

Chapter CB 4

CARE FUNDS AND PRENEED TRUST FUNDS

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Note: Chapter RL 53 was renumbered chapter SPS 53 under s. 13.92 (4) (b) 1., Stats., Register November 2011 No. 671. Chapter SPS 53 was repealed and Chapter CB 4, under the same title, was created effective September 1, 2012, Register August 2012 No. 680.

CB 4.01 Authority. This chapter is adopted pursuant to ss. 157.11, 157.19, 227.11, and 440.905, Stats.

History: CR 12-021: cr. Register August 2012 No. 680, eff. 9-1-12.

CB 4.02 Change of trustee; applications. (1) **APPROVAL REQUIRED.** A cemetery authority or preneed seller who deposits care funds in a financial institution pursuant to s. 157.19 (2) (a), Stats., shall obtain written approval of the board before changing the trustee of a care fund or preneed trust fund.

(2) **FORMS.** Requests for approval of a change of trustee shall be made on forms provided by the department, and shall be delivered through the mail or otherwise to the board.

Note: Forms may be obtained upon request from the Department of Safety and Professional Services, Division of Professional Credential Processing, 1400 East Washington Avenue, Madison, Wisconsin 53708.

(3) **COMPLETE ANSWERS; CERTIFICATION.** No request for approval shall be processed until all questions appearing on the application are fully completed, the applicant has signed a statement confirming the accuracy of the information provided in the application, and all required documents are received by the board.

(4) **DETERMINATION OF APPROVAL.** The board or its designee shall provide the applicant with its determination upon the request within 60 days after receipt of the completed application and required documents.

History: CR 12-021: cr. Register August 2012 No. 680, eff. 9-1-12.

CB 4.03 Standards for approval. (1) **CARE FUNDS.** The board or its designee may grant approval for a change of trustee of a care fund to a cemetery authority applying for the change of trustee if the cemetery authority submits evidence that the rights and interests of the beneficiary of the care fund will be adequately protected if the change is approved. Such evidence shall include, but is not necessarily limited to:

(a) The names and addresses of the financial institutions from whom and to whom the care fund is to be transferred.

(b) A statement of the reason for requesting the change of trustee.

(c) The amount to be transferred, the manner or instrument by which the transfer is to be made, and the anticipated date the transfer is to be effectuated.

(d) An affidavit from an officer or director of the financial institution from whom the transfer is requested that it is authorized to act as a financial institution and is in good standing in this state. The affidavit shall confirm that all deposits into the care funds being transferred to a different trustee were timely, and that the principal has not been withdrawn.

(e) An affidavit from an officer or director of the financial institution to whom the transfer is requested that it is authorized to act as a financial institution, and is in good standing in this state.

(f) A statement of any costs which will accrue to the balance of the care fund upon the change of trustee, as well as a statement of the nature and anticipated amounts of any service charges,

administrative fees, or other costs which will be imposed against the care fund by the proposed trustee.

(2) **PRENEED TRUST FUNDS.** Preneed sellers applying for the change of trustee of a preneed trust fund shall submit evidence that the rights and interests of the purchaser under the preneed sales contract will be adequately protected if the change is approved, including but not necessarily limited to:

(a) The names and addresses of the financial institutions from whom and to whom the preneed trust fund is to be transferred.

(b) A statement of the reason for requesting the change of trustee.

(c) The amount to be transferred, the manner or instrument by which the transfer is to be made, and the anticipated date the transfer is to be effectuated.

(d) An affidavit from an officer or director of the financial institution from whom the transfer is requested that its license is in good standing in this state. The affidavit shall confirm that all deposits into the care funds being transferred to a different trustee were timely, and that the principal has not been withdrawn.

(e) An affidavit from an officer or director of the financial institution to whom the transfer is requested that it is authorized to act as a financial institution, and is in good standing in this state.

(f) A statement of any costs which will accrue to the balance of the preneed fund upon the change of trustee, as well as a statement of the nature and anticipated amounts of any service charges, administrative fees, or other costs which will be imposed against the care fund by the proposed trustee.

History: CR 12-021: cr. Register August 2012 No. 680, eff. 9-1-12.

CB 4.04 Compliance with terms of approval. The board may approve a change of trustee upon such terms and conditions as deemed necessary to assure that the rights and interests of the beneficiary or purchaser will be adequately protected.

History: CR 12-021: cr. Register August 2012 No. 680, eff. 9-1-12.

CB 4.05 Verification of deposit. Within 30 days after the transfer of the care fund or preneed trust fund, the cemetery authority shall submit information to the board verifying the transfer, including the amount deposited, the date the deposit was made, and the account number of the fund. In addition, the cemetery authority shall request that the new trustee submit the same information to the board verifying the receipt of the funds.

History: CR 12-021: cr. Register August 2012 No. 680, eff. 9-1-12; CR 19-149: am. Register September 2020 No. 777, eff. 10-1-20.

CB 4.06 Income from care funds. (1) In this section, "income earned" means and includes any capital gains, any interest, and any dividends earned on a cemetery care fund account.

(2) Only the principal deposits into cemetery care funds required under s. 157.11 (9g) (c), Stats., must remain intact.

(3) Income earned on a cemetery care fund may be withdrawn from the care fund by the cemetery authority and be used for the purposes specified in s. 157.11 (9g) (a) 2., Stats.

(4) Board approval is not required to withdraw income earned on a cemetery care fund account.

History: CR 22-023: cr. Register June 2023 No. 810, eff. 7-1-23.