

# STATE OF NEW YORK

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4790--A

2023-2024 Regular Sessions

## IN ASSEMBLY

February 23, 2023

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Introduced by M. of A. HEVESI -- read once and referred 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, 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:

1 Section 1. Paragraph (c) of section 1504 of the not-for-profit corpo-  
2 ration law, as added by chapter 871 of the laws of 1977, subparagraph  
3 2-a as amended and subparagraph 2-b as added by chapter 565 of the laws  
4 of 1980, subparagraph 4 as added by chapter 557 of the laws of 1985, and  
5 subparagraph 5 as renumbered by chapter 557 of the laws of 1985, is  
6 amended and a new paragraph (e) is added to read as follows:

7 (c) Powers and duties of the cemetery board. With respect to any  
8 cemetery or cemetery corporation, the cemetery board shall have the  
9 following duties and powers: (1) To adopt such reasonable rules and  
10 regulations as the cemetery board shall deem necessary for the proper  
11 administration of this article. (2) To order any cemetery corporation  
12 to do such acts as may be necessary to comply with the provisions of  
13 this article or any rule or regulation adopted by the cemetery board or  
14 to refrain from doing any act in violation thereof. (2-a) To adopt  
15 reasonable rules and regulations to exempt those cemetery corporations  
16 from the provisions of paragraph (h) of section fifteen hundred ten of  
17 this ~~chapter~~ article which because of a limited number of paid employ-  
18 ees or appropriate resources are unable to carry out such provisions.  
19 (2-b) To adopt reasonable rules and regulations to extend the time peri-  
20 od mandated by the provisions of paragraph (h) of section fifteen  
21 hundred ten of this ~~chapter~~ article when necessary because compliance  
22 by a cemetery corporation within such time period is impossible. (3) To  
23 enforce its orders by mandamus or injunction in a summary proceeding or

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

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1 otherwise. In connection with such action or proceeding, the attorney  
2 general is authorized to take proof, issue subpoenas and administer  
3 oaths in the manner provided in the civil practice law and rules. (4) To  
4 impose a civil penalty upon a cemetery corporation not exceeding one  
5 thousand dollars, after conducting an adjudicatory hearing pursuant to  
6 the provisions of paragraph (e) of this section, and consistent with the  
7 provisions of the state administrative procedure act, for a violation of  
8 or a failure to comply with any provisions contained in this article or  
9 any regulation, directive or order of the board, and without the need to  
10 maintain a civil action pursuant to [~~subdivision~~] subparagraph five of  
11 this paragraph. (5) To maintain a civil action in the name of the people  
12 of the state to recover a judgment for a money penalty imposed under the  
13 provisions of this article.

14 (e) Complaint process. Upon receipt of a consumer complaint form, the  
15 division of cemeteries shall forward such complaint to the cemetery  
16 corporation involved and contact the consumer no later than the close of  
17 business on the day following the date on which the complaint was  
18 received. The cemetery corporation shall respond to the division of  
19 cemeteries within ten business days after receipt of such consumer  
20 complaint. If the initial complaint is not resolved by the cemetery  
21 corporation, the consumer may request that the complaint be escalated to  
22 the cemetery board for investigation and resolution thereof. When a  
23 complaint is escalated, the board may take any action it deems neces-  
24 sary, consistent with the powers and duties of the cemetery board pursu-  
25 ant to paragraph (c) of this section. Upon completion of its investi-  
26 gation, the board shall send a written resolution to the consumer.

27 § 2. Subparagraph 1 of paragraph (e-1) of section 1507 of the not-for-  
28 profit corporation law, as added by chapter 608 of the laws of 1985, is  
29 amended to read as follows:

30 (1) [~~A~~] Any cemetery corporation may, and all cemetery corporations  
31 partially or wholly located in a city with a population of one million  
32 or more shall, subject to the approval of the cemetery board, establish  
33 and maintain a monument maintenance fund. Such a fund is hereby declared  
34 to be and shall be held by the cemetery corporation as a trust fund, for  
35 the purpose of providing notice if such monuments are damaged or defaced  
36 by an act of vandalism and for the restoration of such monuments. Two or  
37 more cemetery corporations may establish a joint monument maintenance  
38 fund.

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