

STATE OF NEW YORK

6396

2017-2018 Regular Sessions

IN SENATE

May 16, 2017

Introduced by Sen. RANZENHOFER -- 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 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

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

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1 fifteen percent shall be placed in a perpetual care fund which the ceme-
2 tery shall establish in the name of the defunct society for the exclu-
3 sive purpose of maintenance of the grounds on which the graves were
4 reacquired.

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

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

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

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

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

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

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

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

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

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

1 (6) upon the sale of any grave or graves on the grounds of the nonsec-
2 tarian burial society which have been reacquired by the cemetery corpo-
3 ration, the cemetery corporation shall distribute the net proceeds of
4 the sale as provided in paragraph (d) of this section.

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

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

16 § 3. This act shall take effect immediately.