STATE OF NEW YORK

4790--A

2023-2024 Regular Sessions

IN ASSEMBLY

February 23, 2023

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:

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

(c) Powers and duties of the cemetery board. With respect to any cemetery or cemetery corporation, the cemetery board shall have the following duties and powers: (1) To adopt such reasonable rules and regulations as the cemetery board shall deem necessary for the proper administration of this article. (2) To order any cemetery corporation to do such acts as may be necessary to comply with the provisions of this article or any rule or regulation adopted by the cemetery board or to refrain from doing any act in violation thereof. (2-a) To adopt reasonable rules and regulations to exempt those cemetery corporations from the provisions of paragraph (h) of section fifteen hundred ten of this [~~chapter~~] **article** which because of a limited number of paid employees or appropriate resources are unable to carry out such provisions. (2-b) To adopt reasonable rules and regulations to extend the time period mandated by the provisions of paragraph (h) of section fifteen hundred ten of this [~~chapter~~] **article** when necessary because compliance by a cemetery corporation within such time period is impossible. (3) To 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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otherwise. In connection with such action or proceeding, the attorney general is authorized to take proof, issue subpoenas and administer oaths in the manner provided in the civil practice law and rules. (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**~~] **subparagraph** five of this paragraph. (5) To maintain a civil action in the name of the people of the state to recover a judgment for a money penalty imposed under the provisions of this article.

(e) Complaint process. Upon receipt of a consumer complaint form, the division of cemeteries shall forward such complaint to the cemetery 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 ten business 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. Subparagraph 1 of paragraph (e-1) of section 1507 of the not-for-profit corporation law, as added by chapter 608 of the laws of 1985, is amended to read as follows:

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

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