

CEMETERY AND FUNERAL BUREAU

Unitrust Distribution Method

Title 16, California Code of Regulations (CCR), Sections 2334

Section 100 CHANGE WITHOUT REGULATORY EFFECT

Pursuant to Title 1, Division 1, Chapter 1, Article 2, Section 100(a), of the California Code of Regulations (CCR), the Department of Consumer Affairs, Cemetery and Funeral Bureau (Bureau) submits this written statement explaining why the proposed amendments to section 2334 of Article 3, Division 23, of Title 16, of the CCR and the incorporated form by reference, titled Unitrust Conversion Application 23-UCA (New 7/21) (Application), do not materially alter any requirement, right, responsibility, condition, prescription, or other regulatory element of any CCR provision.

Subject to the approval of the Office of Administrative Law, the Bureau proposes to add to, revise, or delete text in the CCR and amend text in its Unitrust Conversion Application as follows:

A. Section 2334, Title 16, CCR.

Section 2334(a) presently provides:

(a) A cemetery authority, its board of trustees, or its corporate trustee seeking to convert the cemetery authority's endowment care fund from a net income distribution method to a unitrust distribution method shall submit to the bureau a completed form 23-UCA (New 7/21), Unitrust Conversion Application, which is hereby incorporated by reference. Each application shall be accompanied by:

As explained in B., *infra*, the Bureau proposes to revise the Application effective January 1, 2022, by designation on the Application, "rev. 1/22." Accordingly, the Bureau proposes to strike "New. 7/21" and replace it with "rev. 1/22."

This is a change without regulatory effect because it only changes the revision date of the Application in the regulation. It does not materially alter any requirement, right, responsibility, condition, prescription, or other regulatory element of section 2334.

B. Form 23-UCA (New 7/21) [Unitrust Conversion Application]

1. Correction of the email address.

The Bureau proposes to strike “cfb” and replace it with “dca” to correct the email address on the Application. This is a change without regulatory effect because it only corrects a typographical error in the Application incorporated by reference in the regulation. It does not materially alter any requirement, right, responsibility, condition, prescription, or other regulatory element of section 2334.

2. Deletion of Application Question Requesting Applicants’ work experience investing and managing an endowment care fund under the unitrust distribution method in Section C of the application.

Effective January 1, 2022, the Bureau can no longer ask for the individual trustee(s) or designee of a cemetery authority to possess work experience in investing and managing an endowment care fund under the unitrust distribution method in Form 23-UCA, Unitrust Conversion Application. (Assembly Bill (AB) 830, (Flora, Chapter 376, Statutes of 2021).) The Application asks individual trustee(s) or designee of a cemetery authority:

Do you possess at least two (2) years’ work experience in the past ten (10) years immediately prior to filing this application in investing and managing an endowment care fund under the unitrust distribution method?

The Application is inconsistent with Health and Safety Code section 8726.2, effective January 1, 2022. Section 8726.2 provides that “The cemetery authority, its board of trustees, or its corporate trustees demonstrates sufficient knowledge and expertise in investing and managing an endowment care fund.” Accordingly, the Bureau does not have discretion to require an applicant seeking Bureau’s approval to convert its endowment care fund to a unitrust distribution method to possess work experience in investing and managing an endowment care fund under the unitrust distribution method.

This is a change without regulatory effect because the Bureau proposes to make the Application consistent with a changed California statute. (1 Cal. Code Regs., tit. 1, § 100, subd. (a)(6).) The Application is inconsistent with section 8726.2, effective January 1, 2022, and the Bureau does not have discretion to require an applicant seeking approval to convert its endowment care fund to a unitrust to possess work experience managing an endowment care fund under the unitrust distribution method. (Cal. Code Regs., tit. 1, § 100, subd. (a)(6)(A) & (B).)

3. Amendment of revision date.

The Bureau amends the revision date of the Application in the footer to reflect it has been revised in January, 2022, as a result of this rulemaking. This is a change without regulatory effect because it only changes the revision date of the Application in the footer. It does not materially alter any requirement, right, responsibility, condition, prescription, or other regulatory element of section 2334.