S T A T E O F N E W Y O R K

4364--A

2009-2010 Regular Sessions

I N S E N A T E

April 22, 2009

Introduced by Sen. AUBERTINE -- read twice and ordered printed, and when printed to be committed to the Committee on Corporations, Authorities and Commissions -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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:

Section 1. The not-for-profit corporation law is amended by adding a new section 1506-c to read as follows:

S 1506-C. ABANDONED CEMETERY MAINTENANCE BY CEMETERY CORPORATIONS.

(A) UPON APPLICATION AND APPROVAL BY THE CEMETERY BOARD, A CEMETERY CORPORATION MAY ASSUME MANAGEMENT AND MAINTENANCE OF AN ABANDONED CEMETERY. FOR THE PURPOSES OF THIS SECTION, ABANDONED CEMETERY MEANS A CEMETERY WHICH WAS PREVIOUSLY OWNED BY A CEMETERY CORPORATION ORGANIZED PURSUANT TO THIS CHAPTER OR EXISTING BY VIRTUE OF THE MEMBERSHIP CORPORATION LAW, FOR WHICH THERE NO LONGER EXISTS ANY CORPORATE BOARD OR BODY TO MAINTAIN IT, AND FOR WHICH THERE IS NO SUFFICIENT TRUST FUND OR ENDOWMENT TO PROVIDE ORDINARY AND NECESSARY CARE AND MAINTENANCE. PROVIDED, HOWEVER, THAT IN NO EVENT SHALL THE CEMETERY BOARD APPROVE THE ASSUMPTION OF THE MANAGEMENT AND MAINTENANCE OF AN ABANDONED CEMETERY UNDER THIS SECTION IF THE ABANDONED CEMETERY WAS AFFILIATED WITH ANY RELIGIOUS DENOMINATION OR TRADITION OR IF THE MAJORITY OF THE PERSONS WHOSE BODIES WERE INTERRED IN SUCH CEMETERY WERE AFFILIATED WITH ANY RELIGIOUS DENOMINATION OR TRADITION UNLESS THE CEMETERY ASSUMING THE MANAGEMENT AND MAINTENANCE OF SUCH ABANDONED CEMETERY FOLLOWS THE CUSTOMS AND PRACTICES OF THE SAME RELIGIOUS DENOMINATION OR TRADITION.

(B) A CEMETERY CORPORATION ASSUMING MANAGEMENT AND MAINTENANCE OF AN ABANDONED CEMETERY SHALL MAKE APPLICATION FOR FUNDS PURSUANT TO PARAGRAPH (H) OF SECTION FIFTEEN HUNDRED SEVEN OF THIS ARTICLE AND SECTION NINETY-SEVEN-R OF THE STATE FINANCE LAW FOR MAINTENANCE OF ABANDONED

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

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CEMETERIES. WITHIN SIXTY DAYS OF SUBMISSION OF A COMPLETED APPLICATION, THE CEMETERY BOARD SHALL APPROVE OR DENY SUCH APPLICATION.

(C) MONIES DISBURSED UNDER SUCH ASSUMPTION SHALL BE USED EXCLUSIVELY FOR THE PURPOSE OF THE MANAGEMENT AND MAINTENANCE OF AN ABANDONED CEMETERY SUCH AS THE ORDINARY AND NECESSARY CARE OF A CEMETERY, INCLUDING THE REMOVAL OF GRASS AND WEEDS, THE REFILLING OF GRAVES, AND THE PRESERVATION, CARE, AND FENCING OF A CEMETERY, AND ALSO INCLUDING THE CARE OF CRYPTS, NICHES, GRAVE SITES, MONUMENTS, AND MEMORIALS PAID FOR BY MEANS OF THE GENERAL FUND OR SPECIAL FUND OR THE INCOME APPLIED FROM THE PERMANENT MAINTENANCE FUND, PERPETUAL CARE FUND, MONUMENT MAINTENANCE FUND, GENERAL FUND, OR A SPECIAL FUND OF THE ABANDONED CEMETERY.

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

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

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

(4) Authorization for payments by the fund for maintenance of an abandoned cemetery shall be made by the secretary of state only upon approval by the cemetery board of an application by a municipality OR OTHER SOLVENT NOT-FOR-PROFIT CEMETERY CORPORATION for fair and reasonable expenses required to be made by the municipality OR OTHER SOLVENT NOT-FOR-PROFIT CEMETERY CORPORATION for maintenance of an abandoned cemetery; provided, however, that the cemetery board shall not approve any such application unless the municipality OR OTHER SOLVENT NOT-FOR-PROFIT CEMETERY CORPORATION acknowledges that the responsibility for restoration and future care, preservation, and maintenance of such cemetery has been assumed by the municipality OR OTHER SOLVENT NOT-FOR-PROFIT CEMETERY CORPORATION. For the purposes of this paragraph, such cemetery shall always be deemed an abandoned cemetery.

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