

2023 Regular Session

HOUSE BILL NO. 302

BY REPRESENTATIVES ST. BLANC AND TURNER

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

CEMETERIES: Provides relative to cemetery trust funds

1 AN ACT

2 To amend and reenact R.S. 8:454(C)(1) and (2)(a) and 502(C) and (E), relative to cemetery
3 trust funds; to provide for master perpetual care trust funds; to provide for master
4 preneed cemetery merchandise and services trust funds; to provide for the
5 requirements of such funds; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 8:454(C)(1) and (2)(a) and 502(C) and (E) are hereby amended and
8 reenacted to read as follows:

9 §454. Trust funds required; master perpetual care trust fund

10 * * *

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

17 (a) A perpetual care trust fund for each cemetery.

18 (b) For the purposes of collective investment and administration, a master
19 perpetual care trust fund to hold the funds for multiple cemetery companies based

1 in this state. The trustee shall secure the prior written approval of each cemetery
2 company that desires to participate in the master perpetual care trust fund.

3 (2) The master perpetual care trust fund as provided in Subparagraph
4 (C)(1)(b) of this Section shall be subject to the following requirements:

5 (a) ~~It shall include only trust funds with a principal balance of less than two~~
6 ~~hundred fifty thousand dollars. Upon a determination that a trust fund made a part~~
7 ~~of a master trust fund has a principal sum exceeding two hundred fifty thousand~~
8 ~~dollars at the end of a reporting period, such trust fund shall no longer be subject to~~
9 ~~the collective investment and administration of the master trust fund and shall be~~
10 ~~removed from the master trust fund within ninety days. It shall identify the~~
11 subaccounts for each individual participating cemetery company trust.

12 * * *

13 §502. Payments to trust; amounts required; master trust fund

14 * * *

15 C.(1) The trust fund shall be administered by a trustee in accordance with a
16 written trust instrument.

17 (2) A trustee establishing a preneed cemetery merchandise and services trust
18 fund pursuant to this Title may establish either of the following:

19 (a) A separate trust fund for each preneed cemetery contract.

20 (b) A single trust fund for all preneed cemetery contracts written by an
21 individual cemetery.

22 (c) A single master trust fund for all preneed cemetery contracts written by
23 multiple cemetery companies based in this state. The trustee shall secure the prior
24 written approval of each cemetery company that desires to participate in the master
25 trust fund.

26 (3) A master preneed cemetery merchandise and services trust fund as
27 provided in Subparagraph (2)(c) of this Subsection shall be subject to all of the
28 following requirements:

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 302 Original

2023 Regular Session

St. Blanc

Abstract: Clarifies the requirements of cemetery master trust funds, perpetual care trust funds, and master preneed cemetery merchandise and services trust funds.

Present law allows for a designated trustee of two or more trust funds, with the approval of all participants, to apply to the La. Cemetery Board to become a master trust fund and administer funds accordingly.

Proposed law changes present law and allows for a trustee of an established fund to either create a perpetual care trust fund for each cemetery or create a master perpetual care trust fund comprised of multiple cemetery companies in the state.

Proposed law requires that the trustee acquire written approval of all cemetery companies that wish to participate in the master trust fund.

Present law requires that all participating companies in a master trust fund have a balance of less than \$250,000, and if they exceed that amount, participants are required to withdraw within 90 days.

Proposed law requires that the master trust fund identify the assets of each individual company within the master trust fund.

Proposed law requires that a trustee establishing a preneed cemetery merchandise and services trust fund may establish either of the following:

- (1) A separate trust fund for each preneed cemetery contract.
- (2) A single trust fund for all preneed cemetery contracts written by an individual cemetery.
- (3) A single master trust fund for all preneed cemetery contracts written by multiple cemetery companies based in this state. The trustee shall secure the prior written approval of each cemetery company.

Proposed law requires that a master trust fund be subject to all of the following requirements:

- (1) The master trust fund shall identify the subaccounts for each individual participating cemetery company trust.
- (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 accounting of each participant in the master trust fund.

Present law states the cemetery authority or other entity shall allocate to each separate account its total income earned and reported by the trustee, based upon the proportion that the balance in each such account bears to the total balances in all such accounts.

Proposed law requires that a cemetery authority shall allocate to each separate preneed contract its share of the total income earned and reported by the trustee, based upon the proportion that the balance in each such preneed contract bears to the total balance in the corresponding preneed cemetery merchandise and services trust fund. Proposed law clarifies present law by specifying preneed contracts.

(Amends R.S. 8:454(C)(1) and (2)(a) and 502(C) and (E))