

CEMETERY AND FUNERAL BUREAU

Final Statement of Reasons

Subject Matter of Proposed Regulations: Cemeteries: Unitrust Conversion

Sections Affected: New Article 3.5 and title and sections 2334, 2334.1, 2334.2, 2334.3, 2334.4, and amend section 2350 in Article 5 of Division 23 of Title 16 of the California Code of Regulations (CCR)

Updated Information

The Informative Digest and Initial Statement of Reasons (ISOR) are included in the rulemaking file and incorporated as though set forth herein.

The 45-day public comment period began on July 30, 2021 and closed at 5:00 p.m. on September 14, 2021. The Bureau did not hold a public hearing.

The Bureau received no comments during the initial notice period.

After consultation with the Office of Administrative Law, the Bureau made certain modifications to the proposed text to enhance clarity and added further information to the ISOR through an Addendum to the ISOR.

1. The Bureau amended section 2334.4 by replacing “may” with “shall” to enhance clarity as to how the Bureau will apply the regulation.
2. The addendum to the Initial Statement of Reasons explains the necessity for the requirement in the application form that the form be signed under penalty of perjury.

On November 5, 2021, the Bureau provided 15 days’ notice of the modified text and the addendum to the ISOR. It received no comments.

Local Mandate

A mandate is not imposed on local agencies or school districts.

Fiscal Impact:

The proposed regulations do not result in a fiscal impact to the state in the form of federal funding or any cost or savings to any state agency. The proposed regulations are not anticipated to increase workload or costs to the state.

Current law requires the Bureau to implement and oversee an application process to convert an endowment care fund from a net distribution method to a unitrust distribution method. Any workload and costs of implementation are a result of current law.

Consideration of Alternatives

No reasonable alternative which was considered or that has otherwise been identified and brought to the attention of the Bureau would be more effective in carrying out the purpose for which it was proposed or would be as effective and less burdensome to affected private persons than the adopted regulations or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

Incorporation by Reference

Unitrust Conversion Application, form 23-UCA (New 7/21) (“Unitrust Conversion Application”)

The incorporation by reference method was used because it would be impractical and cumbersome to publish the Unitrust Conversion Application in the California Code of Regulations (CCR). The Bureau requires the application and accompanying documents to evaluate whether the applicant meets each of the conditions of approval as outlined in Section 8726.2. Since HSC section 8726.2 does not explicitly prescribe the contents of the application and specify what relevant documents must be submitted to meet the conditions for conversion to the unitrust method, the application provides a convenient and simple way for applicants to understand these requirements to obtain Bureau approval. If the application was incorporated into the CCR, the various check boxes and questions needed to be answered to implement HSC section 8726.2 would be difficult to reprint in the CCR, and therefore could cause confusion for the user. The Unitrust Conversion Application was made available to the public and was posted on the Bureau’s website.