

5678

2013-2014 Regular Sessions

I N S E N A T E

June 4, 2013

Introduced by Sen. FARLEY -- read twice and ordered printed, and when printed to be committed to the Committee on Corporations, Authorities and Commissions

AN ACT to amend the religious corporations law, in relation to the reacquisition of abandoned cemetery plots

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. The religious corporations law is amended by adding a new
2 section 8-a to read as follows:
3 S 8-A. REACQUISITION OF A LOT, PLOT OR PART THEREOF BY A CEMETERY. A
4 RELIGIOUS CEMETERY CORPORATION MAY, UPON APPLICATION AND APPROVAL BY A
5 SUPREME COURT, REACQUIRE, RESUBDIVIDE, AND RESELL A LOT, PLOT OR PART
6 THEREOF UNDER THE FOLLOWING CIRCUMSTANCES:
7 (A)(I) IF THE RECORDS OF THE CORPORATION DEMONSTRATE THAT THE LOT,
8 PLOT OR PART THEREOF WAS PURCHASED MORE THAN SEVENTY-FIVE YEARS PRIOR TO
9 THE APPLICATION OF THE CORPORATION; AND (II) IF NO BURIALS HAVE BEEN
10 MADE IN THE LOT, PLOT OR PART THEREOF OR ALL THE BODIES THEREIN HAVE
11 BEEN LAWFULLY REMOVED; AND (III) IF NEITHER THE OWNER OR OWNERS OF THE
12 LOT, PLOT OR PART THEREOF NOR ANY PERSON HAVING A CREDIBLE CLAIM TO
13 OWNERSHIP WHO HAS VISITED, MADE PAYMENTS IN RESPECT OF OR ENGAGED IN ANY
14 OTHER PROPRIETARY ACTIVITIES WITH RESPECT TO THE LOT, PLOT OR PART THER-
15 EOF CAN BE IDENTIFIED AFTER A REASONABLE SEARCH CONDUCTED BY THE RELI-
16 GIOUS CEMETERY CORPORATION, IT SHALL BE CONCLUSIVELY PRESUMED THAT THE
17 OWNER OR OWNERS OF THE LOT, PLOT OR PART THEREOF HAVE ABANDONED THEIR
18 BURIAL RIGHTS. A REASONABLE SEARCH CONSISTS OF A SEARCH OF: (1) ALL
19 CEMETERY RECORDS TO DETERMINE THE NAME OF THE OWNER OR OWNERS OF THE
20 LOT, PLOT OR PART THEREOF, THEIR LAST KNOWN ADDRESSES AND ALL INFORMA-
21 TION AVAILABLE TO THE CEMETERY RELATING TO ANY PERSON BURIED IN THE LOT,
22 PLOT OR PART THEREOF AND THE NAMES AND LAST KNOWN ADDRESSES OF ANY
23 PERSONS MAKING INQUIRY ABOUT OR VISITING THE LOT, PLOT OR PART THEREOF;
24 (2) A SEARCH FOR THE DEATH CERTIFICATES AND THE PROBATED WILLS OF THE

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets
[] is old law to be omitted.

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1 OWNER OR OWNERS OF THE LOT, PLOT OR PART THEREOF; (3) THE POSTING OF
2 NOTICE BY THE CEMETERY AT THE ENTRANCE TO THE CEMETERY AND IN THE CEME-
3 TERY OFFICE, IF ANY, OF ITS INTENTION TO DECLARE THE LOT, PLOT OR PART
4 THEREOF ABANDONED; (4) THE MAILING OF SUCH NOTICE CERTIFIED MAIL WITH
5 RETURN RECEIPT REQUESTED TO THE OWNER OR OWNERS OF THE LOT, PLOT OR PART
6 THEREOF AND EACH PERSON IDENTIFIED DURING THE REASONABLE SEARCH AT THEIR
7 LAST KNOWN ADDRESSES; (5) PUBLICATION OF SUCH NOTICE ONCE IN EACH WEEK
8 FOR THREE SUCCESSIVE WEEKS, IN TWO NEWSPAPERS OF REGULAR COMMERCIAL
9 CIRCULATION BY SUBSCRIPTION AND/OR NEWSSTAND SALE, TO BE DESIGNATED BY
10 THE COUNTY CLERK OF THE COUNTY WHERE THE CEMETERY IS LOCATED WHICH IN
11 HIS OR HER JUDGMENT, GIVEN THE ETHNIC, RELIGIOUS, GEOGRAPHIC OR OTHER
12 RELATED DEMOGRAPHIC CHARACTERISTICS OF THE OWNER OR OWNERS OF THE LOT,
13 PLOT OR PART THEREOF AND EACH PERSON IDENTIFIED THROUGH THE REASONABLE
14 SEARCH AND THE PREDOMINANT READERSHIP OF SUCH NEWSPAPERS ARE BEST CALCU-
15 LATED TO INFORM THE OWNER OR OWNERS OF THE LOT, PLOT OR PART THEREOF AND
16 EACH PERSON IDENTIFIED THROUGH THE REASONABLE SEARCH OF ANY APPLICATION
17 PURSUANT TO THE PROVISIONS OF THIS SECTION; AND (6) THE PREPARATION OF
18 AN AFFIDAVIT DESCRIBING THE STEPS TAKEN BY THE RELIGIOUS CEMETERY CORPO-
19 RATION TO ASCERTAIN THE IDENTITY OF AND TO CONTACT THE CURRENT OWNER OR
20 OWNERS OF THE LOT, PLOT OR PART THEREOF OR NEXT-OF-KIN THEREOF OR ANY
21 OTHER PERSONS IDENTIFIED IN THE COURSE OF THE REASONABLE SEARCH WHO
22 MIGHT HAVE RELEVANT INFORMATION AND THE RESULTS OF SUCH STEPS. AFTER THE
23 FILING WITH THE SUPREME COURT OF PROOF OF COMPLIANCE WITH THE ABOVE
24 REQUIREMENTS IN FORM AND SUBSTANCE REASONABLY SATISFACTORY TO SUCH
25 SUPREME COURT AND UPON APPROVAL BY THE SUPREME COURT, THE LOT, PLOT OR
26 PART THEREOF MAY BE RESOLD BY THE CEMETERY TO ANY PARTY IN COMPLIANCE
27 WITH THE CEMETERY RULES AND REGULATIONS PROVIDED, HOWEVER, THAT ANY
28 MONUMENT SUBSEQUENTLY PLACED ON SUCH LOT, PLOT OR PART THEREOF SHALL
29 CONFORM TO THE GENERAL APPEARANCE OF ANY EXISTING MONUMENTS IN SAID
30 SECTION OF LOTS, PLOTS OR PARTS THEREOF, IF ANY.

31 (B) IF (I) THE CIRCUMSTANCES DESCRIBED IN SUBDIVISION (A) OF THIS
32 SECTION EXIST EXCEPT THAT ONE OR MORE BURIALS HAVE BEEN MADE IN A LOT,
33 AND THE LAST BURIAL WAS MADE MORE THAN SEVENTY-FIVE YEARS PRIOR TO THE
34 APPLICATION, (II) THE LOT, PLOT OR PART THEREOF CAN BE SUBDIVIDED TO
35 CREATE NEW GRAVES, (III) THE BODIES HAVE NOT BEEN LAWFULLY REMOVED, AND
36 (IV) THE CEMETERY SUBMITS AN APPLICATION TO THE SUPREME COURT WHICH
37 COMPLIES WITH THE REQUIREMENTS SET FORTH IN SUBDIVISION (A) OF THIS
38 SECTION, IT SHALL BE CONCLUSIVELY PRESUMED THAT THE LOT OWNER HAS ABAN-
39 DONED THE RIGHT TO MAKE FURTHER BURIALS IN THE LOT, THE LOT MAY BE
40 SUBDIVIDED, AND THE RESUBDIVIDED LOT, PLOT OR PARTS THEREOF WHICH DO NOT
41 CONTAIN THE REMAINS OF THE DECEASED PERSONS MAY BE RESOLD BY THE RELI-
42 GIOUS CEMETERY CORPORATION AS PROVIDED IN THIS SECTION. NOTHING IN THIS
43 SECTION SHALL PERMIT A RELIGIOUS CEMETERY CORPORATION TO DECLARE ABAN-
44 DONED A LOT, PLOT OR PART THEREOF, WHERE SUCH LOT, PLOT OR PART THEREOF
45 WAS PURCHASED FOR MULTIPLE DEPTH BURIALS AND WHERE ONE OR MORE BURIALS
46 HAS OCCURRED OR AUTHORIZED A RELIGIOUS CEMETERY CORPORATION TO REMOVE A
47 MONUMENT OR OTHER EMBELLISHMENT TO FACILITATE THE RESALE OF SUCH LOT,
48 PLOT OR PART THEREOF.

49 (C) IF THE OWNER OR OWNERS OF A LOT, PLOT OR PART THEREOF CAN BE IDEN-
50 TIFIED, THE RELIGIOUS CEMETERY CORPORATION, WITH THE CONSENT OF THE
51 OWNER OR OWNERS OF THE LOT, PLOT OR PART THEREOF, THE LOT, PLOT OR PART
52 THEREOF MAY BE RESUBDIVIDED, AND THE RESUBDIVIDED LOT, PLOT OR PART
53 THEREOF WHICH DOES NOT CONTAIN THE REMAINS OF DECEASED PERSONS MAY BE
54 RESOLD BY THE RELIGIOUS CEMETERY CORPORATION, PROVIDED, HOWEVER, IF NO
55 BURIAL HAS BEEN MADE IN THE LOT, PLOT OF PART HEREOF, IN THE TWENTY-FIVE
56 YEAR PERIOD PRECEDING SUCH APPLICATION, THE OWNER OF A LOT, PLOT OF PART

1 THEREOF HAS NOTIFIED HIS OR HER PARENTS, SPOUSE, ISSUE, BROTHERS,
2 SISTERS, GRANDPARENTS, AND GRANDCHILDREN, IF ANY, OF THE APPLICATION TO
3 THE SUPREME COURT, AND PROVIDED FURTHER, HOWEVER, IF A BURIAL HAS BEEN
4 MADE IN THIS LOT, PLOT OR PART THEREOF DURING SUCH TWENTY-FIVE YEAR
5 PERIOD, THE SPOUSE AND ISSUE OF SUCH DECEASED PERSON ARE ALSO NOTIFIED,
6 AND PROVIDED FURTHER, IN EITHER CASE THE OWNER OF THE LOT, PLOT OR PART
7 THEREOF SATISFIES THE SUPREME COURT THAT NONE OF THE PERSONS NOTIFIED
8 HAVE AGREED WITHIN FORTY-FIVE DAYS OF NOTIFICATION TO PURCHASE THE LOT,
9 PLOT OF PART THEREOF AT THE PRICE WHICH THE RELIGIOUS CEMETERY CORPO-
10 RATION SHALL CERTIFY UNDER PENALTY OF LAW SHALL BE THE PRICE AT WHICH
11 THE LOT, PLOT OF PART THEREOF SHALL BE SOLD FOR AFTER REACQUISITION.

12 (D) UPON THE SALE OF A LOT, PLOT OR PART THEREOF REACQUIRED BY RELI-
13 GIOUS CEMETERY CORPORATION UNDER THE PROVISIONS OF SUBDIVISION (A), (B),
14 OR (C) OF THIS SECTION, THE NET PROCEEDS SHALL BE PLACED IN A TRUST
15 DESIGNATED TO PROVIDE FUTURE MAINTENANCE OF THE CEMETERY.

16 (E) IF THE OWNER OF THE LOT, PLOT OR PART THEREOF IS SUBSEQUENTLY
17 IDENTIFIED, THE RELIGIOUS CEMETERY CORPORATION SHALL: (I) RETURN ALL
18 UNSOLD LOTS, PLOTS OR PARTS THEREOF IF ANY, TO THE OWNER IF SO
19 REQUESTED; AND (II) WITH RESPECT TO ANY LOTS, PLOTS OR PARTS THEREOF
20 THAT HAVE BEEN SOLD PURSUANT TO THIS SECTION, AT THE OPTION OF THE OWNER
21 OF THE LOT, PLOT OR PART THEREOF, EITHER (1) PROVIDE THE OWNER, AT NOT
22 COST TO THE OWNER, WITH A LOT, PLOT OR PART THEREOF COMPARABLE TO ANY
23 LOT, PLOT OR PART THEREOF THAT WAS SOLD BY THE RELIGIOUS CEMETERY CORPO-
24 RATION OR (2) PROVIDE THE OWNER WITH THE PROCEEDS FROM THE SALE OF THE
25 LOT, PLOT OR PART THEREOF REACQUIRED UNDER THIS SECTION WITH INTEREST
26 THEREON FROM THE DATE OF THE SALE AT SIX PERCENT PER ANNUM.

27 (F) MONUMENTS TO BE ERECTED ON A LOT, PLOT OR PART THEREOF, FOLLOWING
28 THE RESALE OF A LOT, PLOT OR PART THEREOF, SHALL CONFORM TO THE RULES
29 AND REGULATIONS OR OTHER REQUIREMENTS OF THE RELIGIOUS CEMETERY CORPO-
30 RATION AND SHALL CONFORM TO THE SIZE, STYLE, AND TYPE OF MONUMENTS IN
31 THE SECTION OF THE CEMETERY WHERE SUCH RESALE OCCURS.

32 S 2. This act shall take effect on the thirtieth day after it shall
33 have become a law.