

# STATE OF NEW YORK

8078

2017-2018 Regular Sessions

## IN ASSEMBLY

May 25, 2017

Introduced by M. of A. DINOWITZ -- 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 reacquisition of a lot, plot, or part thereof owned by a nonsectarian burial society or by a cemetery corporation; and in relation to the definition of certain types of burial societies

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

1 Section 1. Section 1502 of the not-for-profit corporation law is  
2 amended by adding two new paragraphs (r) and (s) to read as follows:

3 (r) The term "nonsectarian burial society" means a corporation or  
4 unincorporated association or society having among its activities or its  
5 former activities the provision of burial benefits for its members and  
6 not supervised or controlled by a religious corporation.

7 (s) The term "religious burial society" means a corporation or unin-  
8 corporated association or society having among its activities or its  
9 former activities the provision of burial benefits for its members and  
10 supervised or controlled by a religious corporation.

11 § 2. Paragraphs (d) and (f) of section 1513-a of the not-for-profit  
12 corporation law, as added by chapter 478 of the laws of 2003, are  
13 amended and four new paragraphs (i), (j), (k) and (l) are added to read  
14 as follows:

15 (d) Upon the sale of a lot, plot or part thereof reacquired by the  
16 corporation under the provisions of paragraph (a), (b), or (c) of this  
17 section, thirty-five percent of the net proceeds shall be placed in the  
18 permanent maintenance fund and sixty-five percent shall be placed in the  
19 current maintenance fund. Provided, however, that if their property was  
20 reacquired under paragraph (i) of this section, thirty-five percent of  
21 the net proceeds shall be placed in the permanent maintenance fund,  
22 fifty percent shall be placed in the current maintenance fund and  
23 fifteen percent shall be placed in a perpetual care fund which the ceme-

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

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1 tery shall establish in the name of the defunct society for the exclu-  
2 sive purpose of maintenance of the grounds on which the graves were  
3 reacquired.

4 (f) The provisions of this section shall not apply to a lot, plot or  
5 part thereof whose record owner is a [~~corporation or unincorporated~~  
6 ~~association or society having among its activities or its former activ-~~  
7 ~~ities the provision of burial benefits for its members~~] religious burial  
8 society.

9 (i) A cemetery corporation may, upon application and approval by the  
10 cemetery board, reacquire, resubdivide, and resell a lot, plot or part  
11 thereof formerly owned by a nonsectarian burial society under the  
12 following circumstances:

13 (1) If the cemetery corporation has received a request to make a buri-  
14 al on the grounds of a nonsectarian burial society and the provisions of  
15 paragraph (h) of section fifteen hundred twelve of this article had to  
16 be invoked to make the burial then the cemetery corporation may, at its  
17 discretion, commence the process of reacquiring the unused graves on the  
18 grounds of the nonsectarian burial society, except that any graves that  
19 have been reserved for individuals where such reservations have been  
20 recorded on the books and records of the cemetery corporation shall be  
21 exempt from reclamation; or

22 (2) If routine mailings or proxy mailings are sent to the officers of  
23 record of a nonsectarian burial society and such mailings are returned  
24 by the post office, the cemetery corporation may, at its discretion,  
25 make a second mailing by certified mail return receipt requested to each  
26 officer of record of the nonsectarian burial society as recorded on the  
27 cemetery's books and records and, if each of these mailings is returned  
28 by the post office, the cemetery corporation may, at its discretion,  
29 commence the process of reacquiring the unused graves on the grounds of  
30 the nonsectarian burial society, except that any graves that have been  
31 reserved for individuals where such reservations have been recorded on  
32 the books and records of the cemetery corporation shall be exempt from  
33 reacquisition.

34 (j) If a cemetery corporation has decided to commence the process of  
35 reacquiring graves owned by a nonsectarian burial society it shall:

36 (1) send by certified mail return receipt requested to each individual  
37 who has engaged in proprietary activities in connection with graves on  
38 the grounds of a nonsectarian burial society, seeking the names and  
39 addresses of any current officers of the nonsectarian burial society and  
40 informing those individuals of the cemetery corporation's intentions of  
41 reacquiring the unused graves on the grounds of the nonsectarian burial  
42 society;

43 (2) send by certified mail return receipt requested to each individual  
44 who has a grave reserved or deeded to them a letter seeking the names  
45 and addresses of any current officers of the nonsectarian burial society  
46 and informing such individuals of the cemetery corporation's intentions  
47 or reacquiring the unused graves on the grounds of the nonsectarian  
48 burial society;

49 (3) post a notice as provided in clause three of subparagraph (iii) of  
50 paragraph (a) of this section;

51 (4) publish a notice as provided in clause five of subparagraph (iii)  
52 of paragraph (a) of this section;

53 (5) prepare and submit an affidavit as provided in clause six of  
54 subparagraph (iii) of paragraph (a) of this section; and

55 (6) upon the sale of any grave or graves on the grounds of the nonsec-  
56 tarian burial society which have been reacquired by the cemetery corpo-

1 ration, the cemetery corporation shall distribute the net proceeds of  
2 the sale as provided in paragraph (d) of this section.

3 (k) The cemetery corporation shall delay the sale of ten percent of  
4 the graves it reacquires from the nonsectarian burial society for twenty  
5 years as a reserve in the event an individual or individuals are identi-  
6 fied who have a valid claim for burial on the grounds of the nonsectari-  
7 an burial society.

8 (l) At the time the graves that have been reacquired by a cemetery  
9 corporation from a nonsectarian burial society are sold, the contract of  
10 sale shall contain a clause in bold type which specifies that the monu-  
11 ments to be erected on such lot, plot or part thereof, shall conform to  
12 the size, style and type of monuments in the section of the cemetery  
13 where such graves are located.

14 § 3. This act shall take effect immediately.