

STATE OF NEW YORK

4790

2023-2024 Regular Sessions

IN ASSEMBLY

February 23, 2023

Introduced by M. of A. HEVESI -- read once and referred to the Committee on Corporations, Authorities and Commissions

AN ACT to amend the not-for-profit corporation law, in relation to certain duties and responsibilities of cemetery corporations

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Paragraph (c) of section 1504 of the not-for-profit corpo-
2 ration law, as added by chapter 871 of the laws of 1977, subparagraph
3 2-a as amended and subparagraph 2-b as added by chapter 565 of the laws
4 of 1980, subparagraph 4 as added by chapter 557 of the laws of 1985, and
5 subparagraph 5 as renumbered by chapter 557 of the laws of 1985, is
6 amended and a new paragraph (e) is added to read as follows:

7 (c) Powers and duties of the cemetery board. With respect to any
8 cemetery or cemetery corporation, the cemetery board shall have the
9 following duties and powers: (1) To adopt such reasonable rules and
10 regulations as the cemetery board shall deem necessary for the proper
11 administration of this article. (2) To order any cemetery corporation
12 to do such acts as may be necessary to comply with the provisions of
13 this article or any rule or regulation adopted by the cemetery board or
14 to refrain from doing any act in violation thereof. (2-a) To adopt
15 reasonable rules and regulations to exempt those cemetery corporations
16 from the provisions of paragraph (h) of section fifteen hundred ten of
17 this ~~chapter~~ article which because of a limited number of paid employ-
18 ees or appropriate resources are unable to carry out such provisions.
19 (2-b) To adopt reasonable rules and regulations to extend the time peri-
20 od mandated by the provisions of paragraph (h) of section fifteen
21 hundred ten of this ~~chapter~~ article when necessary because compliance
22 by a cemetery corporation within such time period is impossible. (3) To
23 enforce its orders by mandamus or injunction in a summary proceeding or
24 otherwise. In connection with such action or proceeding, the attorney
25 general is authorized to take proof, issue subpoenas and administer
26 oaths in the manner provided in the civil practice law and rules. (4) To
27 impose a civil penalty upon a cemetery corporation not exceeding one
28 thousand dollars, after conducting an adjudicatory hearing pursuant to

EXPLANATION--Matter in italics (underscoring) is new; matter in brackets
[~~-~~] is old law to be omitted.

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the provisions of paragraph (e) of this section, and consistent with the provisions of the state administrative procedure act, for a violation of or a failure to comply with any provisions contained in this article or any regulation, directive or order of the board, and without the need to maintain a civil action pursuant to [~~subdivision~~] subparagraph five of this paragraph. (5) To maintain a civil action in the name of the people of the state to recover a judgment for a money penalty imposed under the provisions of this article.

(e) Complaint process. Upon receipt of a consumer complaint form, the division of cemeteries shall forward such complaint to the cemetery corporation involved and contact the consumer no later than the close of business on the day following the date on which the complaint was received. The cemetery corporation shall respond to the division of cemeteries within fourteen calendar days after receipt of such consumer complaint. If the initial complaint is not resolved by the cemetery corporation, the consumer may request that the complaint be escalated to the cemetery board for investigation and resolution thereof. When a complaint is escalated, the board may take any action it deems necessary, consistent with the powers and duties of the cemetery board pursuant to paragraph (c) of this section. Upon completion of its investigation, the board shall send a written resolution to the consumer.

§ 2. Subparagraph 1 of paragraph (e-1) of section 1507 of the not-for-profit corporation law, as added by chapter 608 of the laws of 1985, is amended to read as follows:

(1) [~~A~~] Any cemetery corporation may, and all cemetery corporations partially or wholly located in a city with a population of one million or more shall, subject to the approval of the cemetery board, establish and maintain a monument maintenance fund. Such a fund is hereby declared to be and shall be held by the cemetery corporation as a trust fund, for the purpose of providing notice if such monuments are damaged or defaced by an act of vandalism and for the restoration of such monuments. Two or more cemetery corporations may establish a joint monument maintenance fund.

§ 3. Section 1510 of the not-for-profit corporation law is amended by adding a new paragraph (p) to read as follows:

(p) Dignity and integrity of cemetery plots. (1) All cemetery corporations incorporated under this article shall ensure all employees of the cemetery corporation and third-party contractors perform their duties in a manner which preserves the dignity and integrity of all burial plots. In the event that construction, ground-breaking activity or other activity negatively impacts the dignity of any burial plot on cemetery grounds, the cemetery corporation shall, prior to the commencement of such construction, ground-breaking activity or other activity, notify the impacted plot owner or owners, their distributee or distributees, or the person or persons filing an affidavit with such corporation pursuant to the provisions of subparagraph one of paragraph (e) of section fifteen hundred twelve of this article.

(2) In the event the cemetery corporation fails to notify the affected plot owner or owners, their distributee or distributees or the person or persons filing an affidavit with such corporation pursuant to the provisions of subparagraph one of paragraph (e) of section fifteen hundred twelve of this article, the affected person or persons may file a complaint with the cemetery corporation, following the procedure set forth in paragraph (e) of section fifteen hundred four of this article.

§ 4. This act shall take effect on the thirtieth day after it shall have become a law.