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

3808

2009-2010 Regular Sessions

I N S E N A T E

April 1, 2009

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

AN ACT to amend the not-for-profit corporation law, in relation to a cemetery customer's bill of rights

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

Section 1. Section 1510 of the not-for-profit corporation law is amended by adding a new paragraph (n) to read as follows:

(N) POSTING AND DISTRIBUTION OF THE CEMETERY CUSTOMER'S BILL OF RIGHTS. (1) THE CEMETERY CUSTOMER'S BILL OF RIGHTS SHALL BE CONSPICUOUSLY POSTED BY THE CORPORATION IN EACH OF ITS OFFICES. A COPY SHALL BE PROVIDED TO EACH PERSON AT THE BEGINNING OF ANY FACE-TO-FACE DISCUSSION ABOUT ARRANGING FOR AN INTERMENT OR PURCHASING INTERMENT RIGHTS OR ANY OTHER GOODS OR SERVICES OFFERED BY THE CEMETERY. ADDITIONALLY, A COPY OF SUCH BILL OF RIGHTS SHALL BE GIVEN TO ANY PERSON UPON REQUEST.

(2) THE CEMETERY CUSTOMER'S BILL OF RIGHTS SHALL BE ESSENTIALLY IN THE FOLLOWING FORM.

CEMETERY CUSTOMER'S BILL OF RIGHTS

ALL NEW YORK CEMETERIES ARE NOT-FOR-PROFIT. THIS CEMETERY (NAME, ADDRESS, TELEPHONE NUMBER) IS REGULATED BY THE NYS DIVISION OF CEMETERIES. THE NEAREST OFFICE IS LOCATED AT: (ADDRESS, TELEPHONE NUMBER, E-MAIL ADDRESS).

WHEN YOU BUY CEMETERY PROPERTY, YOU ARE BUYING THE RIGHT TO INTERMENT, NOT AN ACTUAL PIECE OF LAND. WHEN YOU SELL CEMETERY PROPERTY, IT MUST FIRST BE OFFERED BACK TO THE CEMETERY. THE MINIMUM PRICE THE CEMETERY MUST PAY TO BUY BACK THE PROPERTY IS SET BY LAW. YOU CAN ALSO GIFT YOUR RIGHT TO INTERMENT IF YOU ARE THE LOT OWNER.

YOU CAN BE DENIED THE RIGHT TO INTERMENT ONLY FOR NON-PAYMENT OF THE TOTAL PURCHASE PRICE, NON-PAYMENT OF INTERMENT PRICE OR NON-PAYMENT OF A TAX AUTHORIZED BY THE CEMETERY BOARD.

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

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THOUGH NEW YORK LAW DOES REQUIRE THAT A CONTAINER OR WRAPPINGS USED FOR CREMATION BE NON-METAL, IT DOES NOT REQUIRE EMBALMING FOR INTERMENT (BURIAL, ENTOMBMENT OR PLACEMENT OF CREMAINS IN A NICHE OR GRAVE). NEW YORK LAW DOES NOT LIMIT THE NUMBER OF CREMATION URNS THAT CAN BE PLACED IN A GRAVE. NEW YORK LAW ALSO DOES NOT REQUIRE ANY PARTICULAR TYPE OF CASKET OR EXTERNAL WRAPPINGS FOR BURIAL OR PLACEMENT IN A MAUSOLEUM CRYPT. NOR DOES IT RESTRICT THE TYPE OF CONTAINER USED TO PLACE ASHES IN A NICHE OR GRAVE.

NEW YORK LAW REQUIRES THAT RULES AND REGULATIONS OF A CEMETERY BE REASONABLE AND THAT THEY HAVE WRITTEN CEMETERY BOARD APPROVAL. NEW YORK LAW REQUIRES THAT A WRITTEN CONTRACT FOR THE SALE OR USE OF A LOT, PLOT OR PART THEREOF SHALL HAVE ATTACHED THERETO AND MADE A PART THEREOF A COPY OF THE RULES AND REGULATIONS OF THE CEMETERY CORPORATION OR SUCH PARTS OF SUCH RULES AND REGULATIONS AS RELATE TO THE SIZE AND PLACEMENT OF MONUMENTS, RESTRICTIONS ON PLOT USAGE, WARRANTIES, OBLIGATIONS OF THE CEMETERY CORPORATION AND FINANCIAL OBLIGATIONS AND DUTIES OF THE LOT OWNER.

YOU HAVE THE RIGHT:

1. TO A COPY OF THE CURRENT LIST OF PRICES AND CHARGES OF THE CEMETERY FOR A SMALL FEE.

2. TO HAVE INCLUDED IN YOUR PURCHASE CONTRACT AND DEED ANY CEMETERY BOARD APPROVED RESTRICTIONS ON THE TYPE OF CONTAINER USED FOR BURIAL OR PLACEMENT OF ASHES IN A NICHE OR GRAVE.

3. TO HAVE INCLUDED IN YOUR PURCHASE CONTRACT AND DEED ANY CEMETERY BOARD APPROVED REQUIREMENTS FOR MAUSOLEUM CRYPT ENTOMBMENT SUCH AS EMBALMING, SPECIAL CASKETS OR IN-CRYPT BAGS OR TRAYS.

4. TO HAVE INCLUDED IN YOUR PURCHASE CONTRACT AND DEED ANY CEMETERY BOARD APPROVED RESTRICTIONS ON THE TYPE OF MONUMENT OR MARKER THAT CAN BE PLACED ON THE GRAVE, NICHE OR MAUSOLEUM CRYPT.

5. TO BE NOTIFIED OF ANY RULES, RESTRICTIONS OR CHARGES THAT APPLY TO MARKERS OR MONUMENTS PURCHASED ELSEWHERE.

6. TO FULLY UNDERSTAND WHAT "PERPETUAL CARE" MEANS INCLUDING WHETHER IT IS REQUIRED OR OPTIONAL.

7. YOU HAVE A RIGHT TO HAVE ALL CONTRACTS INCLUDING PURCHASE AND PERPETUAL CARE CONTRACTS REVIEWED BY A LAWYER BEFORE SIGNING.

8. TO CHOOSE A CONCRETE LINER, IF AN OUTER BURIAL CONTAINER IS REQUIRED FOR BURIAL IN A GRAVE PURCHASED AFTER 1/1/85. THIS REQUIREMENT MUST BE WAIVED FOR RELIGIOUS REASONS.

9. TO HAVE MONEY PAID FOR A GRAVE LINER PRE-NEED HELD IN TRUST.

10. TO BE NOTIFIED OF ANY RESTRICTIONS AND CHARGES RELATIVE TO PLANTINGS.

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