STATE OF NEW YORK

1876--A

2019-2020 Regular Sessions

IN SENATE

January 17, 2019

Introduced by Sens. COMRIE, RANZENHOFER -- read twice and ordered printed, and when printed to be committed to the Committee on Corporations, Authorities and Commissions -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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:

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

§ 1506-d. Cemetery abandonment notification and assistance.

Any cemetery corporation that shall have insufficient general operating funds with which to continue operations or that does not have a board sufficient to carry on operations of the cemetery, shall provide notice to the state cemetery board and the governing board of the municipality or municipalities in which the cemetery is located at least one hundred and eighty days in advance of the date of expected abandonment to a municipality. Upon notification by the cemetery corporation or as a result of a review of the financial and corporate status of a cemetery corporation, the state cemetery board shall notify the governing board of the municipality where such cemetery corporation is located at least one hundred and twenty days in advance of the date of expected abandonment. Prior to abandonment, the state cemetery board shall work with the cemetery corporation and the governing board or boards of the municipality or municipalities in which the cemetery corporation is located to assist in reconstituting the board of the cemetery corporation; or to arrange to provide the cemetery corporation with temporary assistance in operating the cemetery; or to locate another cemetery corporation to take over the cemetery corporation seeking abandonment or any other lawful measure that might prevent abandonment. In the event the cemetery corporation board is not reconstituted or if the condition of such

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

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abandoned cemetery prevents effective municipal takeover within ninety days of abandonment, the state cemetery board shall, with the consent of the governing board of the municipality, request the attorney general seek court appointment of a temporary receiver to manage cemetery operations until such time that the cemetery is in a condition to be maintained or operated by the municipality. Notwithstanding any other provision of law, such funds and expense for the temporary receiver and repairs of the cemetery shall be a state expense allocated and approved as outlined in paragraph (h) of section fifteen hundred seven of this chapter.

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

(4) Authorization for payments by the fund for maintenance of an abandoned cemetery shall be made by the secretary of state only upon approval by the cemetery board of an application by a municipality or other solvent not-for-profit cemetery corporation for fair and reasonable expenses required to be made by the municipality or other solvent not-for-profit cemetery corporation for maintenance of an abandoned cemetery; provided, however, that the cemetery board shall not approve any such application unless the municipality or other solvent not-for-profit cemetery corporation acknowledges that the responsibility for restoration and future care, preservation, and maintenance of such cemetery has been assumed by the municipality or other solvent not-for-profit cemetery corporation. Notwithstanding any other provision of law, a municipality or other solvent not-for-profit cemetery corporation having assumed management or responsibility for an abandoned cemetery under the provisions of this section after January first, two thousand fifteen shall be permitted to file an additional application for funds under this section, twenty-five years following the date of the initial application for the repair and maintenance of any structures on the cemetery grounds only where such structures were constructed preceding the date of abandonment of the cemetery corporation. For the purposes of this paragraph, such cemetery shall always be deemed an abandoned cemetery.

§ 3. Section 291 of the town law is amended by adding a new subdivision 5 to read as follows:

5. Notwithstanding any other provision of law, no town shall be liable for any damages or injuries sustained by any person or property associated with a cemetery abandoned to the town for any cause of action that occurred prior to the takeover of said cemetery by the town and in addition, no cause of action for such damages shall be maintained and adjudicated by any court in this state which would otherwise have jurisdiction to adjudicate such claim.

§ 4. This act shall take effect immediately.