STATE OF NEW YORK

4790--B

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 -- reported and referred to the Committee on Ways and Means -- recommitted to the Committee on Ways and Means in accordance with Assembly Rule 3, sec. 2 -- 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

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

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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 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. Paragraph (a) of section 1510 of the not-for-profit corporation law, as amended by chapter 20 of the laws of 2021, is amended to read as follows:

(a) Posting and distribution of rules, regulations, charges and prices. The rules, regulations, charges, and prices of goods, lots, plots or parts thereof, including the corporation's regulations of the spacing between plots, lots, or parts thereof, shall be suitably printed and shall be conspicuously posted by the corporation in each of its offices, if any, and conspicuously displayed on any website the corporation maintains or through which it conducts business. A printed copy of charges and prices of goods, lots, plots or parts thereof shall be made available upon request by any person for up to the actual price of the printing of the copy. For each day in which the corporation fails to post or display the rules, regulations, charges and prices, including the corporation's regulations of the spacing between plots, lots, or parts there-

of, the corporation shall be subject to a penalty of twenty-five dollars which may be recovered in a civil action by the cemetery board. For each instance in which the corporation fails to make available a copy of the prices of goods, lots, plots, or parts thereof, including the corporation's regulations of the spacing between plots, lots, or parts thereof, to a person who requests such copy, the corporation shall be subject to a penalty of twenty-five dollars which may be recovered in a civil action by the cemetery board. The cemetery board may waive the payment of the penalty or any part thereof.

§ 4. Paragraph (b) of section 1513 of the not-for-profit corporation law, as added by chapter 871 of the laws of 1977, is amended to read as follows:

(b) Prices for burial rights and instruments of conveyance. (1) The directors must fix and determine the prices of the burial lots, plots or parts thereof, and keep a plainly printed copy of the schedules of such prices conspicuously posted in each of the offices of the corporation, open at all reasonable times to inspection, and shall file a schedule of such prices in the office of the cemetery board. (2) Unless its certificate of incorporation or by-laws otherwise provide, and subject to its rules and regulations, the corporation shall sell and convey to any person the use of the lots, plots or parts thereof designated on the map filed in the office of the corporation, on payment of the prices so fixed and determined, but need not sell and convey more than one lot, plot or part thereof to any one person. Conveyances of lots, plots and parts thereof shall be signed by the president or vice-president and treasurer or assistant treasurer of the corporation. A written contract for the sale or use of a lot, plot or part thereof shall have attached thereto and made a part thereof a copy of the rules and regulations of the cemetery corporation or such parts of such rules and regulations as relate to the size and placement of monuments, restrictions on plot usage, warranties, obligations of the cemetery corporation and financial obligations, dimensions of spacing between lots, plots, or parts thereof as per the corporation's rules and regulations, and duties of the lot owner. If a lot, plot or part thereof is sold without a written contract, the corporation shall, before any part of the purchase price is paid by the purchaser, deliver to the purchaser a copy of the rules and regulations or such parts thereof as would be required to be attached to a written contract. Nothing in this subdivision shall prevent the subsequent amendment of such rules and regulations to increase the charges for services rendered by the corporation or in other particulars by or with the consent of the cemetery board under section fifteen hundred nine of this article. (3) A cemetery corporation that shall sell a lot, plot or part thereof, in excess of the price shown on the schedule filed in the office of the cemetery board, and any person acting for or on behalf of the cemetery corporation in connection with such sale, shall each forfeit to the people of the state of New York a sum equivalent to three times the excess amount so paid. Such penalty may be recovered in a civil action by the cemetery board. (4) The instrument of conveyance of any burial lot, plot or part thereof shall include the actual amount paid therefor and a description showing the dimensions of the property conveyed, and the plot number, section and block number as they appear on the cemetery map. Such instrument shall also include the dimensions of spacing between plots, lots, or parts thereof as determined by the corporation's rules and regulations.

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