



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

HB5584

Introduced 1/31/2022, by

SYNOPSIS AS INTRODUCED:

760 ILCS 100/4.1 new

Amends the Cemetery Care Act. Requires every cemetery authority to choose the distribution of either of the following from a care fund: all net ordinary income; or a unitrust disbursement not exceeding 5% of the fair market value of the care fund. Requires the distribution method and the disbursement percentage selected to remain in effect unless the cemetery authority notifies the trustee and the Comptroller of its desire to effect a change. Requires a distribution from the care fund to be made on a monthly, quarterly, semiannual, or annual basis, as agreed upon by the cemetery authority and the trustee. Provides that in order to withdraw a unitrust disbursement, the fair market value of the care fund after the disbursement shall be greater than 80% of the aggregate fair market value of the care fund as of the end of the immediately preceding calendar year. Requires the trustee to pay reasonable operating expenses and taxes of the care fund itself. Provides that the provisions do not apply to a fraternal cemetery, a municipal, State, or federal cemetery, a religious cemetery, or a family burying ground.

LRB102 24793 LNS 34037 b

1 AN ACT concerning civil law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Cemetery Care Act is amended by adding
5 Section 4.1 as follows:

6 (760 ILCS 100/4.1 new)

7 Sec. 4.1. Disbursement.

8 (a) Every cemetery authority shall choose the distribution
9 of either of the following from a care fund:

10 (1) all net ordinary income, including collected
11 dividends, interest, and other income earned by the care
12 fund, reduced by any expenses, including, but not limited
13 to, taxes on income, fees, commissions, and costs; or

14 (2) a unitrust disbursement not exceeding 5% of the
15 fair market value of the care fund. As used in this
16 paragraph, "fair market value" means the average of the
17 net fair market value of the assets of the care fund as of
18 the last trading day for each of the 3 preceding fiscal
19 years.

20 (b) A cemetery authority that selects the unitrust
21 disbursement method under paragraph (2) of subsection (a)
22 shall:

23 (1) deliver to the trustee of the care fund written

1 instructions, including the disbursement percentage
2 selected, not later than 60 days prior to the beginning of
3 the calendar year; and

4 (2) deliver to the Comptroller a notification that the
5 cemetery authority selected the unitrust disbursement
6 method and the percentage selected.

7 (c) The distribution method and, if a unitrust
8 disbursement, the disbursement percentage selected shall
9 remain in effect unless the cemetery authority notifies the
10 trustee and the Comptroller of its desire to effect a change.
11 The trustee shall ensure that an investment policy is in place
12 and contains goals and objectives that are supportive of the
13 growth of the care fund.

14 (d) A distribution from the care fund shall be made on a
15 monthly, quarterly, semiannual, or annual basis, as agreed
16 upon by the cemetery authority and the trustee. If the trustee
17 does not receive written instructions from the cemetery
18 authority informing the trustee of the method of calculation
19 and distribution chosen, the trustee shall calculate and
20 distribute the net income, as earned, on a monthly basis.

21 (e) A unitrust disbursement may not be withdrawn unless
22 the fair market value of the care fund after the disbursement
23 is greater than 80% of the aggregate fair market value of the
24 care fund as of the end of the immediately preceding calendar
25 year. If this is not the case, the disbursement shall be
26 limited for that year to net ordinary income.

1 (f) The trustee shall pay the reasonable operating
2 expenses and taxes of the care fund itself. If the operating
3 expenses and taxes paid are greater than 2.5% of the fair
4 market value at the end of the preceding calendar year and the
5 cemetery authority has selected a unitrust disbursement, the
6 trustee shall reduce the unitrust disbursement by the amount
7 exceeding 2.5%.

8 (g) This Section does not apply to a fraternal cemetery, a
9 municipal, State, or federal cemetery, a religious cemetery,
10 or a family burying ground.