

[West's Arkansas Code Annotated](#)

[Title 20. Public Health and Welfare \(Refs & Annos\)](#)

[Subtitle 2. Health and Safety \(Chapters 6 to 44\)](#)

[Chapter 17. Death and Disposition of the Dead](#)

[Subchapter 10. Cemetery Act for Perpetually Maintained Cemeteries](#)

A.C.A. § 20-17-1013

§ 20-17-1013. Permanent maintenance fund generally

Effective: July 28, 2021

[Currentness](#)

(a)(1)(A) The permanent maintenance fund is a trust fund for the purpose of administration, care, and maintenance of the cemetery, including lots, graves, spaces, crypts, niches, and burial rights.

(B) The principal of the permanent maintenance fund shall be preserved except for withdrawals allowed under [§ 20-17-1014\(b\)\(1\)\(C\)\(ii\)\(b\)](#).

(2)(A) The net income generated from the investment of the principal of the permanent maintenance fund shall be paid to and expended by the owners, managers, officers, or directors of the cemetery company exclusively for the care and maintenance of the cemetery, including the payment of taxes and administrative expenses of maintaining the fund.

(B) A cemetery company may add unused net income to the principal of the permanent maintenance fund.

(3) Except as provided in subdivision (a)(4) of this section, the principal of the permanent maintenance fund shall be invested and remain invested in securities and funds permitted by the laws of Arkansas for the investment of policy reserves of life insurance companies under the Arkansas Insurance [Code, § 23-60-101 et seq.](#), and in the common trust funds of state or national banks.

(4)(A) A permanent maintenance fund having assets of more than two hundred fifty thousand dollars (\$250,000) may invest not more than fifty percent (50%) of its assets in nonassessable common stocks listed on a national securities exchange, preferred stocks meeting the requirements of [§ 23-63-815](#), and investment trust securities meeting the requirements of [§ 23-63-820](#).

(B) The diversification restrictions of [§ 23-63-805](#) do not apply to investments in investment trust securities.

(5) In investing these funds, the trustee shall exercise the judgment and care under the circumstances then prevailing which persons of prudence, discretion, and intelligence exercise in management of their own affairs, not in regard to speculation, but in regard to the permanent disposition of their funds, considering the probable income and capital appreciation as well as the probable safety of the capital.

(6)(A) For purposes of this section, no more than fifty percent (50%) of annual realized net capital gains on investments bought or acquired after January 1, 2013, may be considered income and used according to subdivision (a)(2) of this section.

(B) All other net capital gains on investments shall be added to the principal.

(b) The permanent maintenance fund is authorized by this subchapter, and all sums paid into it or contributed to it shall be deemed to be for charitable and eleemosynary purposes.

(c) No rule against perpetuities shall be applicable to funds as mentioned in this section.

(d)(1) The trust fund shall be established by executing a written trust agreement approved by the State Board of Embalmers, Funeral Directors, Cemeteries, and Burial Services.

(2)(A) The agreement may provide that the cemetery company may change the trustee of its trust fund by amending the agreement if:

(i) The successor trustee meets the requirements of [§ 20-17-1014](#); and

(ii) The trustee and successor trustee are parties to the amendment of the agreement.

(B) The trustee and successor trustee shall send the board notification of a change in trustee under subdivision (d)(2)(A) of this section within ten (10) calendar days after the change.

(e) At a minimum, the trustee shall maintain the following:

(1) A general ledger and general journal or comparable books of entry showing all receipts, disbursements, assets, liabilities, and income of the trust fund;

(2) Documents supporting and verifying each asset of the trust fund; and

(3) A trust agreement.

(f) In establishing a permanent maintenance fund, the cemetery company may from time to time adopt plans for the general care and maintenance of its cemetery.

(g)(1) No more than one (1) time every ten (10) years, a cemetery company may make a withdrawal from the permanent maintenance fund for the purpose of making infrastructure repairs and capital improvements to the perpetual care cemetery.

(2) A withdrawal under subdivision (g)(1) of this section shall not be made without prior approval from the board.

Credits

Acts of 1977, Act 352, §§ 13, 14; [Acts of 2007, Act 240, § 3, eff. March 9, 2007](#); [Acts of 2011, Act 590, § 4, eff. July 27, 2011](#); [Acts of 2013, Act 390, § 4, eff. Aug. 16, 2013](#); [Acts of 2017, Act 788, § 44, eff. July 1, 2018](#); [Acts of 2021, Act 343, § 1, eff. July 28, 2021](#); [Acts of 2021, Act 731, § 8, eff. July 28, 2021](#).

Formerly A.S.A. 1947, §§ 82-426.13, 82-426.14.

A.C.A. § 20-17-1013, AR ST § 20-17-1013

The constitution and statutes are current through all acts passed by the 2021 Regular Session and the 2021 First Extraordinary Session of the 93rd Arkansas General Assembly. Some statute sections may be more current; see credits for details. Also included are changes made by the Arkansas Code Revision Commission received through August 1, 2021.

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