

RULE ADOPTIONS
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RULE ADOPTIONS
LAW AND PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
NEW JERSEY CEMETERY BOARD

Adopted Amendment: N.J.A.C. 13:44J-13.6

Adopted New Rule: N.J.A.C. 13:44J-5.4A

Co-Mingling of Trust Funds for Building Maintenance; Application to Lease or License Cemetery Lands

Proposed: August 17, 2009 at 41 N.J.R. 3029(a).

Adopted: November 12, 2009 by New Jersey Cemetery Board, William Nichols, Chairman.

Filed: January 7, 2010 as R.2010 d.035, **with a technical change** not requiring additional public notice and comment (see N.J.A.C. 1:30-6.3).

Authority: N.J.S.A. 45:27-4.

Effective Date: May 17, 2010.

Expiration Date: May 2, 2011.

Federal Standards Statement

A Federal standards analysis is not required because the adopted new rule and amendment do not involve any Federal laws or standards.

Full text of the adoption follows (addition to proposal indicated in boldface with asterisks ***thus***):

SUBCHAPTER 5. CEMETERY COMPANIES

13:44J-5.4A Co-mingling of trust funds for building maintenance

(a) The following words and terms, when used in this section, shall have the following meanings, unless the context clearly indicates otherwise:

"Private mausoleum fund" means a trust fund created for the maintenance of the structure of a private mausoleum and the area on which it is located as required by N.J.S.A. 45:27-14a.

"Public mausoleum fund" means a Building Maintenance Fund created for the maintenance of a public mausoleum as required by N.J.S.A. 45:27-14b.

(b) A cemetery company may co-mingle private mausoleum funds established pursuant to N.J.S.A. 45:27-14 in a co-mingled private mausoleum trust fund.

(c) A cemetery company may co-mingle public mausoleum funds in a co-mingled public mausoleum trust fund.

(d) If a cemetery company co-mingles private or public mausoleum trust funds pursuant to (b) or (c) above, the cemetery company shall ensure that the income of the co-mingled trust fund is allocated for the maintenance of each individual mausoleum based upon the initial contribution to the co-mingled fund. For example, if the public mausoleum trust funds for mausoleum one and mausoleum two are co-mingled, such that mausoleum one contributes 75 percent of the initial contribution to the co-mingled fund, 75 percent of the income of the co-mingled fund shall be allocated to mausoleum one.

(e) If additional money is deposited in a co-mingled trust fund created pursuant to (b) or (c) above, either from mausoleum trust funds that are already part of the co-mingled trust fund or new mausoleum trust funds being added to the co-mingled trust fund, the cemetery company shall recalculate the allocation of income from the co-mingled trust fund in proportion to the contributions from the individual private or public mausoleum trust funds.

(f) Income allocated from a co-mingled trust fund created pursuant to (b) above to an individual mausoleum shall be redeposited in the co-mingled trust fund or used for the maintenance of that mausoleum. Such income shall not be used to maintain other mausoleums or for other cemetery expenses.

(g) If the income allocated from a co-mingled trust fund created pursuant to (c) above to an individual mausoleum exceeds the cost of maintaining that mausoleum, the excess income shall be reserved for future maintenance of that mausoleum and shall not be used to maintain other mausoleums or for other cemetery expenses.

(h) A cemetery company that co-mingles trust funds pursuant to (b) or (c) above shall include in its annual report:

1. A list of private mausoleum funds that have been co-mingled in a co-mingled private mausoleum fund and the amount each private mausoleum fund has in the co-mingled fund;

2. A list of public mausoleum funds that have been co-mingled in a co-mingled public mausoleum fund and the amount each public mausoleum fund has in the co-mingled fund;

3. Documentation indicating the allocation made from each co-mingled trust fund to the individual mausoleums that are part of the co-mingled fund; ***and***

4. Bank statements from the co-mingled private mausoleum fund and the co-mingle public mausoleum fund.

SUBCHAPTER 13. APPLICATIONS

13:44J-13.6 Application to lease or license cemetery lands

(a) (No change.)

(b) An application to lease or license cemetery lands pursuant to N.J.S.A. 45:27-34 shall include:

1. (No change.)

2. A certified statement by the board of trustees or directors that 15 percent of the proceeds of the lease will be deposited into the Maintenance and Preservation Fund;

Recodify existing 2.-6. as 3.-7. (No change in text.)

(c) (No change.)