STATE OF NEW YORK

10644

IN ASSEMBLY

August 12, 2022

Introduced by COMMITTEE ON RULES -- (at request of M. of A. Hevesi) -- 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 certain duties and responsibilities of cemetery corporations

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

Section 1. Subparagraph 4 of paragraph (c) of section 1504 of the not-for-profit corporation law, as added by chapter 557 of the laws of 1985, is amended and two new subparagraphs 4-a and 4-b and a new paragraph (e) are added to read as follows:

(4) To impose a civil penalty upon a cemetery corporation not exceeding one thousand dollars, after conducting an adjudicatory hearing pursuant to the provisions of **paragraph (e) of this section, and consistent with the provisions of** the state administrative procedure act, for a violation of or a failure to comply with any provisions contained in this article or any regulation, directive or order of the board, and without the need to maintain a civil action pursuant to subdivision five of this paragraph. **(4-a) To adopt reasonable rules and regulations requiring that each cemetery corporation shall carry a liability insurance policy that provides coverage with respect to claims arising out of the death or bodily injury of any person as a result of the collapse of any monument, embellishment or other marker on a plot, lot or part thereof, regardless of whether any such collapse was caused by an act of vandalism committed by a person other than the claimant, in such amounts as the board determines to be adequate for such purpose. (4-b) To adopt reasonable rules and regulations requiring the approval of a licensed engineer prior to: the excavation of any grave, the construction, installation or removal of any mausoleum, vault, columbarium or other similar structure, the pouring of concrete for foundation, and other construction or maintenance activities involving the use of heavy machinery.**

(e) Complaint process. Upon receipt of a consumer complaint form, the division of cemeteries shall forward such complaint to the cemetery

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

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corporation involved and contact the consumer no later than the close of business on the day following the date on which the complaint was received. The cemetery corporation shall respond to the division of cemeteries within fourteen calendar days after receipt of such consumer complaint. If the initial complaint is not resolved by the cemetery corporation, the consumer may request that the complaint be escalated to the cemetery board for investigation and resolution thereof. When a complaint is escalated, the board may take any action it deems necessary, consistent with the powers and duties of the cemetery board pursuant to paragraph (c) of this section. Upon completion of its investigation, the board shall send a written resolution to the consumer.

§ 2. Section 1510 of the not-for-profit corporation law is amended by adding a new paragraph (p) to read as follows:

(p) Privacy and dignity of cemetery plots. No cemetery corporation or religious corporation having charge and control of a cemetery shall infringe on the privacy and dignity of the remains of deceased human beings. Cemeteries shall ensure all employees and third-party contractors display proper respect for the deceased when on cemetery grounds. In the event that construction or other activity which impairs the privacy and dignity of the plot is to take place on cemetery grounds, the cemetery corporation shall, not less than fourteen days prior to the commencement of such construction or other activity, notify each affected plot owner, owner's distributee or person filing an affidavit with such corporation pursuant to the provisions of subparagraph one of paragraph (e) of section fifteen hundred twelve of this article.

§ 3. Subparagraph 8 of paragraph (h) of section 1507 of the not-for-profit corporation law, as amended by chapter 380 of the laws of 2000, is amended and a new subparagraph 9 is added to read as follows:

(8) Nothing contained in this paragraph is to be construed[~~as giving a cemetery corporation an "insurable interest" in monuments or other embellishments on a plot, lot or part thereof, nor is it meant~~] to imply that the cemetery corporation has any responsibility for repairing vandalism damage not covered by this fund, nor for repairing or removing out of repair or dilapidated monuments or other markers not owned by the cemetery corporation, nor shall it constitute the doing of an insurance business.

(9) Notwithstanding any contrary provision of subparagraph eight of this paragraph or any other provision of law to the contrary, a cemetery corporation shall have an "insurable interest" in monuments and other embellishments on a plot, lot or part thereof for the purposes of obtaining liability insurance in accordance with the requirements of subparagraph four-a of paragraph (c) of section fifteen hundred four of this article.

§ 4. Section 1510-b of the not-for-profit corporation law, as added by chapter 580 of the laws of 2006, is amended to read as follows:

§ 1510-b. Availability for interment on six-day basis.

Every cemetery corporation shall be available for interments at least six days per week, excluding legal holidays, as set forth in the cemetery's regulations or in accordance with its practices. Any cemetery which maintains and designates a burial section for persons of a particular religious belief must remain available for grave openings and interments Sunday through Friday or other six-day period in accordance with the religious and/or ethnic traditions of the persons interred in said religious section, and shall remain available for grave openings and interments outside of normal business hours in the case of persons belonging to a religious and/or ethnic tradition that requires burial or

interment of a decedent prior to sunset on the date of such decedent's death, provided that any additional costs incurred by the cemetery corporation as a result of such burial or interment shall be chargeable to the person requesting such services outside of normal business hours. Nothing in this section shall require a cemetery to provide grave openings and/or interments if they are otherwise unable to do so as to direct consequence of severe weather conditions or other similar conditions.

§ 5. The not-for-profit corporation law is amended by adding a new section 1510-d to read as follows:

§ 1510-d. Religious inspectors.

Every cemetery corporation which maintains and designates a burial section for persons of a particular religious belief and/or ethnic tradition shall appoint a person having authority from, or in accordance with, the rules and regulations governing such religious belief and/or ethnic tradition to ensure that the cemetery is in compliance with the applicable rules and regulations governing such religious belief and/or ethnic tradition with respect to burials. Each inspector appointed pursuant to this section shall be made in consultation with the members of such religious belief and/or ethnic tradition from the community in which the cemetery is located.

§ 6. Section 1513 of the not-for-profit corporation law is amended by adding a new paragraph (e) to read as follows:

(e) Disclosure. No cemetery corporation subject to the provisions of this article shall sell or convey any right to use any lot, plot or part thereof to any person unless such cemetery corporation shall have disclosed to such person the condition of the soil under such lot, plot or part thereof, including but not limited to the existence of groundwater or any other defects or past disturbances which may substantially impair or alter the natural condition of the soil.

§ 7. This act shall take effect on the thirtieth day after it shall have become a law.