

## **Information on Changes in Kansas Law for 2012**

### ***PERMANENT MAINTENANCE FUND (PMF)***

#### **Purpose**

The primary purpose of the permanent maintenance fund is to maintain the corpus of the fund. The income earned from the permanent maintenance fund may be dispersed to the cemetery. All capital gains shall be allocated to principal.

#### **Funding Requirement**

Cemeteries shall trust the portion of the purchase price equal to 15% of the purchase price, but not less than \$25, of a burial space, including grave lots, grave spaces, burial or interment rights, and developed or existing lawn crypts, mausoleum spaces, or niches.

#### **Deposit Requirements**

Deposits to the permanent maintenance fund shall be made within 15 days of receipt of moneys following each calendar month end, after the moneys are received. The cemetery shall use a deposit form prescribed by the Secretary of State. (See Form CQ, Page 4)

#### **Quarterly Reports**

These quarterly reports will replace both the 2011 monthly and annual reports.

Within 30 days following each quarter end, the cemetery corporation shall provide the trustee and the secretary of state a report of all sales, or no sales, of burial spaces. The report shall be in a form and manner approved by the secretary of state. (See Form CQ)

#### **Payout of Income**

At least annually, the trustee of the permanent maintenance fund shall determine the income for the permanent maintenance fund, less reasonable costs, taxes and fees, and pay the income to the cemetery corporation. The trustee shall report to the secretary of state the calculation of the income paid to the cemetery within 30 days, in a form and manner approved by the secretary of state. (See Form TI)

#### **Fees**

\$20 per burial space sold is due to the secretary of state with each quarterly report (See Form CQ).

#### **If Market Value is under \$100,000**

If the market value of the permanent maintenance fund is less than \$100,000, the permanent maintenance fund may be held in a Kansas financial institution, in either certificates of deposit or a business savings account which is insured by the federal deposit insurance corporation, provided that the fund assets are maintained in a segregated account. The cemetery corporation shall comply with the reporting requirements of this act.

Cemetery, as trustor, must agree to the provisions of and sign "Cemetery Permanent Maintenance Trust Fund Agreement Provisions Attachment" and the "Addendum B." (See Cemetery Permanent Maintenance Trust Fund Agreement Provisions Attachment and Addendum B)

**If Market Value is \$100,000 or Over**

If the market value of the trust permanent maintenance fund is \$100,000 or more, the cemetery corporation shall establish and maintain the permanent maintenance fund in an irrevocable trust with a trustee.

Cemetery, as trustor, must agree to the provisions of and sign “Cemetery Permanent Maintenance Trust Fund Agreement Provisions Attachment.” (See Cemetery Permanent Maintenance Trust Fund Agreement Provisions Attachment)

**Trust and Trustee Requirements**

The cemetery corporation shall obtain prior written approval from the secretary of state before the trust instrument shall be terminated, transferred, or amended. The cemetery corporation shall provide the secretary of state copies of any amendments to the trust instrument before the amendments shall become effective.

Trustee must agree to the provisions of and sign “Cemetery Permanent Maintenance Trust Fund Agreement Provisions Attachment” and the “Addendum A”, if in a co-trustee relationship. Co-trustee must also sign “Addendum A.” (See Cemetery Permanent Maintenance Trust Fund Agreement Provisions Attachment and Addendum A)

Within 30 days following the end of each quarter, the trustee shall submit a quarterly report to the Office of the Secretary of State. The report shall be in a form and manner prescribed by the secretary of state. Attach this form to Trustee's quarterly statements with line item detail. (See Form TPD)