Bereavement Authority of Ontario
5160 Yonge St., Suite 1200
North York, ON M2N 6L9
Tel: 647-483-2645 | Toll-free: 1-844-493-6356
Fax: 647-748-2645 | Email: info@thebao.ca

Instructions to the Application to Transfer Cemetery Care and Maintenance Fund or Account

Contents

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Eligible Care and Maintenance Trust Fund Trustees

According to subsection 83(1) of O.Reg 30/11 made under the Funeral, Burial and Cremation Services Act, 2002 (FBCSA), a care and maintenance fund shall be established in a corporation registered under the Loan and Trust Corporations Act, or a credit union or league as defined in the Credit Unions and Caisses Populaires Act, 1994.

Please see links below for eligible Loan and Trust companies, Credit Unions and Caisses Populaires:

- List of Loan and Trust companies registered in Ontario
- Ontario Credit Unions and Caisses Populaires Listing

Local Municipality acting as trustee:

Pursuant to section 53(7) of the FBCSA, "…a local municipality may act as the trustee for care and maintenance money in the prescribed circumstances"

A cemetery operator may contact their local municipality to inquire if they would act as trustee for their care and maintenance trust fund.

Ontario Public Guardian and Trustee

Pursuant to subsection 53(8) of the FBCSA, a prescribed cemetery operator who does not have a practical alternative may require the Ontario Public Guardian and Trustee to act as the trustee for are and maintenance money of the cemetery.

Contact information:

Website: https://www.ontario.ca/page/office-public-guardian-and-trustee

Email: OPGT.Cemetery.Trust.Queries@Ontario.ca

What type of investments are appropriate for a care and maintenance trust fund?

Pursuant to section 27(2) of the Trustee Act:

"A trustee may invest trust property in any form of property in which a prudent investor might invest"

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Guidance When Completing the Application to Transfer

Current Operator Information

- Please ensure all information here matches the main contact we have for your organization.
- You can check the current information we have for your organization here: Public Register - Bereavement Authority of Ontario.
- **If any updates are required**, please contact our licensing team at licensing@thebao.ca before submitting your application to transfer.

Current Trustee Information:

- The trustee name should be the financial institution, municipality, or OPGT.
- The account number should be the number for the main C&M account. If you are uncertain, please feel free to contact us to confirm.
- Latest Account Balance should be the Market Value as of the statement date.
- Main Contact at Financial Institution, if you have a care and maintenance account, will be the name of the operator's main contact, not the name of your contact at your financial institution.

Proposed New Trustee Information

- Please ensure the one corresponding checkbox is selected.
- The Registrar's consent letter will be sent to the individual named here, so please ensure they are the correct recipient, and all contact information is accurate.
- If your new trustee is a Municipality, please ensure that the main contact you enter matches the main contact we have on record; if you are uncertain, please request confirmation from the municipality or view the Public Register.

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Checklist of Document Requirements

Ensure that all documentation is submitted to be considered eligible for a transfer:

1) A trust agreement between the cemetery operator and the trustee
2) A resolution from your Board of Directors approving the transfer
3) The most recent statement from your current trustee

Trust Agreement

What is a trust agreement?

A trust agreement is a legal document that spells out the rules that must be followed between the cemetery operator and trustee. The objective of this trust agreement is to ensure compliance with the FBCSA and its associated regulations. The contents of the trust agreement should contain, but are not limited to:

1. Purpose for which the trust was established:
   a. Compliance with the *Funeral, Burial and Cremation Services Act*¸ 2002.
   b. No investment of money in a trust established pursuant to the Funeral, Burial and Cremation Services Act, 2002 shall be made except as permitted under section 27 of the Trustee Act. Section 27 stipulates the trustee's obligation with regard to investments and requires that a trustee only invest in what a prudent investor might invest in.
   c. The new Trustee will not release any part of the capital of the Care and Maintenance Fund without the Registrar's written consent
   d. Must be a Trust Agreement, where the Trustee has full responsibility for the Trust Funds.
2. Details of the assets placed in the trust
3. Powers and limitations of the trustees, their reporting requirements, and other associated provisions
4. Specify the trustees' compensation, if any.
5. The licensed cemetery operator and the Trustee are the only parties to the agreement
6. That the agreement is a Trustee Agreement and not a Custodian Agreement
7. Details and any limitations on professional assistance
8. That the care and maintenance fund that is stablished should include the words "care and maintenance fund" or "fonds d'entretien".

Note: no licensee can charge or receive any compensation or payment for the effort or expense of establishing or maintaining the trust fund.

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Resolution from Board of Directors approving the transfer

- Board minutes with authorized signatures, or a signed and dated resolution to transfer is required. We would at the minimum require the signature of the main contact listed on our records on the cemetery operator's licence. Please see our Public Register to view your main contact on our records.
- If you are a municipality submitting an application to transfer, we can accept a signed resolution from either council or a delegated authority.

Most recent statement from your current trustee

- If available, the most recent month's statement from your current trustee is preferable.
- If the most recent month's statement is not available, you may utilize the most recent statement you have received, however, this must be within the past six months
- Please ensure this statement displays your current balance, both book value (tax cost, ACB) and market value as applicable.

Authorized Signatories

- To ensure a streamlined process, we require **either** of the following parties to sign the application:
  - Main contact on the cemetery operator's licence as per our records; or
  - Chair of the Board of Directors
- **If the authorized signatory name does not match our records we will not proceed with your application**. If you need to update to your records, please contact our licensing team at Licensing@thebao.ca.

Checklist of next steps after the Application to Transfer C&M

- Your application will be reviewed by a financial compliance officer within 15 business days, however if any items are missing or require additional clarification they will reach out and this could extend the time in review.
- After we have completed our review, it will be sent to the Registrar to seek their consent.
  Note: Consent is not guaranteed.
- If Registrar consent is granted, a Registrar's Consent letter will be sent to your new and old trustee, as well as the cemetery operator, allowing for the funds to be transferred. The two parties would coordinate to have the money transferred to its destination.
  Note: The BAO does not participate in the movement of C&M monies.
- Once the transfer is complete, notify the BAO in writing within 15 days, with the new account number.
- The BAO will update your operator records and account details and close out your application.

Contact Us

The Financial Compliance Team is available to help answer any remaining questions you have after reading this document. Please contact us at:

Email (preferred): Trust@thebao.ca

Phone: 647-483-2645

Toll-Free: +1 844-493-6356

Physical Address for Mail:

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