

RÉSUMÉ DIGEST

ACT 785 (HB 493)

2024 Regular Session

Riser

Existing law provides for cemetery trust funds.

New law provides that two or more trust funds, owned by the same cemetery authority, that provide for perpetual or endowed care for one cemetery 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.

New 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.

New 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 that were merged.
- (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.

New 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 existing law shall continue to apply.

Effective August 1, 2024.

(Adds R.S. 8:454.3)