

6840

I N S E N A T E

February 12, 2010

Introduced by Sen. PARKER -- read twice and ordered printed, and when printed to be committed to the Committee on Veterans, Homeland Security and Military Affairs

AN ACT to amend the public health law, in relation to establishing "the veterans' cremains act"

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

1 Section 1. Article 42 of the public health law is amended by adding a
2 new title 3 to read as follows:

3 TITLE III

4 UNCLAIMED VETERANS' CREMAINS

5 SECTION 4230. SHORT TITLE.

6 4231. DEFINITIONS.

7 4232. QUALIFIED VETERANS' ORGANIZATIONS GRANTED RIGHT TO RECEIVE
8 UNCLAIMED VETERANS' CREMAINS.

9 4233. SEVERABILITY.

10 S 4230. SHORT TITLE. THIS TITLE SHALL BE KNOWN AND MAY BE CITED AS
11 "THE VETERANS' CREMAINS ACT".

12 S 4231. DEFINITIONS. AS USED IN THIS TITLE, UNLESS OTHERWISE STATED,
13 THE FOLLOWING TERMS SHALL HAVE THE RESPECTIVE MEANINGS HEREINAFTER SET
14 FORTH OR INDICATED:

15 1. "CREMAINS" MEANS THAT SUBSTANCE WHICH REMAINS AFTER THE CREMATION
16 OF A DEAD BODY.

17 2. "DILIGENT EFFORT" MEANS A REASONABLE EFFORT, AND INCLUDES A CERTI-
18 FIED LETTER, RETURN RECEIPT REQUESTED, MAILED TO THE PERSON WHO AUTHOR-
19 IZES A CREMATION.

20 3. "FUNERAL DIRECTOR" MEANS A PERSON LICENSED PURSUANT TO ARTICLE
21 THIRTY-FOUR OF THIS CHAPTER.

22 4. "QUALIFIED VETERANS' ORGANIZATION" MEANS A VETERANS' ORGANIZATION
23 THAT QUALIFIES AS A SECTION 501(C)(3) OR 501(C)(19) TAX EXEMPT ORGANIZA-
24 TION UNDER THE INTERNAL REVENUE CODE, OR A FEDERALLY CHARTERED VETERANS'
25 SERVICE ORGANIZATION.

26 S 4232. QUALIFIED VETERANS' ORGANIZATIONS GRANTED RIGHT TO RECEIVE
27 UNCLAIMED VETERANS' CREMAINS. 1. A FUNERAL DIRECTOR SHALL GRANT A QUALI-

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

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1 FIED VETERANS' ORGANIZATION THE RIGHT TO RECEIVE THE CREMAINS OF A
2 VETERAN WHICH HAVE NOT BEEN CLAIMED BY A RELATIVE OR FRIEND OF THE
3 DECEASED WITHIN ONE YEAR AFTER CREMATION UPON CERTIFICATION TO THE
4 COMMISSIONER THAT A DILIGENT EFFORT HAS BEEN MADE TO IDENTIFY, LOCATE
5 AND NOTIFY A RELATIVE OR FRIEND OF THE DECEASED WITHIN THAT ONE-YEAR
6 PERIOD.

7 2. A QUALIFIED VETERANS' ORGANIZATION WHICH TAKES POSSESSION OF
8 CREMAINS PURSUANT TO THIS SECTION SHALL DISPOSE OF THE CREMAINS BY SCAT-
9 TERING THEM AT SEA OR BY INTERRING THEM ON LAND IN A DIGNIFIED MANNER AT
10 THE STATE-OPERATED VETERANS' CEMETERY IF THE INDIVIDUAL IS ELIGIBLE FOR
11 INTERMENT AT THAT FACILITY.

12 3. A FUNERAL HOME OR MORTUARY, OR AN AGENT OF THE FUNERAL HOME OR
13 MORTUARY, OR A FUNERAL DIRECTOR, OR QUALIFIED VETERANS' ORGANIZATION,
14 SHALL NOT BE LIABLE FOR DAMAGES IN ANY CIVIL ACTION ARISING OUT OF THE
15 DISPOSAL OF CREMAINS PURSUANT TO THIS SECTION UNLESS THE DAMAGES ARE THE
16 RESULT OF GROSS NEGLIGENCE OR WILLFUL MISCONDUCT.

17 S 4233. SEVERABILITY. IF ANY CLAUSE, SENTENCE, PARAGRAPH, SECTION OR
18 PART OF THIS TITLE SHALL BE ADJUDGED BY ANY COURT OF COMPETENT JURISDIC-
19 TION TO BE INVALID, SUCH JUDGMENT SHALL NOT AFFECT, IMPAIR OR INVALIDATE
20 THE REMAINDER THEREOF, BUT SHALL BE CONFINED IN ITS OPERATION TO THE
21 CLAUSE, SENTENCE, PARAGRAPH, SECTION OR PART THEREOF, DIRECTLY INVOLVED
22 IN THE CONTROVERSY IN WHICH SUCH JUDGMENT SHALL HAVE BEEN RENDERED.

23 S 2. This act shall take effect on November 11, 2010.