

STATE OF NEW YORK

1876

2019-2020 Regular Sessions

IN SENATE

January 17, 2019

Introduced by Sen. COMRIE -- 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 and the town law, in relation to the abandonment of cemeteries

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

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

3 § 1506-d. Cemetery abandonment notification and assistance.

4 Any cemetery corporation that shall have insufficient general operat-
5 ing funds with which to continue operations or that does not have a
6 board sufficient to carry on operations of the cemetery, shall provide
7 notice to the state cemetery board and the governing board of the muni-
8 cipality or municipalities in which the cemetery is located at least one
9 hundred and eighty days in advance of the date of expected abandonment
10 to a municipality. Upon notification by the cemetery corporation or as
11 a result of a review of the financial and corporate status of a cemetery
12 corporation, the state cemetery board shall notify the governing board
13 of the municipality where such cemetery corporation is located at least
14 one hundred and twenty days in advance of the date of expected abandon-
15 ment. Prior to abandonment, the state cemetery board shall work with the
16 cemetery corporation and the governing board or boards of the munici-
17 pality or municipalities in which the cemetery corporation is located to
18 assist in reconstituting the board of the cemetery corporation; or to
19 arrange to provide the cemetery corporation with temporary assistance in
20 operating the cemetery; or to locate another cemetery corporation to
21 take over the cemetery corporation seeking abandonment or any other
22 lawful measure that might prevent abandonment. In the event the ceme-
23 tery corporation board is not reconstituted or if the condition of such
24 abandoned cemetery prevents effective municipal takeover within ninety

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

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1 days of abandonment, the state cemetery board shall appoint, with the
2 consent of the governing board of the municipality, a temporary receiver
3 to manage cemetery operations until such time that the cemetery is in a
4 condition to be maintained or operated by the municipality. Notwith-
5 standing any other provision of law, such funds and expense for the
6 temporary receiver and repairs of the cemetery shall be a state expense
7 allocated and approved as outlined in paragraph (h) of section fifteen
8 hundred seven of this chapter.

9 § 2. Subparagraph 4 of paragraph (h) of section 1507 of the not-for-
10 profit corporation law, as amended by chapter 363 of the laws of 2009,
11 is amended to read as follows:

12 (4) Authorization for payments by the fund for maintenance of an aban-
13 doned cemetery shall be made by the secretary of state only upon
14 approval by the cemetery board of an application by a municipality or
15 other solvent not-for-profit cemetery corporation for fair and reason-
16 able expenses required to be made by the municipality or other solvent
17 not-for-profit cemetery corporation for maintenance of an abandoned
18 cemetery; provided, however, that the cemetery board shall not approve
19 any such application unless the municipality or other solvent not-for-
20 profit cemetery corporation acknowledges that the responsibility for
21 restoration and future care, preservation, and maintenance of such ceme-
22 tery has been assumed by the municipality or other solvent not-for-pro-
23 fit cemetery corporation. Notwithstanding any other provision of law, a
24 municipality or other solvent not-for-profit cemetery corporation shall
25 be permitted to file an additional application for funds under this
26 section, twenty-five years following the date of the initial application
27 for the repair and maintenance of any structures on the cemetery grounds
28 only where such structures were constructed preceding the date of aban-
29 donment of the cemetery corporation. For the purposes of this paragraph,
30 such cemetery shall always be deemed an abandoned cemetery.

31 § 3. Section 291 of the town law is amended by adding a new subdivi-
32 sion 5 to read as follows:

33 5. Notwithstanding any other provision of law, no town shall be liable
34 for any damages or injuries sustained by any person or property associ-
35 ated with a cemetery abandoned to the town for any cause of action that
36 occurred prior to the takeover of said cemetery by the town and in addi-
37 tion, no cause of action for such damages shall be maintained and adju-
38 dicated by any court in this state which would otherwise have jurisdic-
39 tion to adjudicate such claim.

40 § 4. This act shall take effect immediately.