

2024 Regular Session

HOUSE BILL NO. 493

BY REPRESENTATIVE RISER

CEMETERIES: Provides for the merger of cemetery trust funds

1 AN ACT

2 To enact R.S. 8:454.3, relative to the merger of cemetery trust funds; to provide for the plan
3 of merger; to provide for the articles of merger; to provide for when a merger
4 becomes effective; and to provide for related matters.

5 Be it enacted by the Legislature of Louisiana:

6 Section 1. R.S. 8:454.3 is hereby enacted to read as follows:

7 §454.3. Merger of cemetery trust funds

8 A. Two or more trust funds that provide for perpetual or endowed care for
9 one cemetery owned by the same cemetery authority may be merged into one trust
10 fund by the cemetery authority executing a plan of merger by authentic act or by act
11 under private signature executed in the presence of two witnesses duly
12 acknowledged by the cemetery authority or by the affidavit of one of the attesting
13 witnesses. The plan of merger shall be approved by the board of directors or other
14 governing authority of the cemetery authority.

15 B. The plan of merger shall include all of the following:

- 16 (1) The name of each of the trust funds to be merged.
- 17 (2) The date of creation of each trust fund.
- 18 (3) The manner of transferring and combining the assets of the trust funds.
- 19 (4) The effective date of the merger.

1 (5) A true copy of the instruments creating each trust fund, including any
2 amendments.

3 (6) Any amendments to the trust instrument of the surviving trust fund.

4 (7) The terms and conditions of the merger.

5 C. Articles of merger shall be signed by an officer or other duly authorized
6 representative of the cemetery authority and shall be delivered to the board within
7 thirty days of the effective date of the merger. The articles shall set forth all the
8 following:

9 (1) The names of the trust funds to the merger.

10 (2) The trust instrument of the surviving trust fund and any amendments
11 thereto.

12 (3) The effective date of the merger.

13 (4) The name of the surviving trust fund.

14 (5) A statement that the plan of merger was approved by the board of
15 directors or other governing authority of the cemetery authority.

16 D. When the merger becomes effective, all of the following shall apply:

17 (1) The separate existence of every trust fund that is merged into the
18 surviving trust fund ceases.

19 (2) All property owned by, and every contract right possessed by, each trust
20 fund that merges into the surviving trust fund is vested in the surviving trust fund
21 without any transfer, assignment, reversion, or impairment.

22 (3) All liabilities of each trust fund that is merged into the surviving trust
23 fund are vested in the surviving trust fund.

24 (4) The trust instrument of the surviving trust fund is amended to the extent
25 provided in the plan of merger.

26 (5) The trustee of each of the non-surviving trust funds shall provide the
27 surviving trust fund with a final accounting of the trust fund and cause all property
28 of the trust fund to be delivered to the trustees of the surviving trust fund on the
29 effective date of the merger.

1 (6) The merger does not create a new trust fund and is the continuation of the
2 surviving trust fund.

3 (7) If all or part of the cemetery was in existence on August 1, 1962, and
4 prior to such date operated as a perpetual or endowed care cemetery provided
5 through the surviving trust fund, the provisions of R.S. 8:451, 453, 454, 457, 461,
6 and 466 shall continue to apply.

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 493 Engrossed

2024 Regular Session

Riser

Abstract: Provides relative to the merger of cemetery trust funds.

Proposed law provides that two or more trust funds that provide for perpetual or endowed care for one cemetery owned by the same cemetery authority may be merged into one trust fund by the cemetery authority executing a plan of merger by authentic act or by act under private signature executed in the presence of two witnesses duly acknowledged by the cemetery authority or by the affidavit of one of the attesting witnesses. The plan of merger shall be approved by the board of directors or other governing authority of the cemetery authority.

Proposed law provides that the plan of merger shall include all of the following:

- (1) The name of each of the trust funds to be merged.
- (2) The date of creation of each trust fund.
- (3) The manner of transferring and combining the assets of the trust funds.
- (4) The effective date of the merger.
- (5) A true copy of the instruments creating each trust fund, including any amendments.
- (6) Any amendments to the trust instrument of the surviving trust fund.
- (7) The terms and conditions of the merger.

Proposed law provides that articles of merger shall be signed by an officer or other duly authorized representative of the cemetery authority and shall be delivered to the board within 30 days of the effective date of the merger. The articles shall set forth all the following:

- (1) The names of the trust funds to the merger.
- (2) The trust instrument of the surviving trust fund and any amendments thereto.
- (3) The effective date of the merger.
- (4) The name of the surviving trust.

- (5) A statement that the plan of merger was approved by the board of directors or other governing authority of the cemetery authority.

Proposed law provides that when the merger becomes effective, all of the following shall apply:

- (1) The separate existence of every trust fund that is merged into the surviving trust fund ceases.
- (2) All property owned by, and every contract right possessed by, each trust fund that merges into the surviving trust fund is vested in the surviving trust fund without any transfer, assignment, reversion, or impairment.
- (3) All liabilities of each trust fund that is merged into the surviving trust fund are vested in the surviving trust fund.
- (4) The trust instrument of the surviving trust fund is amended to the extent provided in the plan of merger.
- (5) The trustee of each of the non-surviving trust funds shall provide the survivor with a final accounting of the trust fund and cause all property of the trust fund to be delivered to the trustees of the surviving trust fund on the effective date of the merger.
- (6) The merger does not create a new trust fund and is the continuation of the surviving trust fund.
- (7) If all or part of the cemetery was in existence on August 1, 1962 and prior to such date operated as a perpetual or endowed care cemetery provided through the surviving trust fund, the provisions of present law shall continue to apply.

(Adds R.S. 8:454.3)