

4218

2009-2010 Regular Sessions

I N A S S E M B L Y

February 2, 2009

Introduced by M. of A. BRODSKY, McENENY, DESTITO -- 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 the maintenance, protection and preservation of abandoned cemeteries

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

1 Section 1. The not-for-profit corporation law is amended by adding a
2 new section 1506-c to read as follows:
3 S 1506-C. ABANDONED CEMETERY MAINTENANCE BY CEMETERY CORPORATIONS.
4 (A) UPON APPLICATION AND APPROVAL BY THE CEMETERY BOARD, A CEMETERY
5 CORPORATION MAY ASSUME MANAGEMENT AND MAINTENANCE OF AN ABANDONED CEME-
6 TERY. FOR THE PURPOSES OF THIS SECTION, ABANDONED CEMETERY MEANS A CEME-
7 TERY WHICH WAS PREVIOUSLY OWNED BY A CEMETERY CORPORATION ORGANIZED
8 PURSUANT TO THIS CHAPTER OR EXISTING BY VIRTUE OF THE MEMBERSHIP CORPO-
9 RATION LAW, FOR WHICH THERE NO LONGER EXISTS ANY CORPORATE BOARD OR BODY
10 TO MAINTAIN IT, AND FOR WHICH THERE IS NO SUFFICIENT TRUST FUND OR
11 ENDOWMENT TO PROVIDE ORDINARY AND NECESSARY CARE AND MAINTENANCE.
12 PROVIDED, HOWEVER, THAT IN NO EVENT SHALL THE CEMETERY BOARD APPROVE THE
13 ASSUMPTION OF THE MANAGEMENT AND MAINTENANCE OF AN ABANDONED CEMETERY
14 UNDER THIS SECTION IF THE ABANDONED CEMETERY WAS AFFILIATED WITH ANY
15 RELIGIOUS DENOMINATION OR TRADITION OR IF THE MAJORITY OF THE PERSONS
16 WHOSE BODIES WERE INTERRED IN SUCH CEMETERY WERE AFFILIATED WITH ANY
17 RELIGIOUS DENOMINATION OR TRADITION UNLESS THE CEMETERY ASSUMING THE
18 MANAGEMENT AND MAINTENANCE OF SUCH ABANDONED CEMETERY FOLLOWS THE
19 CUSTOMS AND PRACTICES OF THE SAME RELIGIOUS DENOMINATION OR TRADITION.
20 (B) A CEMETERY CORPORATION ASSUMING MANAGEMENT AND MAINTENANCE OF AN
21 ABANDONED CEMETERY SHALL MAKE APPLICATION FOR FUNDS PURSUANT TO PARA-
22 GRAPH (H) OF SECTION FIFTEEN HUNDRED SEVEN OF THIS ARTICLE AND SECTION
23 NINETY-SEVEN-R OF THE STATE FINANCE LAW FOR MAINTENANCE OF ABANDONED
24 CEMETERIES. WITHIN SIXTY DAYS OF SUBMISSION OF A COMPLETED APPLICATION,
25 THE CEMETERY BOARD SHALL APPROVE OR DENY SUCH APPLICATION.

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

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1 (C) MONIES DISBURSED UNDER SUCH ASSUMPTION SHALL BE USED EXCLUSIVELY
2 FOR THE PURPOSE OF THE MANAGEMENT AND MAINTENANCE OF AN ABANDONED CEME-
3 TERY SUCH AS THE ORDINARY AND NECESSARY CARE OF A CEMETERY, INCLUDING
4 THE REMOVAL OF GRASS AND WEEDS, THE REFILLING OF GRAVES, AND THE PRESER-
5 VATION, CARE, AND FENCING OF A CEMETERY, AND ALSO INCLUDING THE CARE OF
6 CRYPTS, NICHES, GRAVE SITES, MONUMENTS, AND MEMORIALS PAID FOR BY MEANS
7 OF THE GENERAL FUND OR SPECIAL FUND OR THE INCOME APPLIED FROM THE
8 PERMANENT MAINTENANCE FUND, PERPETUAL CARE FUND, MONUMENT MAINTENANCE
9 FUND, GENERAL FUND, OR A SPECIAL FUND OF THE ABANDONED CEMETERY.

10 (D) ANY RESIDUAL FUNDS DISBURSED TO A CEMETERY CORPORATION AFTER THE
11 MAINTENANCE OF AN ABANDONED CEMETERY HAS BEEN PERFORMED MUST BE RETURNED
12 TO THE CEMETERY BOARD FOR REDEPOSIT INTO THE STATE CEMETERY VANDALISM
13 RESTORATION, MONUMENT REPAIR OR REMOVAL AND ADMINISTRATION FUND ESTAB-
14 LISHED BY SECTION NINETY-SEVEN-R OF THE STATE FINANCE LAW.

15 (E) WITHIN NINETY DAYS OF ITS RECEIPT OF DISBURSEMENTS, THE CEMETERY
16 CORPORATION SHALL MAKE A REPORT TO THE CEMETERY BOARD SETTING FORTH
17 DETAILS OF THE MAINTENANCE AND CLEAN-UP UNDERTAKEN AND THE AMOUNT OF
18 FUNDS, IF ANY, TO BE REDEPOSITED INTO THE FUND. IF THE MAINTENANCE AND
19 CLEAN-UP HAVE NOT BEEN COMPLETED, OR NECESSARY EQUIPMENT HAS NOT BEEN
20 PURCHASED, THE REASONS THEREFOR SHALL BE SET FORTH, AND THE ANTICIPATED
21 DATE FOR A SUBSEQUENT, FINAL REPORT SHALL BE DISCLOSED.

22 S 2. Subparagraph 4 of paragraph (h) of section 1507 of the not-for-
23 profit corporation law, as amended by chapter 380 of the laws of 2000,
24 is amended to read as follows:

25 (4) Authorization for payments by the fund for maintenance of an aban-
26 doned cemetery shall be made by the secretary of state only upon
27 approval by the cemetery board of an application by a municipality OR
28 OTHER SOLVENT NOT-FOR-PROFIT CEMETERY CORPORATION for fair and reason-
29 able expenses required to be made by the municipality OR OTHER SOLVENT
30 NOT-FOR-PROFIT CEMETERY CORPORATION for maintenance of an abandoned
31 cemetery; provided, however, that the cemetery board shall not approve
32 any such application unless the municipality OR OTHER SOLVENT
33 NOT-FOR-PROFIT CEMETERY CORPORATION acknowledges that the responsibility
34 for restoration and future care, preservation, and maintenance of such
35 cemetery has been assumed by the municipality OR OTHER SOLVENT NOT-FOR-
36 PROFIT CEMETERY CORPORATION. For the purposes of this paragraph, such
37 cemetery shall always be deemed an abandoned cemetery.

38 S 3. This act shall take effect on the sixtieth day after it shall
39 have become a law.