

## Application to Transfer Cemetery Care & Maintenance Trust Fund/Account Information Sheet

### **List of Eligible Care and Maintenance Trust Fund Trustees:**

#### **Loan and Trust Company/Credit Union:**

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.

#### **Office of the 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 Public Guardian and Trustee to act as the trustee for care and maintenance money for the cemetery.

Contact information:

Telephone #: 1-800-366-0335 or in Toronto at (416) 314-2800

website: <https://www.attorneygeneral.jus.gov.on.ca/english/family/pgt/perpcare.php>

#### **Ontario Association of Cemetery and Funeral Professionals:**

You may contact the [Ontario Association of Cemetery and Funeral Professionals](https://oacfp.com/) (<https://oacfp.com/>) for a list of their member trustees.

## Common Questions:

### **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. Some of the common terms found in this agreement, but not limited to:

- Defining the establishment of the care and maintenance trust fund under the FBCSA.
- The trustee cannot pay out any of the capital portion of the care and maintenance fund (including realized capital gains and return of capital).
- Trustee fees (including investment agent fees) are to be deducted from the income portion of the fund.
- Income to be paid to the cemetery operator, net of fees.
- Trustee cannot transfer funds to another trustee without the written consent of the Registrar.

### **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**”

### **Care and Maintenance Fund vs. Care and Maintenance Account?**

**Care and Maintenance Fund:** an irrevocable trust fund held by an eligible trustee (see page 1). The trustee is responsible to ensure the applicable rules spelled out in the trust agreement are complied with. The trustee may authorize an agent to exercise any of the trustee’s functions relating to the investment of trust property, however, the trustee must ensure compliance with the FBCSA/trust agreement.

**Care and Maintenance Account:** in accordance with [section 84 of O.Reg. 30/11 made under the FBCSA](#) a cemetery operator may apply to the registrar to act **as trustee** and establish a care and maintenance account with an eligible depository. As trustee, the cemetery operator is responsible for ensuring the care and maintenance funds are managed in accordance with the FCBSA and regulations.

A cemetery operator may apply to establish a care and maintenance account if you meet **all** of following criteria:

1. The account in is in relation to a cemetery that is **not a commercial cemetery**
2. The cemetery operator holds in trust or will hold in trust **less than \$50,000**, and
3. The cemetery operator has requested that the municipality act as trustee and the municipality has declined to do so.

(Please see checklist on page 2 of the application for additional requirements)



This form must be completed by the cemetery operator for the purposes of requesting to transfer their Care and Maintenance Fund/Account. Please complete all fields below, an incomplete form will be returned. Please note that a transfer will not be approved if the cemetery operator has any outstanding documents (e.g. Annual Licensure Reports, Report of Prepaid Funds, etc.) to the BAO.

**Cemetery Operator Information:**

Cemetery Operator Name:		Organization #:
Main Contact:	Position:	Telephone no.:
Email Address:		Fax no.:

**Current Trustee Information:**

Care and Maintenance Trust  Fund /  Account

Trustee Name:	Account #:	Account Balance (\$):
Full Mailing Address:		
Main Contact:	Position:	Telephone no.:
Email Address:		Fax no.:

**Proposed New Trustee Information:**

Care and Maintenance Trust  Fund /  Account

Trustee Name:	Account #:	
Full Mailing Address:		
Main Contact:	Position:	Telephone no.:
Email Address:		Fax no.:

**Cemetery Operator Compliance Checklist:**

Please review the following annual documents below and check "Yes" if you are up to date with your filing with the BAO, If you have indicated "No", please submit applicable form(s) with this application:

Cemetery Operator Annual Licensure Report - Form 1 & 1A <input type="checkbox"/> Yes <input type="checkbox"/> No	Report on the Care and Maintenance Fund/Account - Form 2 <input type="checkbox"/> Yes <input type="checkbox"/> No
Report of Prepaid Funds <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not applicable	Audit Report/Review Engagement <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not applicable
Other:	

## Application Checklist:

Please choose the applicable column below and ensure all documents listed are attached with this application:

### Transfer Request to Care and Maintenance Trust Fund:

- Trust Agreement  
(between cemetery operator and new trustee)
- Resolution from Board of Directors approving the transfer  
(include board minutes with authorized signatures)
- Most recent statement from current trustee

### Transfer Request to Establish a Care and Maintenance Account:

A request to establish an account will not be granted if the cemetery operator is a commercial cemetery or has greater than \$50,000 in their C&M Fund pursuant to section 84 of O.Reg. 30/11 made under the FBCSA:

- Letter from local Municipality declining to act as trustee

Statement from the eligible depository displaying the following:

- Name of the account includes "Care and Maintenance"
- Name of the account includes cemetery operator name
- Investment type(s) (e.g. GICs)
- Resolution from Board of Directors approving the transfer  
(include board minutes with authorized signatures)
- Most recent statement from current trustee

Additional Comments:

I consent to the collection of this information as authorized under the Funeral, Burial and Cremation Services Act, 2002. I understand that this information will be used to determine whether I am and remain qualified to be licensed under the FBCSA.

**I (we) certify that to the best of my (our) knowledge and belief the within statements are true and correct and are in agreement with the records maintained by the cemetery/crematorium operator.**

Authorized signature:	Print full name:	
Position:	Telephone no.:	Date (dd/mm/yyyy):

**Return this form with applicable documents to the address below. If you have any questions or require assistance completing the forms please contact the Trust department:**

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