

**CHAPTER 35. TRUSTS: Subchapter IV. Trusts for Cemeteries and Other Noncharitable Purposes**

§ 3551. Burial lots; perpetuities.

§ 3552. Powers of cemetery corporation as to trust funds.

§ 3553. Sale of real estate and proceeds.

§ 3554. Perpetual care burial lots.

§ 3555. Trust for care of an animal.

§ 3556. Trust for other noncharitable purposes.

**CHAPTER 35. TRUSTS: Subchapter IV. Trusts for Cemeteries and Other  
Noncharitable Purposes § 3551 - § 3556**

**§ 3551. Burial lots; perpetuities.**

(a) Any owner of any burial lot or plot in any cemetery in this State, whether or not there shall then have been an interment in the lot or plot, may convey it in trust to the corporation owning or maintaining the cemetery or to any trust company, bank or banking company of this State or to any bank or banking company organized under the laws of the United States and doing business in this State and such corporation, trust company, bank or banking company may hold the title thereto in perpetuity or for any shorter time for the use and benefit of the owner of the lot or plot and for the protection of the bodies theretofore interred therein or which may thereafter be interred therein, pursuant to the terms of the deed of trust. Before any such conveyance shall be made the corporation owning or conducting the cemetery in which the lot or plot is located shall, by a resolution of its board of directors or managers passed at a regular meeting of the board, authorize the conveyance.

(b) A trust for the care and maintenance of any burial lot or cemetery plot, or for the construction or maintenance of any monument, marker or other additions thereto, is valid.

*40 Del. Laws, c. 223, § 1; Code 1935, § 3964; 12 Del. C. 1953, § 3551; 75 Del. Laws, c. 301, § 2.;*

**§ 3552. Powers of cemetery corporation as to trust funds.**

Any corporation created and existing under the laws of this State and owning 1 or more cemeteries in this State may take and hold, in perpetuity or for any shorter time, any real or personal property which shall be given, granted, devised or bequeathed to the corporation upon the trust to invest and reinvest the property and to use and apply the income thereof for:

(1) The care, improvement or embellishment of such cemetery or cemeteries or of any 1 or more lot or lots therein; or

(2) The erection or preservation of any buildings, structures or fences erected or to be erected upon any 1 or more of the lot or lots in the cemetery or cemeteries; or

(3) The erection, repair, preservation or renewal of any tomb, tombstone, monument, gravestone, mausoleum, fence, railing or other erection in, on or around any lot or lots; or

**35-4**

(4) Planting and cultivating trees, shrubs, flowers or plants in, on or around any such lot or lots; or

(5) Any and all of such purposes, in accordance with the terms and provisions of such gift, grant, devise or bequest, which terms and provisions may restrict the use and application of the income of the trust fund to any 1 lot whether owned by the donor of the trust fund or by any other person or persons.

*40 Del. Laws, c. 222, § 1; Code 1935, § 3964; 12 Del. C. 1953, § 3552.;*

### **§ 3553. Sale of real estate and proceeds.**

Any real estate given, granted or devised to a cemetery corporation in trust, in accordance with § 3552 of this title, other than a lot or lots in the cemetery or cemeteries, may be sold and conveyed by the cemetery corporation at its discretion and the proceeds thereof shall be held under the same uses and trusts and subject to the same limitations as applied to the real estate before the sale thereof, but the donor of the real estate may provide otherwise in the trust instrument.

*40 Del. Laws, c. 222, § 2; Code 1935, § 3964; 12 Del. C. 1953, § 3553.;*

### **§ 3554. Perpetual care burial lots.**

(a) Whenever a person, partnership or corporation engaged in the business of selling burial lots with perpetual care for profit shall sell any burial lot with perpetual care, it shall deposit in a bank and trust company, trust company or national banking association having fiduciary powers, a sum equal to at least one tenth of the gross sales price of such lot as a permanent lot care fund for the maintenance of burial lots sold with perpetual care and shall designate such banking institution as trustee of such fund. The permanent lot care fund so established shall be invested in compliance with Chapter 33 of this title and the trustee shall pay at least semiannually the net income from the fund to the person, partnership or corporation for the perpetual care and preservation of the burial lots sold with perpetual care.

(b) Any person, partnership or corporation engaged in the business of selling burial lots shall keep a record of all sales of burial lots showing the name of the purchaser or lessee, whether such lot was sold with perpetual care and the gross sales price. Such records shall be made available to the Attorney General of this State for inspection.

*12 Del. C. 1953, § 3554; 55 Del. Laws, c. 397; 65 Del. Laws, c. 341, § 1.;*

**§ 3555. Trust for care of an animal.**

(a) A trust for the care of 1 or more specific animals living at the trustor's death is valid. The trust terminates upon the death of all animals living at the trustor's death and covered by the terms of the trust.

(b) A trust authorized by subsection (a) of this section shall not be invalid because it lacks an identifiable person as beneficiary.

(c) A trust authorized by subsection (a) of this section may be enforced by a person appointed in the terms of the trust or, if there is no such person or if the last such person no longer is willing and able to serve, by a person appointed by the Court of Chancery. A person who has an interest in the welfare of the animal or animals other than a general public interest may petition the Court of Chancery for an order that appoints a person to enforce the terms of the trust or to remove that person.

(d) Property of a trust authorized by this section may be applied only to its intended use. Upon the termination of the trust, any property of the trust remaining shall be distributed in accordance with the terms of the trust or, in the absence of such terms, as provided in § 3592 of this title.

(e) In the case of a trust created in accordance with subsection (a) of this section, a trustor or other owner of an animal for whose benefit the trust was created may transfer ownership of the animal to the trustee at or subsequent to the creation of the trust. Subject to any contrary provision in the trust or other instrument by which ownership of the animal is given or bequeathed, if the person to whom ownership of the animal is given or bequeathed disclaims or releases such ownership, ownership of the animal shall pass to the trustee upon such disclaimer or release.

(f) The trustee of a trust created in accordance with subsection (a) of this section shall provide care for the benefit of the animal in accordance with the terms of the trust or, in the absence of any such terms, shall provide care that is reasonable under the circumstances. The trustee may employ agents or contractors to provide any such care and pay for such care from the assets of the trust.

(g) For purposes of this section, the term "animal" shall include any nonhuman member of the animal kingdom but shall exclude plants and inanimate objects.

*75 Del. Laws, c. 301, § 3; 76 Del. Laws, c. 254, § 11.;*

**§ 3556. Trust for other noncharitable purposes.**

(a) In addition to the provisions of § 3555 of this title, a trust for a declared purpose that is not impossible of attainment is valid notwithstanding that the trust might not be deemed to be for charitable purposes.

(b) A trust authorized by subsection (a) of this section shall not be invalid because it lacks an identifiable person as beneficiary.

(c) A trust authorized by subsection (a) of this section may be enforced by a person appointed in the terms of the trust or, if there is no such person or if the last such person no longer is willing and able to serve, by a person appointed by the Court of Chancery. A person who has an interest in the declared purpose of the trust other than a general public interest may petition the Court of Chancery for an order that appoints a person to enforce the terms of the trust or to remove that person.

(d) Property of a trust authorized by this section may be applied only to its intended use. Upon the termination of the trust, any property of the trust remaining shall be distributed in accordance with the terms of the trust or, in the absence of such terms, as provided in § 3592 of this title.

*76 Del. Laws, c. 254, § 12.;*

PAGE LEFT INTENTIONALLY  
BLANK

**35-4**