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**HEALTH AND SAFETY CODE - HSC**

**DIVISION 8. CEMETERIES [8100 - 9703]** ( *Division 8 enacted by Stats. 1939, Ch. 60.*  )

**PART 3. PRIVATE CEMETERIES [8250 - 8829]** ( *Part 3 enacted by Stats. 1939, Ch. 60.*  )

**CHAPTER 5. Endowment and Special Care [8700 - 8785]** ( *Heading of Chapter 5 amended by Stats. 1951, Ch. 176.*  )

**ARTICLE 4. Special Care [8775 - 8779.5]** ( *Article 4 enacted by Stats. 1939, Ch. 60.*  )

**8775.** A cemetery authority which has established an endowment care fund may also take and hold any property bequeathed, granted, or given to it in trust to apply the principal, or proceeds, or income to either or all of the following purposes:

- (a) Improvement or embellishment of all or any part of the cemetery or any lot in it.
- (b) Erection, renewal, repair, or preservation of any monument, fence, building, or other structure in the cemetery.
- (c) Planting or cultivation of trees, shrubs, or plants in or around any part of the cemetery.
- (d) Special care or ornamenting of any part of any plot, section, or building in the cemetery.
- (e) Any purpose or use not inconsistent with the purpose for which the cemetery was established or is maintained.

(*Amended by Stats. 1951, Ch. 176.*)

**8776.** The sums paid in or contributed to the fund authorized by this article are hereby expressly permitted as and for a charitable and eleemosynary purpose. Such contributions are a provision for the discharge of a duty due from the persons contributing to the person or persons interred or to be interred in the cemetery and likewise a provision for the benefit and protection of the public by preserving, beautifying, and keeping cemeteries from becoming unkept and places of reproach and desolation in the communities in which they are situated. No payment, gift, grant, bequest, or other contribution for such purpose is invalid by reason of any indefiniteness or uncertainty of the persons designated as beneficiaries in the instruments creating the fund, nor is the fund or any contribution to it invalid as violating any law against perpetuities or the suspension of the power of alienation of title to property.

(*Enacted by Stats. 1939, Ch. 60.*)

**8777.** All money or property received by a cemetery authority for deposit in a special care fund shall be placed in the custody of the trustee or trustees thereof within 30 days after receipt by the cemetery authority. The corpus of special care trusts shall be invested and reinvested and kept invested as authorized by Section 8778.

(*Added by Stats. 1976, Ch. 729.*)

**8778.** The following shall be eligible investments for all special care trusts:

- (a) Bonds of the United States or this state, or of any county, city, or city and county in this state.
- (b) Bonds that are legal investments for commercial banks in this state.
- (c) Certificates of deposit or other interest-bearing accounts in any bank in this state insured by the Federal Deposit Insurance Corporation.
- (d) Investment certificates or shares in any state or federally chartered savings and loan association insured by the Federal Savings and Loan Insurance Corporation.
- (e) Investments in first trust deeds on improved real estate, provided that the loans require monthly amortization of principal and interest and are fully amortized within 30 years or the term of the loan, whichever comes first. No loan shall be made to the cemetery authority, to the director, officer, or stockholder of a cemetery authority, or trustees of the special care funds, or to partners, relatives, agents, or employees thereof.
- (f) Any investment that is lawful for endowment care funds under Sections 8751 and 8751.1.

(*Amended by Stats. 2007, Ch. 307, Sec. 1. Effective January 1, 2008.*)

**8778.5.** Each special care trust fund established pursuant to this article shall be administered in compliance with the following requirements:

(a) (1) The board of trustees shall honor a written request of revocation by the trustor within 30 days upon receipt of the written request.

(2) Except as provided in paragraph (3), the board of trustees upon revocation of a special care trust may assess a revocation fee on the earned income of the trust only, the amount of which shall not exceed 10 percent of the trust corpus, as set forth in subdivision (c) of Section 2370 of Title 16 of the California Code of Regulations.

(3) If, prior to or upon the death of the beneficiary of a revocable special care trust, the cemetery authority is unable to perform the services of the special care trust fund agreement, the board of trustees shall pay the entire trust corpus and all earned income to the beneficiary or trustor, or the legal representative of either the beneficiary or trustor, without the imposition of a revocation fee.

(b) Notwithstanding subdivision (d) of Section 2370 of Title 16 of the California Code of Regulations, the board of trustees may charge an annual fee for administering a revocable special care trust fund, which may be recovered by administrative withdrawals from current trust income, but the total administrative withdrawals in any year shall not exceed 4 percent of the trust balance.

(c) Notwithstanding Section 8785, any person, partnership, or corporation who violates this section shall be subject to disciplinary action as provided in Article 6 (commencing with Section 7686) of Chapter 12 of Division 3 of the Business and Professions Code, or by a civil fine not exceeding five hundred dollars (\$500), or by both, as determined by the Cemetery and Funeral Bureau and shall not be guilty of a crime.

*(Amended by Stats. 2018, Ch. 571, Sec. 34. (SB 1480) Effective January 1, 2019.)*

**8779.** Nothing in this article shall require liquidation or transmutation of any lawful investment existing on December 31, 1976, but any reinvestment shall be governed by Section 8778, and any interest or other increment actually received on account of such an investment shall be reinvested only as provided in Section 8778.

*(Added by Stats. 1976, Ch. 729.)*

**8779.5.** Each special care fund established pursuant to this article shall be held in trust and managed by either the board of trustees of the cemetery authority's endowment care fund or by a board of trustees meeting the qualifications prescribed by this chapter for such a board of trustees. However, nothing in this section shall be construed to modify the terms of any special care trust established prior to January 1, 1977.

*(Added by Stats. 1976, Ch. 729.)*