws of Louisiana or the United States.

9 **C.(1) Notwithstanding any provision of law to the contrary, for the**
10 **purposes of collective investment and administration and with written consent**
11 **of each participant in a master trust fund, a designated trustee of two or more**
12 **trust funds may apply to the board to establish a master trust fund in which**
13 **deposits are made pursuant to the provisions of this Title.**

14 **(2) The master trust fund shall be subject to the following requirements:**

15 **(a) It shall include only trust funds with a principal balance of less than**
16 **two hundred fifty thousand dollars. Upon a determination that a trust fund**
17 **made a part of a master trust fund has a principal sum exceeding two hundred**
18 **fifty thousand dollars at the end of a reporting period, such trust fund shall no**
19 **longer be subject to the collective investment and administration of the master**
20 **trust fund and shall be removed from the master trust fund within ninety days.**

21 **(b) The designated trustee of a master trust fund shall maintain separate**
22 **records of principal and income for each participant in the master trust fund.**

23 **(c) The income and associated expenses of the master trust fund shall be**
24 **divided among the participants in the master trust fund based on the proportion**
25 **that each participant contributes to the balance of the master trust fund.**

26 **(d) The annual report by the designated trustee of the master trust fund**
27 **shall include an itemized separate accounting for each participant in the master**
28 **trust fund. Such annual report shall comply with the provisions of R.S. 8:456.**

29 **(e) The operation of the master trust fund shall be subject to the**

1 **provisions of this Title and the rules and regulations of the board.**

2 * * *

3 §456. Annual report by trustee; final accounting by trustee required

4 A.(1) Not later than sixty days after the receipt of the report required by R.S.
5 8:455, the trustee shall file with the board, ~~with a copy to the clerk of the district~~
6 ~~court for the parish in which the cemetery is located,~~ an annual report on a form
7 prescribed by the board setting forth all of the following:

8 * * *

9 B. Within sixty days of the resignation of a trustee and transfer of the trust
10 fund to the successor trustee, the resigning trustee shall file with the board, ~~with a~~
11 ~~copy to the clerk of the district court for the parish in which the cemetery is located,~~
12 a final accounting showing in detail all receipts and disbursements of cash and all
13 receipts and deliveries of other trust property, and set forth a detailed list of all items
14 of trust property in the trust from the last reporting period through the date of
15 resignation and transfer of the trust fund to the successor trustee.

16 **C. Notwithstanding any provision of law to the contrary, the annual**
17 **report and final accounting shall be open for public inspection and upon**
18 **request, a copy of the annual report and final accounting shall be made**
19 **available.**

20 * * *

21 §457. Application of Chapter

22 * * *

23 B. A like affidavit shall be filed **with the board** at the end of each fiscal year
24 thereafter for the operation of such cemetery.

25 * * *

26 Section 2. This Act shall become effective upon signature by the governor or, if not
27 signed by the governor, upon expiration of the time for bills to become law without signature
28 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
29 vetoed by the governor and subsequently approved by the legislature, this Act shall become

1 effective on the day following such approval.

The original instrument was prepared by Michelle D. Ridge. The following digest, which does not constitute a part of the legislative instrument, was prepared by Cathy Wells.

DIGEST

SB 540 Reengrossed

2018 Regular Session

Riser

Present law provides for the establishment of a trust fund for a perpetual or endowed care cemetery.

Proposed law provides for the creation of a master trust fund for the purposes of collective investment and administration.

Proposed law provides that with the written consent of each participant in a master trust fund, a designated trustee of two or more trust funds may apply to the board to establish a master trust fund in which deposits are made pursuant to law.

Proposed law provides that the master trust fund shall be subject to the following requirements:

- (1) It shall include only trust funds with a principal balance of less than \$250,000. Provides that if a trust fund has a principal sum exceeding \$250,000 at the end of a reporting period, such trust fund shall be removed from the master trust fund within 90 days.
- (2) The designated trustee of a master trust fund shall maintain separate records of principal and income for each participant in the master trust fund.
- (3) The income and associated expenses of the master trust fund shall be divided among the participants in the master trust fund based on the proportion that each participant contributes to the balance of the master trust fund.
- (4) The annual report by the designated trustee of the master trust fund shall include an itemized separate accounting for each participant in the master trust fund.
- (5) The operation of the master trust fund shall be subject to the provisions of Title 8 of the Louisiana Revised Statutes of 1950 and the rules and regulations of the board.

Present law provides that a trustee shall file with the La. Cemetery Board (board), with a copy to the clerk of the district court for the parish in which the cemetery is located, an annual report and final accounting showing in detail all receipts and disbursements of cash and all receipts and deliveries of other trust property.

Proposed law removes the requirement that the trustee provide a copy of the annual report and the final accounting to the clerk of the district court for the parish in which the cemetery is located.

Proposed law provides that the annual report and the final accounting shall be open for public inspection and upon request, a copy of the annual report and final accounting shall be made available.

Present law provides that any cemetery in existence on August 1, 1962, which, prior to such date, sold or contracted to sell interment spaces with a provision for perpetual or endowed care, qualifies for the exceptions, if the owner of said cemetery filed in the office of the recorder of mortgages for the parish in which said cemetery is located, a sworn affidavit

executed by said owner, or its principal officer, setting forth certain information.

Present law provides that a like affidavit shall be filed at the end of each fiscal year thereafter for the operation of such cemetery.

Proposed law requires the like affidavit be filed with the board.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Amends R.S. 8:454, 8:456(A)(1)(intro para), 456(B), and 457(B); adds R.S. 8:454(C) and 456(C))

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Commerce, Consumer Protection, and International Affairs to the original bill

1. Provides that the annual report and final accounting shall be open for public inspection, and upon request, a copy of such information shall be made available.

Senate Floor Amendments to engrossed bill

1. Adds clarifying language relative to inspection of annual report and final accounting.
2. Legislative Bureau amendments.