

STATE OF NEW YORK

1616

2023-2024 Regular Sessions

IN SENATE

January 13, 2023

Introduced by Sen. ADDABBO -- 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, 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. Subparagraph 4 of paragraph (c) of section 1504 of the
2 not-for-profit corporation law, as added by chapter 557 of the laws of
3 1985, is amended and two new subparagraphs 4-a and 4-b and a new para-
4 graph (e) are added to read as follows:

5 (4) To impose a civil penalty upon a cemetery corporation not exceed-
6 ing one thousand dollars, after conducting an adjudicatory hearing
7 pursuant to the provisions of paragraph (e) of this section, and
8 consistent with the provisions of the state administrative procedure
9 act, for a violation of or a failure to comply with any provisions
10 contained in this article or any regulation, directive or order of the
11 board, and without the need to maintain a civil action pursuant to
12 subdivision five of this paragraph. (4-a) To adopt reasonable rules and
13 regulations requiring that each cemetery corporation shall carry a
14 liability insurance policy that provides coverage with respect to claims
15 arising out of the death or bodily injury of any person as a result of
16 the collapse of any monument, embellishment or other marker on a plot,
17 lot or part thereof, regardless of whether any such collapse was caused
18 by an act of vandalism committed by a person other than the claimant, in
19 such amounts as the board determines to be adequate for such purpose.
20 (4-b) To adopt reasonable rules and regulations requiring the approval
21 of a licensed engineer prior to: the excavation of any grave, the
22 construction, installation or removal of any mausoleum, vault, columbar-
23 ium or other similar structure, the pouring of concrete for foundation,

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

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1 and other construction or maintenance activities involving the use of
2 heavy machinery.

3 (e) Complaint process. Upon receipt of a consumer complaint form, the
4 division of cemeteries shall forward such complaint to the cemetery
5 corporation involved and contact the consumer no later than the close of
6 business on the day following the date on which the complaint was
7 received. The cemetery corporation shall respond to the division of
8 cemeteries within fourteen calendar days after receipt of such consumer
9 complaint. If the initial complaint is not resolved by the cemetery
10 corporation, the consumer may request that the complaint be escalated to
11 the cemetery board for investigation and resolution thereof. When a
12 complaint is escalated, the board may take any action it deems neces-
13 sary, consistent with the powers and duties of the cemetery board pursu-
14 ant to paragraph (c) of this section. Upon completion of its investi-
15 gation, the board shall send a written resolution to the consumer.

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

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

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

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

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

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

50 § 1510-b. Availability for interment on six-day basis.

51 Every cemetery corporation shall be available for interments at least
52 six days per week, excluding legal holidays, as set forth in the ceme-
53 tery's regulations or in accordance with its practices. Any cemetery
54 which maintains and designates a burial section for persons of a partic-
55 ular religious belief must remain available for grave openings and
56 interments Sunday through Friday or other six-day period in accordance

1 with the religious and/or ethnic traditions of the persons interred in
2 said religious section, and shall remain available for grave openings
3 and interments outside of normal business hours in the case of persons
4 belonging to a religious and/or ethnic tradition that requires burial or
5 interment of a decedent prior to sunset on the date of such decedent's
6 death, provided that any additional costs incurred by the cemetery
7 corporation as a result of such burial or interment shall be chargeable
8 to the person requesting such services outside of normal business hours.

9 Nothing in this section shall require a cemetery to provide grave
10 openings and/or interments if they are otherwise unable to do so as to
11 direct consequence of severe weather conditions or other similar condi-
12 tions.

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

15 § 1510-d. Religious inspectors.

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

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

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

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