

LEGISLATIVE HISTORY OF R. S. 8A:1-1 et seq.  
(New Jersey Cemetery Act)

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## Previous bills introduced:

1954 - S48 Died in committee  
 1964 - S350 "  
       S376 "  
 1966 - S365 "  
       S429 "  
 1967 - S168 "  
       S509 "  
 1968 - S204 "  
 1969 - S568 "

## L. 1971, Chapter 333 - S877

June 8, 1970 - Introduced by Woodcock and others.

April 19, 1971 - Passed in Senate, amended.

May 6, 1971 - Passed in Assembly, amended.

May 10, 1971 - Assembly amendment passed in Senate.

December 1, 1971 - Approved, Chapter 333, Laws of 1971.

(Amended during passage; however, bill is quite long - 40 pages -  
 and copy is not enclosed. The bill and amendments may be read  
 at the State Library.)

No statement on bill.

Governor's statement on signing. (copy enclosed)

## Hearings and reports:

974.90 New Jersey. Legislature. Assembly. Committee Created to  
 C394 Study Laws Concerning Cemeteries and Mausoleums.  
 1950 Public hearing...October 13, 1950.

974.90 New Jersey. Legislature. Assembly. Committee to Study Laws  
 C394 Concerning Cemeteries and Mausoleums.  
 1951 Public hearing...December 14, 1951.

974.90 New Jersey. Legislature. Assembly. Committee on Cemeteries  
 C394 and Mausoleums.  
 1951a Preliminary report..., 1951.

974.90 New Jersey. Legislature. Assembly. Committee on Cemeteries  
 C394 and Mausoleums.  
 1952 Final report..., 1952.

974.90 New Jersey. Legislature. Senate. State Government Reorganization  
 C394 Committee.  
 1953 Public hearing on Senate Bill No. 218 (establishing and  
 concerning a Division of Cemeteries within the Dept. of Law and  
 Public Safety)...April 13, 1953.

974.90 New Jersey. Legislature. Senate. State Government Reorganization Committee.  
C394 Public hearing on Senate Bill No. 218 (establishing and concerning a Division  
1953a of Cemeteries within the Dept. of Law and Public Safety)... March 30, 1953.

974.90 New Jersey. Legislature. Senate. Committee on Business Affairs.  
C394 Public hearing on Senate bills Nos. 365 and 429 (Revising the New Jersey  
1966 Cemetery Act), held August 3, 17 and 31, 1966.

Newspaper clippings - VF - NJ - Cemeteries

(A selected few are enclosed. Many more are available at the State Library.)

"Cemeteries law scored," Newark Evening News, April 4, 1952, p. 36.

"Cemetery bill is discussed," Trenton Times, April 14, 1953, p. 2.

"Cemetery bill hearings come to a noisy ends," by Robert P. Kalter. Newark Star ledger, September 1, 1966, p. 21.

"Churches jump into cemetery war,;" by Earl Josephson. Trenton Evening Times, May 8, 1969, p. 9.

"

CHAPTER 333 LAWS OF N. J. 1970  
APPROVED 12-1-71

APPROVED

[SECOND OFFICIAL COPY REPRINT]

SENATE, No. 877

# STATE OF NEW JERSEY

INTRODUCED JUNE 8, 1970

By Senators WOODCOCK, STOUT, H. A. KELLY, McDERMOTT,  
TANZMAN and ITALIANO

Referred to Committee on Revision and Amendment of Laws

AN ACT establishing Title 8A of the New Jersey Statutes, Ceme-  
teries, repealing Title 8 of the Revised Statutes, Cemeteries,  
and all amendments and supplements thereto.

1 BE IT ENACTED *by the Senate and General Assembly of the State*  
2 *of New Jersey:*

## Title 8A. CEMETERIES

### CHAPTER 1

#### SHORT TITLE AND DEFINITIONS

1 8A:1-1. This act shall be known and may be cited as the "New  
2 Jersey Cemetery Act."

1 8A:1-2. The following definitions, unless the context indicates  
2 otherwise, apply to this Title:

3 "Burial right" means a legal right of interment granted by a  
4 cemetery company.

5 "Cemetery" means any land or place dedicated for use, used  
6 or intended to be used, for the interment of the human dead in  
7 the ground, in a mausoleum or crypt, and a crematory located in  
8 the cemetery and a columbarium for cinerary interments, or lands  
9 held for burial purposes.

10 "Cemetery board" or "board" means the New Jersey Cemetery  
11 Board.

12 "Cemetery company" means any person, firm, corporation,  
13 trustee, partnership, association or municipality, now or hereafter,  
14 owning, operating, controlling or managing a cemetery, or a mauso-  
15 leum, columbarium, or crematorium or holding lands for burial  
16A grounds or interment purposes in this State \*\*, *provided that the*  
16B *words cemetery company shall not include any religious corporation*  
16C *incorporated pursuant to Title 16 of the Revised Statutes, or any*  
16D *special act of the Legislature or religious society, wherein any*

**EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill  
is not enacted and is intended to be omitted in the law.**

16E *cemetery owned, operated or controlled by such a religious corpora-*  
16F *tion or religious society burials are restricted to members of that*  
16G *particular religious faith and the families of such members\*\*.*

17 "Cemetery official" means any member of the governing body  
18 of a cemetery company or any employee of any cemetery company  
19 acting in a managerial capacity.

20 "Columbarium" means a structure, or room, or other space in  
21 a building or structure, containing niches for permanent inurn-  
22 ment of cremated human remains.

23 "Cremation" means the reduction of the body of a deceased  
24 person to incinerated remains.

25 "Crematory" means a body or structure containing one or more  
26 furnaces or retorts intended for the reduction of bodies of deceased  
27 persons to incinerated remains.

28 "Crypt" means a space in a mausoleum used or intended to be  
29 used above or under ground, to entomb human remains.

30 "Governing body" means the board of directors, board of  
31 managers, board of trustees, or other governing body of a ceme-  
32 tery company.

33 "Grave" means a space of ground not exceeding 40 square feet  
34 in a cemetery used or intended to be used for interment of human  
35 remains.

36 "Human remains" or "remains" means the body of a deceased  
37 person or the dismembered part of a body of a living person and  
38 includes cremated remains.

39 "Interment" means the lawful disposition of human remains  
40 by burial, entombment or inurnment.

41 "Interment space" means a lot or part thereof, grave, crypt,  
42 niche, sarcophagus or other structure intended for the internment,  
43 inurnment or entombment of human remains.

44 "Lot" or "plot" means space in a cemetery, containing two or  
45 more adjoining graves.

46 "Maintenance and preservation" means the maintenance of a  
47 cemetery; or public mausoleum or columbarium owned and oper-  
48 ated by a cemetery company; including cutting of lawns at reason-  
49 able intervals; keeping in repair the drains, water lines, roads,  
50 buildings, fences and other structures owned by the cemetery, in  
51 keeping with a well maintained cemetery, to the extent of the in-  
52 come of the maintenance and preservation fund.

53 "Maintenance and preservation funds," as distinguished from  
54 other receipts of the cemetery company means any property, real  
55 or personal impressed with a trust for the general care of the  
56 cemetery by the terms of any gift, grant, contribution, payment,

57 **\*\*[device]\*\*** *\*\*devise\*\** or bequest, or pursuant to contract, ac-  
58 cepted by any cemetery company owning, operating, controlling or  
59 managing a cemetery, or by any trustee, agent or custodian for  
60 the same, and the amounts set aside pursuant to this act. The  
61 income is to be used to provide the services enumerated as  
62 "maintenance and preservation" and further to provide the over-  
63 head expense necessary for such purposes, including purchase and  
64 maintenance of machinery, tools and equipment for such care;  
65 compensation of employees, payment of insurance premiums,  
66 reasonable payments for employees pension and other benefit plans  
67 and maintenance of necessary records of ownership, transfers and  
67A interments.

68 "Mausoleum" means a permanent structure or building used  
69 for the entombment of human remains in crypts, vaults or niches.  
70 A mausoleum shall be distinguished from a single or multiple  
71 vault in that it shall be constructed on the premises; shall be a  
72 single integrated structure and shall not, as in the case of a vault,  
73 consist of one or more containers constructed off of the cemetery  
74 premises and installed singly or in a series at the cemetery  
75 premises.

76 A public mausoleum shall be distinguished from a private mauso-  
77 leum in that it is constructed by or for the cemetery company  
78 on lands owned exclusively by it, and not by a lot owner, for sale  
79 to the general public of crypts or niches therein for interment  
80 purposes; a private mausoleum is one which is constructed by or  
81 for a lot owner on interment space owned by him in the cemetery  
82 for the interment of such persons as he may have the right to  
83 designate.

84 "Memorial" means an effigy, a grave marker, a family monu-  
85 ment, private mausoleum sarcophagus or other private structure  
86 used for memorializing the dead.

87 "Niche" means a space in a columbarium or mausoleum used,  
88 or intended to be used, for inurnment of cremated human remains.

89 "Owner" or "lot owner" means any person in whose name a lot  
90 is of record as owner in the office of a cemetery company.

91 "Religious corporation" means a corporation incorporated pur-  
92 suant to Title 16, Corporations and Associations, Religious, of the  
93 Revised Statutes.

94 "Vault" means a prefabricated outer burial case of concrete,  
95 natural stone, metal or other material installed in the ground, and  
96 is herein defined to include grave liners, rough boxes, below ground  
97 multiple interment crypts not a part of a public or private mauso-  
98 leum, as defined herein, and any other structure or device of what-

99 soever material and whether placed in the ground prior to or at  
 100 the time of interment and whether or not designated to receive  
 101 and accommodate one interment or more than one interment.

## CHAPTER 2

## NEW JERSEY CEMETERY BOARD

1 8A:2-1. a. There is hereby established in the Department of  
 2 \***[Law and Public Safety]**\* *\*Banking\** a board which shall be  
 3 known as the New Jersey Cemetery Board.

4 b. The New Jersey Cemetery Board shall consist of **\*[seven]\***  
 5 *\*nine\** members, three of whom shall be ex-officio members, viz., the  
 6 Attorney General, the Commissioner of Banking and the Commis-  
 7 sioner of Health, or when so designated by them, their **\*[deputies]\***  
 8 *\*designees\**; **\*[and four]\*** *\*five\** regular members, each of whom  
 9 has served, for a period of at least five consecutive years im-  
 10 mediately preceding his appointment, as a member of a board of  
 11 managers, directors, trustees, general manager or superintendent  
 12 of a cemetery company\*; *and one public member who shall have no*  
 13 *interest directly or indirectly in any cemetery company or **\*\*[its]\*\****  
 14 *\*\*any\*\* allied industries\**. Each of the regular members *\*\*and*  
 14A *the public member\*\** shall be appointed by the Governor with the  
 14B advice and consent of the Senate.

16 c. The terms of the **\*[four]\*** *\*five\** regular members *\*and one*  
 17 *public member\** first appointed shall be arranged by the Governor  
 17A so that **\*[one]\*** *\*two\** of such terms shall expire in 1 year, **\*[one in**  
 17B *2 years, one in 3 years, and one in 4 years]\** *\*two in 2 years, and*  
 17C *two in 3 years\**. Thereafter all appointments shall be for the term  
 17D of 4 years. Vacancies shall be filled **\*[by appointment]\*** *\*in the*  
 17E *same manner as original appointments but\** for the unexpired term  
 17F only.

18 d. Any member of the New Jersey Cemetery Board may be re-  
 19 moved from office by the Governor for cause, upon notice and  
 20 opportunity to be heard.

21 e. The members of the New Jersey Cemetery Board shall serve  
 22 without compensation but shall be reimbursed for reasonable and  
 23 necessary expenses incurred in the performance of their official  
 24 duties.

25 f. The members of the board shall elect a chairman and secre-  
 26 tary from among their own number. The board shall meet at least  
 27 four times each year, at the call of its chairman or at the written  
 28 request of two members of the board directed to its chairman. The  
 29 chairman shall fix the time and place for such meetings.

30 g. The work of the New Jersey Cemetery Board shall be under

31 the immediate supervision of an executive director who shall be  
 32 appointed by the board for a term of 6 years. The board shall fix  
 33 the compensation of the executive director within the limits of  
 34 available appropriations.

35 The executive director shall not have any interest *\*directly or*  
 36 *indirectly in any cemetery company or\** in any individual, partner-  
 37 ship or corporate entity which does business with or at any  
 37A cemetery.

38 h. Subject to the approval of the **\*\*[Attorney General]\*\***  
 39 **\*\*Commissioner of Banking\*\*** and the provisions of Title 11, Civil  
 40 Service, the New Jersey Cemetery Board may appoint, employ or  
 41 remove such assistants and employees as may be necessary to carry  
 42 out the provisions of this act. The board shall be entitled to call  
 43 upon its assistants and avail itself of the services of such employees  
 44 of any State department or agency as it may require and as may  
 45 be made available to it for such purpose. Expenditures of the  
 46 board in any given fiscal year shall not exceed board revenues  
 47 and all expenditures shall be in accordance with the annual appro-  
 48 priations act.

49 i. **\*\*[Five]\*\*** **\*\*Seven\*\*** members of the New Jersey Cemetery  
 50 Board shall constitute a quorum to transact business of the board  
 51 and all actions of the board shall require the affirmative vote of  
 52 at least **\*\*[four]\*\*** **\*\*six\*\*** members.

1 8A:2-2. The New Jersey Cemetery Board shall have full power  
 2 and authority to administer the provisions of this act.

1 8A:2-3. In any action or proceeding affecting or instituted by  
 2 any cemetery company the New Jersey Cemetery Board shall be  
 3 served with notice thereof in the same manner as any necessary  
 4 party and shall take such steps in the action or proceeding as it  
 5 may deem necessary to protect the public interest.

1 *\*8A:2-4. Nothing in this act shall prohibit the Attorney General*  
 2 *from exercising any of the powers heretofore exercised by him*  
 3 *regarding cemeteries.\**

### CHAPTER 3

#### ORGANIZATION OF CEMETERY COMPANIES

1 8A:3-1. No cemetery established after the effective date of this  
 2 act shall be owned, maintained or operated except by the Federal  
 3 Government, a political subdivision of this State, a religious cor-  
 4 poration or by a cemetery company organized in accordance with  
 5 this chapter.

1 8A:3-2. Before any cemetery company organized after the effec-  
 2 tive date of this act, subject to the provisions of this act, shall  
 3 engage in any function or operation of a cemetery there shall be

4 issued to such cemetery a certificate of authority to so operate.  
5 Such certificate shall be issued by the New Jersey Cemetery Board  
6 in accordance with this chapter.

1 8A:3-3. The application for such certificate of authority by any  
2 cemetery company organized after the effective date of this act  
3 shall be made in writing to the cemetery board, be verified under  
4 oath and shall contain such information as the cemetery board  
5 by regulation shall require to enable the board, in its discretion  
6 to determine whether the issuance of the certificate is warranted.  
7 This information shall be directed to the fitness of the applicant;  
8 its ability to properly perform the services proposed; its ability  
9 to conform to the provisions of this act and the requirements, rules  
10 and regulations of the cemetery board; its ability to comply with  
11 any pertinent regulation for the protection of health, promulgated  
12 by either the New Jersey Department of Health, the cemetery  
13 board, or local health authorities; the necessity for the services  
14 sought to be provided, taking into consideration such factors as  
15 the present or future public need and convenience, and any perti-  
16 nent territorial qualifications.

1 8A:3-4. The procedure to be followed by any applicant for a  
2 certificate of authority shall be in conformity with this act and  
3 any other procedures established by the New Jersey Cemetery  
4 Board.

1 8A:3-5. Any cemetery company organized after the effective  
2 date of this act shall be organized and operated by compliance  
3 with the provisions of Title 15 of the Revised Statutes, Corpora-  
4 tions and Associations Not For Profit, and of this act.

1 8A:3-6. Any cemetery company may amend its charter to op-  
2 erate as a nonprofit lot owner cemetery subject to the provisions  
3 of this act provided a plan for the conversion of its issued stock  
4 to certificates of interest is first approved by a majority of its  
5 stockholders, and by a majority of its lot owners in attendance  
6 at and voting at a meeting called for that purpose. The stock-  
7 holders shall be given 10 days notice of said meeting by mail and  
8 the lot owners shall be notified of the meeting by a notice published  
9 at least 10 days in advance of said meeting date in a newspaper  
10 qualified to publish legal notices and circulated in the county in  
11 in which the cemetery is located. Said notice is to set forth the  
12 purpose of the meeting.

13 Upon approval of its stockholders and lot owners as herein pro-  
14 vided, the amended charter shall be filed with the Secretary of  
15 State and a certified copy filed with the cemetery board. *\*Both the*

16 *Secretary of State and the cemetery board shall each be paid a fee*  
17 *of \$10.00 at the time of filing the amended charter.\**

1 8A:3-7. The charter of a cemetery company organized hereafter  
2 under Title 15 of the Revised Statutes must list in that section  
3 of the charter devoted to the purposes for which the cemetery  
4 company is organized, all those functions which the cemetery com-  
5 pany proposes to perform in the conduct of the cemetery business.  
6 Such activities shall be specifically set forth in such terms as will  
7 clearly apprise the board of the intentions of the cemetery com-  
8 pany, and upon full compliance with this act the certificate of  
9 authority shall be issued.

10 Any cemetery company granted a certificate of authority under  
11 the provisions of this act which thereafter seeks to amend its  
12 charter, must first have such amendment approved by the board.  
13 *\*At the time of filing said amendment with the cemetery board for*  
14 *review and approval, there shall be paid to the cemetery board a*  
15 *fee of \$10.00.\**

1 8A:3-8. Any amendment to the charter of a company which  
2 seeks to engage in the operation of a cemetery must first have  
3 such amendment approved by the New Jersey Cemetery Board.  
4 The New Jersey Cemetery Board in granting or withholding its  
5 approval shall conform to the provisions of this act.

1 8A:3-9. Any cemetery company which has been engaged in the  
2 operation of a cemetery prior to the enactment of this statute,  
3 and which is now engaged in the operation of a cemetery in this  
4 State, **\*\*[is hereby]\*\*** *\*\*shall be\*\** granted a certificate of  
4A authority *\*\*in accordance with section 8A:3-13(2)\*\**, and the rights  
5 and obligations granted to it under its charter, whether created  
6 by special act or otherwise are hereby preserved, subject to the  
7 provisions of chapter 5 of this act.

1 8A:3-10. In the case of cemetery companies organized after the  
2 effective date of this act, the New Jersey Cemetery Board shall  
3 establish a register of applications for such certificates of au-  
4 thority. Each such application shall, upon its receipt at the offices  
5 of the New Jersey Cemetery Board, be recorded in such register  
6 of applications and the date of its receipt noted therein. *\*There*  
7 *shall be paid along with each such application a fee of \$100.00 pay-*  
8 *able to the New Jersey Cemetery Board.\** No such application for  
9 a certificate of authority shall be acted upon by the New Jersey  
10 Cemetery Board, either by way of grant or denial, for a period of at  
11 least 60 days from the date of its receipt and registration. The  
12 register of applications shall be open to the inspection of any

13 member of the public during normal business hours at the office of  
14 the New Jersey Cemetery Board.

1 8A:3-11. Any member of the public may file written objections  
2 to the grant of such application for a new cemetery at the office  
3 of the New Jersey Cemetery Board at its established office. Upon  
4 the receipt of any written objection, and prior to taking any action  
5 to grant or deny the application, the New Jersey Cemetery Board  
6 shall notify the objecting member of the public and the applicant  
7 of the time and place of a public hearing which it shall conduct  
8 for the purpose of receiving evidence from the objecting member  
9 of the public and from the applicant.

1 8A:3-12. The grant or denial of each certificate of authority  
2 applied for shall be recorded in the register of applications.

1 8A:3-13. (1) The charter of a cemetery company organized  
1A under Title 15 of the Revised Statutes, as provided for herein,  
2 shall state in that section of the charter devoted to the purposes  
3 for which the cemetery company is organized one or more of the  
4 following purposes:

5 a. The procuring and holding of lands to be used exclusively  
6 for a cemetery or a place for the burial of the dead.

7 b. The interment or inurnment of human remains.

8 c. The procurement and operation of a crematory.

9 d. The procurement and operation of a mausoleum.

10 e. The procurement and operation of a columbarium.

11 f. The care and preservation of any of the lands or structures  
12 specified in the foregoing stated purposes. The stated purposes  
13 of the cemetery company shall be considered by the cemetery  
14 board and may be used by them as a basis for their determination  
15 as to whether a certificate of authority shall issue.

16 (2) Any cemetery company organized prior to the effective date  
17 of this act shall, within 90 days from the effective date of this act,  
18 apply to the New Jersey Cemetery Board for the issuance to it  
19 of a certificate of authority\*, *along with a fee of \$100.00 payable to*  
20 *the New Jersey Cemetery Board\**.

1 8A:3-14. a. No person shall build, construct or erect, wholly or  
2 partially above the surface of the ground, a public mausoleum,  
3 vault, crypt or other structure intended to hold or contain dead  
4 bodies, without obtaining a building permit from the building  
5 inspector of the municipality in which it is proposed to build or  
6 erect said structure. A denial or failure to issue said permit shall  
7 be reviewable in the Superior Court by a proceeding in lieu of  
8 prerogative writ.

9 b. Full detailed plans and specifications of said structure shall  
10 be presented to the State Department of Health for its examina-  
11 tion and approval before the commencement of the erection thereof.  
12 Before approving the plans and specifications the State Depart-  
13 ment of Health shall be satisfied that the mausoleum proposed  
14 to be constructed can be operated and maintained without consti-  
15 tuting a hazard to public health or safety.

16 The approval of the plans and specifications by the State De-  
17 partment of Health shall be evidenced by a certificate in writing,  
18 properly signed, which certificate with the detailed plans and  
19 specifications so approved shall, before work is begun on the  
20 structure, be filed in the office of the clerk of the county wherein  
21 the structure is to be erected and there remain as a public record.

22 c. The process of construction and erection of the structure shall  
23 be at all times under the supervision of the said building inspector,  
24 whose duty it shall be to see that the approved plans and specifi-  
25 cations are complied with in every particular as to kind, quality,  
26 character and quantity of all materials. No departure or devia-  
27 tion from the original plans and specifications shall be permitted,  
28 except upon the approval of the said State Department of Health  
29 evidenced and filed in like manner and form as the approval of  
30 the original plans and specifications.

31 d. No structure erected under the provisions of *\*\*this\*\** section  
32 **\*\*[8A:3-13 (d)]\*\*** shall be used for the purpose of interring or  
33 depositing therein any dead body until there shall have been  
34 obtained a certificate signed by the building inspector of the munici-  
35 pality in which the structure shall have been erected, which  
36 certificate shall show that the plans and specifications as filed have  
37 been complied with fully in every particular, nor until the certificate  
38 shall be filed with the clerk of the county wherein the structure is  
38A located.

39 e. No structure constructed or erected under the provision of  
40 *\*\*this\*\** section **\*\*[8A:3-13 (d)]\*\*** shall be used for the interment  
41 or depositing therein of a dead body until a trust fund shall have  
42 been established and set apart in accordance with the laws regulat-  
43 ing trust funds in this State, of not less than ten per cent of the  
44 total cost of the structure. The interest on the trust fund, and the  
45 interest only, shall be used for the perpetuation of the structure.  
46 This provision shall not apply to private mausoleums or temporary  
47 receiving vaults.

48 f. This section **\*\*[8A:3-14 (c)]\*\*** shall not apply to a public  
49 mausoleum, vault, crypt or other structure intended to hold or

50 contain dead bodies, constructed or erected or in the course of  
51 construction or erection prior to March 21, 1916.

52 g. Any officer, manager or director of a cemetery company will-  
53 fully failing to comply with the provisions of this section shall be  
54 personally liable therefor and shall be liable to a penalty of  
55 \$1,000.00.

1 8A:3-15. In the case of cemeteries other than those owned by  
2 shareholders, each owner of a lot shall be considered a member of  
3 the cemetery company and shall have one vote wherever voting  
4 by the members is required under the provisions of any law, sub-  
5 ject to the following qualifications:

6 a. If any lot is owned by more than one person, then a majority  
7 of the owners thereof shall decide among themselves who shall  
8 cast the vote represented by said ownership.

9 b. No lot owner shall be entitled to vote unless all charges and  
10 assessments against the lot of said owner have been paid.

11 c. Proxy voting shall be permitted except that no proxy shall  
12 be valid more than 3 years following the date of said proxy.

13 d. Any person owning certificates of indebtedness or certificates  
14 of interest shall have one vote for each \$500.00 value thereof.

15 e. An organization shall have one vote for each lot owned, ex-  
16 cept that it shall not have more than 100 votes.

1 8A:3-16. At least one member of the governing body of a ceme-  
2 tery company must be a resident of the State of New Jersey.

1 8A:3-17. The managers, trustees or directors of a cemetery  
2 company shall at each annual meeting report to the lot owners  
3 as to their activities and management and also as to the condition  
4 of the property and affairs of the cemetery company. At least  
5 20 days prior to the occurrence of such annual meeting a notice  
6 thereof shall be placed at some prominent place at the office of  
7 the cemetery company and shall be published in a newspaper hav-  
8 ing general circulation in the county in which such cemetery com-  
9 pany operates a cemetery.

1 8A:3-18. Following the effective date of this act, no cemetery  
2 company operating under this act shall be dissolved without first  
3 obtaining the approval of the board.

1 8A:3-19. Following the effective date of this act no two or more  
2 cemetery companies shall merge or consolidate except to improve  
3 the financial or operating conditions of the cemeteries. The ap-  
4 proval of the board must be obtained to such merger or consoli-  
5 dation.

1 8A:3-20. Nothing contained in this Title shall authorize the New  
 2 Jersey Cemetery Board to establish the prices at which lots may  
 3 be sold or the charges made for services rendered by cemetery  
 4 companies.

1 8A:3-21. The cemetery board shall be a necessary and indis-  
 2 pensable party to any litigation involving or pertaining to a ceme-  
 3 tery company.

#### CHAPTER 4

##### TRUST FUND

1 8A:4-1. It is hereby declared to be the public policy of this State  
 2 that a primary obligation of each cemetery company shall be the  
 3 creation of an adequate fund for the permanent maintenance and  
 4 preservation of the cemetery.

1 8A:4-2. There shall be established, by each and every cemetery  
 2 operating within this State under certificate of authority issued  
 3 therefor by the New Jersey Cemetery Board, a special, irrevoca-  
 4 ble trust fund for the purpose of continuous maintenance and  
 5 preservation of the cemetery. The fund shall be called the Mainte-  
 6 nance and Preservation Fund.

7 The fund shall be invested in legal investments and the income  
 8 therefrom shall be applied to the maintenance, embellishment and  
 9 preservation of the cemetery *\*\*in accordance with the definitions*  
 10 *contained in this act\*\**. **\*\*** [This shall include upkeep, improvement,  
 10A ornamentation and repair and overhead expenses relevant  
 11 thereto.] **\*\***

12 The creation, perpetuation and operation of the fund shall be  
 13 supervised by the cemetery board pursuant to the provisions of  
 14 this act. The said board may make such rules and promulgate  
 15 such regulations as it deems necessary to insure proper and ef-  
 16 fective compliance with the purpose of this chapter.

1 8A:4-3. Any cemetery company incorporated after the effective  
 2 date of this act shall, as a condition for the issuance to it of a  
 3 certificate of authority to operate a cemetery, cause to be deposited  
 4 in a banking institution authorized by law to maintain trust ac-  
 5 counts and having and maintaining a principal place of business  
 6 within this State, the sum of \$25,000.00 in trust, and shall desig-  
 7 nate such banking institution as trustee of the fund so deposited.  
 8 The income received from such account shall be paid to the ceme-  
 9 tery company to be used for maintenance and preservation of the  
 10 cemetery. The fund so deposited shall be called Initial Balance  
 11 Fund.

12 Within 1 month after the issuance of a certificate of authority  
 13 and before it shall dispose of any interment space, the cemetery  
 14 company shall cause to be established a second trust fund in a  
 15 banking institution authorized by law to maintain trust accounts  
 16 and having and maintaining a place of business within this State.  
 17 This second fund shall be called the Maintenance and Preservation  
 18 Fund and shall be augmented from time to time as set forth in  
 19 this act.

20 Whenever the cemetery company shall have deposited in its  
 21 Maintenance and Preservation Fund a sum amounting to \$50,000.00,  
 22 it shall submit proof thereof to the board and the board shall  
 23 thereupon issue an authorization to the banking institution acting  
 24 as trustee of the Initial Balance Fund directing the release of the  
 25 corpus of said fund to the cemetery company which established  
 26 the fund.

1 8A:4-4. Each and every cemetery company organized before  
 2 the effective date of this act which has obtained a certificate of  
 3 authority to operate a cemetery from the board, shall within 1  
 4 month following the issuance of the certificate of authority, cause  
 5 to be established a custodial trust fund in a banking institution  
 6 authorized by law to maintain trust accounts and having and main-  
 7 taining a place of business within this State. This fund shall be  
 8 called the Maintenance and Preservation Fund and shall be aug-  
 9 mented from time to time as set forth in this act, or as ordered by  
 10 the cemetery board.

1 8A:4-5. The cemetery company shall collect and pay into the  
 2 Maintenance and Preservation Fund the following fees and  
 3 charges:

4 a. From the \***[purchaser]**\* *\*proceeds\** in the initial sale by a  
 5 cemetery company a sum equal to a minimum of 15% of the gross  
 6 sales price of the lot *\*provided, however, that no cemetery shall be  
 7 prevented from paying into the Maintenance and Preservation  
 8 Fund an amount greater than 15% of the gross sales price of the  
 9 lot\**.

10 On resale, except upon resale made to the cemetery company  
 11 in accordance with the provisions of this act, a minimum of 15%  
 12 of the gross sales price of the interment space.

13 b. *\*From the proceeds at the time of interment\** **[A]** *\*a\**  
 14 minimum of \$10.00 for each interment;

15 c. A minimum of \$0.05 per square inch of surface area of the  
 16 base of a memorial;

17 d. From the \***[purchaser]**\* *proceeds* a minimum of 10% of the  
18 sale price of crypts or niches in a public mausoleum or columbarium  
19 which shall be in addition to any other funds required by law;

20 e. Where prior to the effective date of this act cemetery com-  
21 panies were under obligation by virtue of contracts or court judg-  
22 ments to contribute percentages of the proceeds of land sales to  
23 trust funds for maintenance and preservation, the charges required  
24 by section \***[8A:4-4]**\* *8A:4-5* (a) shall be reduced by the extent  
25 of the contribution percentages required by such prior contracts or  
26 court judgments.

1 8A:4-6. Any cemetery company which operated as such prior to  
2 the effective date of this act and which in the course of said op-  
3 eration had established a fund or funds for the maintenance and  
4 preservation or for the perpetual care of the cemetery shall, upon  
5 the establishment of the Maintenance and Preservation Fund, as  
6 provided in this act, transfer to and commingle with said Mainte-  
7 nance and Preservation Fund all of the aforesaid funds previously  
8 accrued and held in trust, except that this section shall not apply  
9 to *\*\*specially designated\*\** funds held in trust as provided in this  
10 act. Where prior to the effective date of this act a cemetery com-  
11 pany has contracted for the payment of annual care and main-  
12 tenance charges, it may continue to collect such annual care and  
13 maintenance charges in accordance with the terms of said contracts.  
14 The governing body of a cemetery company may assess a reason-  
15 able annual charge against each lot and grave which was sold with-  
16 out any provision for maintenance and preservation on the part  
17 of the cemetery company.

18 The annual charge so levied shall be a lien on the lots and  
19 graves and no interments may be made in or any memorials in-  
20 stalled on any lot or grave while such charge remains unpaid and  
21 arrangements are made with the cemetery company for continuing  
22 care of the lot or grave in question.

1 8A:4-7. Any person by his last will and testament or otherwise  
2 may create a trust fund to be held in perpetuity or for a lesser  
3 time, the income of which is to be used for the care or embellish-  
4 ment of any cemetery or interment space or public or private  
5 structure or memorial therein, provided, however, that where any  
6 last will and testament purports to create such a fund, the Su-  
7 perior Court of New Jersey may, upon accounting or upon the  
8 settlement of the account, determine whether, in view of the size  
9 of the estate and any other pertinent circumstances, the testa-  
10 mentary provision aforesaid is reasonable. Should the court find

11 that the trust fund established is excessive for the purposes in-  
12 tended, it may fix in lieu thereof a reasonable sum.

1 8A:4-8. Every cemetery company and any person acting under  
2 an agreement for the management of a cemetery trust fund, may  
3 receive by gift, \*\*~~demise~~\*\* *devise*\*\*, bequest, grant or agree-  
4 ment, moneys, real or personal property or the income from such  
5 moneys or property, in trust, in perpetuity, for the present and  
6 future improvement, maintenance, ornamentation, repair, care and  
7 preservation of the cemetery, public or private structure, interment  
8 space or memorial therein, on such terms and in such manner as  
9 may be provided by the terms of the gift, \*\*~~demise~~\*\* *devise*\*\*,  
10 bequest or grant of the moneys or property in trust. No payment,  
11 gift, grant, bequest or other contribution to such fund shall be  
12 invalid by reason of any indefiniteness or uncertainty as to the  
13 persons designated as beneficiaries nor shall the instrument creat-  
14 ing such gift, \*\*~~demise~~\*\* *devise*\*\*, bequest, grant or agree-  
15 ment, or contribution be invalid as violating any law against  
16 perpetuities or the suspension of the power of alienation of title  
17 to property. Should any such trust be existent at the effective  
18 date of this act, then the cemetery company shall continue to  
19 administer said fund in accordance with the terms of the trust  
20 instrument, otherwise the principal of the funds may be commingled  
21 with the other trusts, the income to be proportionately applied  
22 to the designated trust. Any and all trust funds established  
23 hereunder or previously existent may be invested in accordance  
24 with this act jointly or in combination with any other trust fund  
25 or funds in order to achieve the most effective return from said  
26 investment. Any trustee holding trust funds created under the  
27 provisions of this act shall be entitled to deduct and retain as and  
28 for his commission for collecting and disbursing the income there-  
29 from not to exceed 6% of the income.

1 8A:4-9. If a cemetery company acquires lands for cemetery pur-  
2 poses pursuant to this act and provides for the payment of the  
3 purchase price thereof by the issuance of certificates in a sum  
4 certain for a specified interest in the sale of interment space in  
5 such lands, said cemetery company, may, with the approval of the  
6 board, and by agreement with the holders of the certificates of  
7 interest in the proceeds of the sale, provide for the withdrawal  
8 of a fixed proportion of the proceeds which shall be used to aug-  
9 ment the Maintenance and Preservation Fund.

1 8A:4-10. A minimum of \*\*~~10%~~\*\* *10%* of the sale price or value, which-  
2 ever is the greater, \*\*~~\$1.00~~\*\* *\$1.00 per cubic foot, by exterior measure-*

3 *ment\*\** of any private mausoleum, sarcophagus or other private  
4 structure for interment, shall be deposited with the cemetery com-  
5 pany in trust before said structure is erected. The income from  
6 said trust fund shall be used to the extent thereof, for the care and  
7 maintenance of the structure and the care, maintenance and  
8 embellishment of the area on which said structure is erected, and  
9 shall not be devoted to the care or maintenance of any other lot or  
10 other portion of the cemetery.

1 8A:4-11. The trust funds of any cemetery company shall be  
2 invested in any securities which are now or may hereafter be  
3 lawful for the investment of trust funds in this State, and when  
4 so invested, no cemetery company or any officer thereof shall be  
5 held liable for any loss resulting from such investment.

6 This section shall not apply where said fund has been estab-  
7 lished by the last will and testament of a deed of trust of any  
8 individual which instrument specifically directs the type, class or  
9 kind of securities in which said funds shall be invested, in which  
10 event said directions shall control.

1 8A:4-12. a. Every cemetery company shall file with the New  
2 Jersey Cemetery Board on a form established by the board, an  
3 annual report showing the extent of and sources of augmentation  
4 of the permanent maintenance and preservation fund and the  
5 manner of employment by said cemetery company of the income  
6 of the permanent maintenance and preservation fund during the  
7 preceding year, which report shall also contain a list of the securi-  
8 ties in which said trust funds are invested. If the report so filed  
9 is deemed inadequate to properly apprise the New Jersey Cemetery  
10 Board of the information it requires to effectively administer the  
11 provisions of this act, it shall request a supplemental report and  
12 in its discretion conduct an investigation of the operations of the  
13 cemetery company.

14 Officials, managers and trustees or employees of every cemetery  
15 company shall exhibit its books, papers and securities to the board  
16 when required and otherwise facilitate any examination of said  
17 company. Any cemetery official or employee may be required to  
18 testify under oath as to the conditions and affairs of the cemetery  
19 company.

20 b. To defray the expenses of examination and administration,  
21 each cemetery company, except any religious corporation, shall,  
22 at the time of filing its accounting and report as to its permanent  
23 maintenance and preservation fund, but not later than 120 days  
24 after the close of the cemetery company's fiscal year, pay to the

25 cemetery board the sum of \$1.00 per interment in excess of 25  
26 interments for the preceding fiscal year, but in no event shall a  
27 cemetery company pay in excess of \$1,000.00 per fiscal year.

28 c. The annual report required by this section shall be filed by  
29 the cemetery company no later than 120 days after the close of  
30 the cemetery company's fiscal year.

1 8A:4-13. If it appears to the New Jersey Cemetery Board from  
2 any report filed or investigation made that the principal of any  
3 trust fund is not being properly invested, the New Jersey Ceme-  
4 tery Board shall have the authority to order the cemetery com-  
5 pany to immediately dispose of all unauthorized securities and to  
6 properly invest the trust fund.

1 8A:4-14. If, as the result of any report required by this act,  
2 or investigation by the New Jersey Cemetery Board or otherwise,  
3 it shall appear that the Maintenance and Preservation Fund is  
4 not being maintained as herein provided, the board may formulate  
5 a plan which will supplement the Maintenance and Preservation  
6 Fund. The effectuation of such a plan, when approved by the  
7 board, shall be deemed a mandate upon the cemetery company  
8 and its officials, and failure on their part to institute the recom-  
9 mended plan within 60 days following the presentation of said  
10 plan to the cemetery company by the board, shall be a violation  
11 of this act.

1 8A:4-15. A cemetery company may\*\*[, subject to the approval  
2 of the New Jersey Cemetery Board,]\*\* sell free from any dedica-  
3 tion for cemetery purposes, any land or interest in land which is  
4 not, in the judgment of the cemetery company, necessary or suitable  
5 for interment purposes, providing no interment has been made  
6 therein. As a further condition of any such sale, the deed of  
7 conveyance shall be required to include a perpetual prohibition on  
8 the use of the premises so conveyed for any of the purposes or uses  
9 in which cemetery companies are, by the terms of this act (8A:5-3),  
10 specifically prohibited from engaging. Not less than 15% of the  
11 proceeds of said sale shall be deposited in the maintenance and  
12 preservation fund.

1 8A:4-16. Nothing in this act contained shall in any wise affect  
2 any certificates of interest in the proceeds of sales of lots, which  
3 have been heretofore issued by a cemetery company in payment  
4 for its lands pursuant to law at the time of issuance, nor affect  
5 the rights of any shareholders having an interest in the proceeds  
6 of the sales of lots.

## CHAPTER 5

## OPERATION AND MANAGEMENT OF CEMETERY COMPANIES

1 8A :5-1. The governing body of every cemetery shall:

2 a. Make reasonable rules and regulations for the use, care, man-  
3 agement and protection of the property of the cemetery company  
4 and of all lots, plots and parts thereof; for regulating the dividing  
5 marks between the lots, plots and parts thereof; for prohibiting  
6 or regulating the erection of structures upon such lots, plots or  
7 parts thereof; for preventing unsightly monuments, effigies and  
8 structures within the cemetery grounds, and for the removal  
9 thereof.

10 b. Fix and make reasonable charges for any acts and services  
11 rendered by the cemetery company in connection with the use,  
12 care, including perpetual, annual and special care, management  
13 and protection of lots, plots and parts thereof.

1 8A :5-2. The governing body of every cemetery company may:

2 a. Enact reasonable regulations relating to uniformity, class,  
3 composition, material, kinds and sizes of all markers, monuments  
4 and other structures within the cemetery provided that no regu-  
5 lation shall be enacted or established to prevent competition or  
6 create a monopoly in favor of any person, firm or corporation.

7 b. Authorize the cemetery company to engage in the sale of  
8 interment space, adornment, embellishment, sod and planting to  
9 its interment space owners, to build and operate a public mauso-  
10 leum and crematorium.

11 c. Regulate or prevent the introduction or culture of plants and  
12 shrubs within the cemetery.

13 d. Prevent the interment in any interment space of human re-  
14 mains not entitled to interment therein under the provisions of  
15 this act and prevent the use of interment spaces for purposes  
16 violative of the cemetery restrictions, rules and regulations.

17 e. Regulate the conduct of persons and prevent improper as-  
18 semblages in the cemetery.

19 f. Reserve to the cemetery the exclusive right to open and fill  
20 graves, furnish equipment deemed necessary, to *\*manufacture*  
21 *and\** install foundations, set and seal vaults, seal crypts and niches  
22 and install all *\*flush\** memorials.

23 g. Prohibit the erection of memorials, effigies or structures upon  
24 portions of the cemetery and make provisions for the removal  
25 thereof at the cost of the lot owner when erected in violation of  
26 cemetery rules and regulations or when said memorials, effigies or  
27 structures become unsightly or dangerous.

1 8A:5-3. Every cemetery company whether incorporated or or-  
2 ganized prior to or subsequent to the effective date of this act,  
3 is specifically prohibited from engaging, directly or indirectly, in  
4 any of the following activities:

5 a. The manufacture or sale of monuments, markers or bronze  
6 memorials.

7 b. The manufacture or sale of vaults as defined in this act and  
8 the manufacture or sale of private mausoleums or any private  
9 sarcophagus.

10 c. The conduct of any funeral home or engaging in the business  
11 or profession of mortuary science.

1 8A:5-4. a. The governing body of any cemetery company or-  
2 ganized on or before the effective date of this act shall file in the  
3 office of the cemetery board the name and address of the cemetery  
4 company together with its rules, regulations and its charges for  
5 services within 90 days after the time this act takes effect. The  
6 directors of any cemetery company organized after the effective  
7 date of this act shall file in the office of the cemetery board the  
8 name and address of the cemetery company together with its  
9 rules, regulations, and its charges for services within 90 days after  
10 the date of the filing of the certificate of incorporation in the office  
11 of the Secretary of State.

12 b. The rules and regulations of a cemetery company may be  
13 amended or added to by the cemetery company by filing such pro-  
14 posed amendments or additions in the office of the cemetery board.

14A *\*c. Any filing pursuant to paragraphs a. and b. above shall be*  
14B *accompanied by a filing fee of \$10.00 payable to the New Jersey*  
14C *Cemetery Board.\**

15 *\*d.\** If any member of the public shall file a written complaint  
16 with the cemetery board concerning the operations or activities of  
17 any cemetery company, then the cemetery board may require of the  
18 cemetery company:

19 **\*[c.]\*** *(1)* A statement of the source and amount of all revenue  
20 and income. It shall not be necessary for the purposes of compliance  
21 with this paragraph that the sale of lots be reported on an indi-  
22 vidual sale basis.

23 **\*[d.]\*** *(2)* A detailed statement of all expenses and disburse-  
24 ments including deposits to trust funds. Except as otherwise  
25 specifically stated in this section, it shall not be necessary for the  
26 purposes of compliance with this paragraph to recite each such  
27 disbursement but total disbursements in specific categories shall be  
28 deemed to be sufficient compliance.

1 8A:5-5. The rules, regulations and charges for services shall  
2 be suitably printed and shall be conspicuously posted by the ceme-  
3 tery company in each of its offices. For each day in which the  
4 cemetery company fails to post the rules, regulations and charges  
5 for services the cemetery company shall be subject to a penalty  
6 of \$25.00 which may be recovered in a civil action by the cemetery  
7 board. The cemetery board may waive the payment of the penalty  
8 or any part thereof.

1 8A:5-6. A record shall be kept of every interment, which shall  
2 include the date of interment; the name and age of the person  
3 interred; the cause of death when shown on the burial permit; the  
4 location of the interment and the name of the funeral director.

1 8A:5-7. A record shall be kept by every cemetery company of  
2 the ownership of all interment spaces in the cemetery which have  
3 been conveyed by the cemetery company and all transfers of in-  
4 terment spaces in the cemetery to which the cemetery company  
5 has consented. No transfer of any interment space hereafter made,  
6 or any right of interment, shall be complete or effective until re-  
7 corded as herein provided on the books of the cemetery company  
8 and any fees required paid.

1 8A:5-8. a. The governing body of the cemetery company shall  
2 fix and determine the prices of burial lots, plots or parts thereof.

3 b. The instrument of conveyance of any burial lot, plot or part  
4 thereof shall include the actual amount paid therefor and a de-  
5 scription showing the dimensions of the property conveyed, and  
6 the plot number, section and block number as they appear on the  
7 cemetery map.

1 8A:5-9. During the time that the lands of any cemetery company  
2 are actually used for cemetery purposes, no street, road, avenue  
3 or thoroughfare shall be laid through, over or under such lands,  
4 or any part thereof, without the consent of the cemetery company,  
5 unless otherwise provided by law.

1 8A:5-10. Cemetery companies shall be exempt from the payment  
2 of any real estate taxes on lands dedicated for cemetery purposes,  
3 personal property taxes, business taxes, sales taxes, income taxes,  
4 and inheritance taxes.

5 The cemetery property of whatsoever nature of any cemetery  
6 company, and lands dedicated prior to or in accordance with this  
7 act shall be exempt from all taxes, rates or assessments, and shall  
8 not be liable to be sold on execution, or to be applied in payment  
9 of debts due from any owner or holder of interment spaces, and  
10 their heirs, devisees or assigns shall hold the same exempt from

11 taxation so long as the same shall remain dedicated to cemetery  
12 purposes. The aforesaid exemptions shall apply also to all land,  
13 structures, buildings, and equipment used for the operation and  
14 maintenance of said lands so dedicated.

1 8A:5-11. The trust funds and securities, and the income there-  
2 from, of any cemetery company shall be exempt from taxation  
3 and assessment, seizure or sale by execution or otherwise on any  
4 judgment against the cemetery company.

1 8A:5-12. All lands dedicated in accordance with this act belong-  
2 ing to or used by any cemetery company, religious corporation,  
3 fraternal or charitable organization in this State shall be reserved  
4 for the use of the owners thereof against all causes of action and  
5 shall not be liable to be seized, taken or sold by virtue of any  
6 judgment, decree, order, execution or other process made or ren-  
7 dered by or issued out of any court in this State.

8 This section shall not apply to any lien existing upon such lands,  
9 before the same are dedicated to cemetery purposes.

1 8A:5-13. The rents, issues, profits, income and revenues derived  
2 from any and all lands lying within the bounds of any cemetery  
3 or burial ground belonging to, used by or held in trust for any  
4 incorporated cemetery company, may be taken and sequestered  
5 under and by virtue of the orders and judgments of the Superior  
6 Court, according to the practice of such court, and applied by such  
7 court to the payment of any judgment recovered in any of the  
8 courts of this State against the cemetery company owning or using  
9 such lands; and the said court may appoint a receiver of such  
10 rents, issues, profits, income and revenues, and make such order  
11 regarding the same as may be just and equitable. This section  
12 shall not be construed to make such lands liable to seizure, taking  
13 or sale by virtue of any judgment, decree, order, execution or  
14 other process made, rendered by or issued out of any court in this  
15 State.

1 8A:5-14. Whenever as the result of bankruptcy or receivership  
2 or other court proceedings, it becomes necessary to sell the lands  
3 of a cemetery company, a portion thereof, or certain lots, plots,  
4 or burial rights therein, the court as a condition of such sale shall  
5 require the purchaser to incorporate in the manner provided by  
6 this act.

1 8A:5-15. Whenever any receiver or trustee of any cemetery  
2 company heretofore or hereafter appointed by a court of compe-  
3 tent jurisdiction shall have adjusted, compromised or settled, or  
4 may hereafter adjust, compromise or settle any debt or claim due

5 or owing, or to become due or owing by such cemetery company  
6 and in connection therewith give under the authority of such court  
7 in his name as such receiver or trustee of such cemetery company,  
8 any bonds, notes, or other evidences of indebtedness in payment  
9 of or as a means of payment of such debt or claim, the governing  
10 body of such cemetery company shall, until such bonds, notes or  
11 evidences of indebtedness are paid and fully discharged, be se-  
12 lected or chosen by the court. Such governing body shall be selected  
13 or chosen in the manner and for the terms within the limitation  
14 of this act and may be paid such compensation as may be deter-  
15 mined by the court.

1 8A:5-16. It shall and may be lawful to include in any bonds,  
2 notes or other evidences of indebtedness given by such receivers  
3 or trustees a covenant or condition that the right to choose and  
4 select the governing body of the cemetery company who are to  
5 have the care and management of such cemetery company, until  
6 such bonds, notes or other evidences of indebtedness shall be paid  
7 and fully discharged is to be retained in and exercised by the court.

1 8A:5-17. Dedication to cemetery purposes pursuant to this act  
2 shall not be invalid as violating any law against perpetuities or  
3 the suspension of the power of alienation of title to use of property,  
4 but shall be expressly permitted in respect for the dead and as  
5 provision for the interment of human remains and as a duty to,  
6 and for the benefit of the general welfare.

1 8A:5-18. The right to control the disposition of the remains of  
2 a deceased person, unless other directions have been given by the  
3 decedent or by a court of competent jurisdiction shall be in the  
4 following order:

- 5 a. The surviving spouse.
- 6 b. A majority of the surviving children of the decedent or the  
7 surviving child if one.
- 8 c. The surviving parent or parents of the decedent.
- 9 d. A majority of the brothers and sisters of the decedent if no  
10 child or parent is living.
- 11 e. Other next of kin according to the degree of consanguinity.

1 8A:5-19. The cemetery company may permit interment or cre-  
2 mation of any remains upon the receipt of a written authorization  
3 of a person representing himself and believed to be a person who  
4 has the right to control the disposition of said remains in accord-  
5 ance with this act. The cemetery company shall not be liable for  
6 interment, disinterment, reinterment or cremation pursuant to  
7 such authorization, unless it has reasonable notice that such rep-

8 representation is untrue or knowledge of notice that the person making  
9 such representation is not so authorized.

1 8A:5-20. Remains interred in a lot in a cemetery may be re-  
2 moved therefrom, with the consent of the cemetery company and  
3 a written consent of the owners of the lot and of the surviving  
4 spouse and children, if of full age. If the consent of any such  
5 person or of the cemetery company cannot be obtained, the per-  
6 mission of the New Jersey Cemetery Board shall be sufficient  
7 *\*\*the\*\** Notice of application for such permission must be given,  
8 at least 10 days prior thereto, personally, or at least 30 days prior  
9 thereto, by certified mail return receipt requested, to the cemetery  
10 company or to the persons not consenting, if any, and to every  
11 other person or corporation to whom service of notice may be  
12 required by the New Jersey Cemetery Board.

1 8A:5-21. Any person signing any authorization for the inter-  
2 ment, cremation or removal of any remains warrants the truth-  
3 fulness of the facts set forth in the authorization, the identity of  
4 the person whose remains are sought to be interred, cremated or  
5 removed, and his authority to order interment, cremation or re-  
6 moval. He shall personally be liable for all damages occasioned  
7 by or resulting from any false statement or breach of such war-  
8 ranty.

1 8A:5-22. After the lapse of a period of 1 year from the date  
2 of delivery of the remains of any person to a cemetery company  
3 for temporary custody, no action shall lie against such cemetery  
4 company relating to or arising out of the disposition of such re-  
5 mains left in its possession unless otherwise provided by a written  
6 contract.

## CHAPTER 6

### ACQUISITION AND OWNERSHIP OF LAND

1 8A:6-1. A cemetery company heretofore or hereafter incorpo-  
2 rated, may take by gift, purchase or devise and hold, lands not  
3 to exceed 250 acres in extent.

1 8A:6-2. A cemetery company may exchange its lands for other  
2 lands provided no body has been interred therein. A cemetery  
3 company may lease for a term of years such part of its lands as  
4 have not been laid out into burial plots or lots and use the proceeds  
5 of such lease to pay its debts and liabilities and to improve its  
6 cemetery. Any lease entered into pursuant to this section shall  
7 be acknowledged or proved in the office of the county recording  
8 officer and the lands and property, the subject of such lease shall  
9 not be entitled to the tax and other exemption set forth in 8A:5-5.  
10 A cemetery company shall not lease any of its lands *\*directly or*

11 *indirectly*\* to any person or entity in any business in which a  
 12 cemetery company is specifically prohibited from engaging in  
 13 accordance with the terms of 8A:5-3 of this act.

1 8A:6-3. Any cemetery company may acquire lands for cemetery  
 2 purposes and provide for the payment thereof by the issuance  
 3 of certificates in a sum certain with a specified interest in the  
 4 proceeds of sales of interment space in such lands, subject to the  
 5 prior withdrawal from the proceeds of sales of any proportion  
 6 thereof fixed by contract or law to be retained for the improve-  
 7 ment and embellishment of the cemetery; provided that the board  
 8 shall first approve such acquisition and the method and terms of  
 9 financing. The total number of certificates hereby authorized to  
 10 be issued shall be fixed and determined before any of them are  
 11 issued, and the number so determined shall not thereafter be  
 12 increased except by specific approval of the board. Nothing herein  
 13 contained shall permit a cemetery company to acquire a total area  
 14 of lands in excess of that limited by law.

1 8A:6-4. Any cemetery company may, subject to the prior ap-  
 2 proval of the board, enlarge its lands by the purchase and addition  
 3 thereto of another cemetery **\*\*[adjoining the presently owned**  
 4 **cemetery or separated by a public road or highway; and]** **\*\*or\*\***  
 5 by the purchase of other **\*\*[adjacent]** **\*\*** lands which when added  
 6 to the existing cemetery will be considered as dedicated to cemetery  
 7 purposes. Nothing herein contained shall permit a cemetery  
 8 company to acquire a total area of lands within a municipality in  
 9 excess of that limited by law *\*\*except in those instances where the*  
 10 *board permits the merger of two or more existing cemeteries\*\**.  
 11 The board shall withhold its approval unless it shall be first satisfied  
 12 that the purchase or sales price of such lands is reasonable.

1 8A:6-5. No cemetery shall be established or enlarged in any  
 2 municipality without first obtaining the consent of the municipality  
 3 by resolution duly adopted.

1 8A:6-6. No more than five cemeteries shall be located or placed  
 2 in any one municipality in any county of this State, except that,  
 3 in any municipality of this State where the capacity of an existing  
 4 cemetery is exhausted, so that no further interment spaces can  
 5 be purchased, an additional cemetery may be created or placed  
 6 at a distance of not less than 3 miles from any other existing  
 7 cemetery in such municipality, subject to all laws or provisions  
 8 thereof governing and regulating cemeteries in this State.

9 Not more than 3% of the area of any municipality shall be de-  
 10 voted to cemetery purposes.

11 Nothing contained in this section shall prevent any cemetery  
12 company incorporated and in operation prior to the effective date  
13 hereof, and which owns lands in which interments have been made,  
14 and which obtains a certificate of authority as provided in this  
15 act from continuing to maintain and conduct its cemetery in any  
16 municipality of this State.

1 8A:6-7. Lands hereafter acquired and held under authority of  
2 this act or such parts thereof as may, from time to time, be re-  
3 quired for cemetery purposes, shall be surveyed and divided into  
4 sections, lots or graves of such size as the managers, directors  
5 or trustees of the cemetery company from time to time may direct,  
6 with such avenues, paths, alleys and walks as they deem proper.  
7 A map or maps of all that land which shall be subdivided or has  
8 been subdivided as above shall be filed, and kept in the office of  
9 the cemetery company, open to the inspection of the interment  
10 space owners and a copy of such map or maps shall be filed in the  
11 office of the board, and such filings shall constitute a dedication  
12 of the lands for cemetery purposes.

1 8A:6-8. After property is dedicated to cemetery purposes pur-  
2 suant to this act, neither the dedication nor the title of the inter-  
3 ment space owner, shall be affected by the dissolution of the ceme-  
4 tery company by nonuse on its part, by alienation of the property,  
5 by any encumbrances, by sale under execution, or otherwise except  
6 as provided in this act and by law.

1 8A:6-9. A cemetery company may sell and convey interment  
2 space or parts thereof designated on the map or maps, upon such  
3 terms as shall be agreed, and subject to such conditions and re-  
4 strictions as may be imposed upon the use thereof by rules or  
5 regulations existing at the time or thereafter adopted. Convey-  
6 ances of interment spaces shall recite the true consideration, shall  
7 be executed under the common seal of the cemetery company and  
8 be signed by the president or vice-president and attested by the  
9 treasurer, or assistant treasurer, or secretary or assistant secre-  
10 tary, and may be acknowledged or proven in the same manner as  
11 are deeds to land. No sales of interment spaces shall be made in  
12 any section of a cemetery unless said section is dedicated in ac-  
13 cordance with this act. Where interment space is sold in an un-  
14 developed section, a comparable interment space shall be furnished  
15 in a developed section, if needed for an immediate interment space.

1 8A:6-10. The sale or purchase of interment space for specula-  
2 tive purposes, or the conveyance or mortgaging of any portion of  
3 a cemetery dedicated to interment purposes as security for debt,  
4 is hereby prohibited, and every sale, purchase, conveyance, or mort-

5 gage shall hereafter be void and of no effect and shall constitute  
6 a violation of this act.

1 8A:6-11. Where the grounds of any cemetery company have  
2 been or shall be laid out on a map or maps, on which there are  
3 portions of ground not marked out into interment spaces, and  
4 which have not been laid out and dedicated as such in the deeds  
5 or certificates given for interment space therein, or which have  
6 not been reserved and set apart for building purposes, and not  
7 laid out as avenues, the directors, managers or trustees of the  
8 cemetery company may cause such portions of the grounds to be  
9 laid out into interment spaces and sold for interment purposes.  
10 Paths or other roadways shall be maintained to the interment  
11 spaces already sold. The maps of all said new plotting shall be  
12 filed as required in this act. Any unsold interment spaces in which  
13 no interments have been made, may, by order of the directors,  
14 managers or trustees of the cemetery company, be resurveyed and  
15 altered in shape and size and be so designated on the map.

1 *\*\*8A:6-12. When it appears to the board of managers or trustees*  
2 *of a cemetery company that some portion of the land presently*  
3 *owned by the cemetery company will not be plotted for burial lots*  
4 *or burial lots therein sold for burial purposes or otherwise used for*  
5 *cemetery purposes within 2 years following the date of the meeting*  
6 *of said board of managers or trustees, and such portion of land*  
7 *abuts on a public street or highway so that access thereto may be*  
8 *had without crossing cemetery lands presently used for burial*  
9 *purposes, and the board of managers or trustees of said cemetery*  
10 *company are of the opinion that such portion of cemetery land*  
11 *could be used by a nonprofit, religious, educational or charitable*  
12 *organization in a manner that would be neither harmful to the*  
13 *cemetery nor distasteful to those who may come upon that portion*  
14 *of the cemetery presently used for burial purposes or which will be*  
15 *used for burial purposes within the next 2 years, the board of*  
16 *managers or trustees may, subject to the approval of the board,*  
17 *lease or license a nonprofit, religious, educational or charitable*  
18 *organization to use said presently unused cemetery land for a non-*  
19 *profit, religious, educational or charitable purpose in a manner*  
20 *which shall be approved by said board of managers or trustees of*  
21 *said cemetery company prior to the commencement of said use.\*\**

## CHAPTER 7

### RIGHTS OF OWNERS

1 8A:7-1. All interment spaces owned and occupied exclusively  
2 as cemeteries for the interment of the dead and designated on the

3 map or maps filed in accordance with the provisions of this act,  
4 and numbered as separate interment spaces shall become, upon  
5 the transfer thereof in whole or in part, the sole and separate  
6 property of the person or persons named in the conveyance or  
7 certificate as transferee; his heirs, devisees and assigns. Any such  
8 conveyance or certificate of transfer issued by a cemetery company  
9 may contain a provision that the owner or owners take title sub-  
10 ject to the rules and regulations of the cemetery company then  
11 existing and those reasonable rules and regulations that may there-  
12 after be adopted by the cemetery company and also any other  
13 reasonable valid restrictions upon use or transfer not inconsistent  
14 with the provisions of this law.

1 8A:7-2. When any of the lands heretofore or hereafter acquired  
2 for cemetery purposes by a cemetery company have been or shall  
3 be divided into lots or graves and have been or shall be transferred  
4 to individual owners, said lots and graves, after an interment has  
5 been made therein, shall be inalienable, except as herein provided,  
6 and shall upon the death of the owner thereof descend to the heirs  
7 at law or devisees of the owner; but any one or more of such heirs  
8 at law may release and convey to any other of the heirs at law,  
9 specific devisee, assignee or to the spouse, widow or next of kin  
10 of any deceased person interred in such interment space, his or  
11 their interest therein, on such conditions as shall be agreed on  
12 and specified in the conveyance, which shall be recorded in the  
13 office of the cemetery company; provided, however, that after an  
14 interment has been made in a lot owned by two or more persons,  
15 any one of the owners thereof or his heirs or devisees may release  
16 or convey his interest therein to any or all of his co-owners or  
17 his or their respective heirs or devisees or to a surviving spouse  
18 of any deceased person interred in such lot on such conditions as  
19 may be made and specified in such conveyance, which shall be  
20 recorded in the office of the cemetery company. If the owner of  
21 any such lot, or of any interest or share therein, shall die leaving  
22 a will in which no specific disposition of such lot or interest or  
23 share is made, or any specific provision in regard thereto has been  
24 made, such lot or interest therein shall descend to the heirs at law  
25 of such owner and shall not go to the devisee or devisees of such  
26 owner under any residuary or other clause or provision of such  
27 will which merely provides for the disposition generally of real  
28 property of which the testator shall have died seized.

29 In the event a person dies owning one or more interment spaces,  
30 the persons who become the owners thereof may sell or dispose

31 of unoccupied interment spaces; provided, however, that the sale  
32 shall be in accordance with the provisions of this act and the rules  
33 and regulations of the cemetery company.

1 8A:7-3. The owner or holder of a plot or lot or an interest  
2 therein in a cemetery owned by a cemetery company may, subject  
3 to the provisions of this act, transfer and convey the same or part  
4 thereof to any person or to the cemetery company having charge  
5 of the cemetery in which the plot or lot is situated. Before any such  
6 transfer or conveyance is made, the board of managers, directors  
7 or trustees shall authorize the same by a vote of at least  $\frac{3}{5}$  of the  
8 board at a regularly called meeting. Consent to such transfer  
9 shall not be unreasonably withheld by the cemetery company.

1 8A:7-4. The owner of an interment space in any cemetery in  
2 this State, whether or not there has been an interment therein,  
3 may convey the same in trust to the company owning, maintaining,  
4 or conducting the cemetery, or to a bank or banking or trust com-  
5 pany of this State, or to a bank or banking company organized  
6 under the laws of the United States and doing business in this  
7 State, the title thereto to be held by such trustee in perpetuity or  
8 for a shorter time for the use and benefit of the owner of the in-  
9 terment space and the protection of the bodies or the incinerated  
10 remains already therein or thereafter to be interred therein, pur-  
11 suant to the terms of the deed of trust.

12 If the conveyance is to the company owning, maintaining or  
13 conducting the cemetery, the board of managers, directors or trus-  
14 tees thereof shall, before the conveyance is made authorize the  
15 same by a vote of at least  $\frac{3}{5}$  of its members at a regular meeting  
16 thereof.

1 8A:7-5. The body of any deceased person or the incinerated  
2 remains thereof shall not be interred in any interment space unless  
3 the deceased person had, at the time of his decease, an ownership  
4 interest in the interment space, or was the relative of some person  
5 having such an interest, or was the spouse of such person or rela-  
6 tive of said spouse, except by the consent of the owner or one of  
7 the owners of such interment space.

1 8A:7-6. No conveyance or other action of the owner or owners  
2 of interment space without the consent or joinder of the spouse  
3 of the owner shall divest the spouse of a vested right of interment,  
4 except that a final judgment of divorce between them shall termi-  
5 nate the vested right of interment unless otherwise provided in  
6 the judgment.

1 8A:7-7. A vested right of interment may be waived or shall be  
2 terminated upon the interment elsewhere of the remains of the  
3 person in whom vested.

1 8A:7-8. No vested right of interment shall give to any person  
2 the right to have his remains interred in any interment space in  
3 which the remains of any deceased person having a prior right  
4 of interment shall have been interred, **\*\*[or]\*\*** **\*\*nor\*\*** shall it give  
5 any person the right to have the remains of more than one deceased  
6 person interred in a single interment space in violation of the rules  
7 and regulations of the cemetery in which the interment space is  
8 located.

1 8A:7-9. In a conveyance to two or more persons as joint tenants  
2 each joint tenant shall have a vested right in interment in the  
3 interment space conveyed.

1 8A:7-10. When there are two or more owners of an interment  
2 space they may designate one or more persons to represent the  
3 interment space and file written notice of the designation with the  
4 cemetery company. In the absence of such notice the cemetery  
5 company shall not be liable to any person for the interring or  
6 permitting of an interment in the interment space upon the re-  
7 quest or direction of any co-owner.

1 8A:7-11. Except as otherwise provided in this act, any interment  
2 space may be sold or conveyed and transferred only by the ceme-  
3 tery company.

1 8A:7-12. Except as otherwise provided in this act, it shall be  
2 unlawful for any person, firm or corporation to purchase or for  
3 a cemetery company to sell an interment space for the sole pur-  
4 pose of resale. This section, however, shall not prohibit the sale  
5 to its members of interment space or the right to use any inter-  
6 ment space by a membership or religious corporation or unincor-  
7 porated association or society which provides burial benefits solely  
8 for its members and their families.

1 8A:7-13. Where interment spaces have been sold by a cemetery  
2 company no provision having been made for the adequate care  
3 or maintenance of the interment space and no interment has been  
4 made in the interment space for a period of 25 years the cemetery  
5 company may, after making a diligent effort to locate the owners  
6 or the descendants of the owners of the interment space, publish  
7 a notice in a newspaper circulating in the **\*\*[municipality]\*\***  
8 **\*\*county\*\*** in which the interment space is located, directed to the  
9 names of the owners registered on the cemetery company's record  
10 and also containing the names of the deceased persons and date

11 of burial in said interment space, where such information is ascer-  
 12 tainable, advising that in the absence of written objection that at  
 13 the end of said 30 days, the vacant interment spaces would be  
 14 subject to sale and the *\*\*net\*\** proceeds of sale be deposited in the  
 15 Maintenance and Preservation Fund. A copy of the above notice  
 16 shall also be mailed, certified mail, return receipt requested, to all  
 17 persons named in the notice at their last known address, at least  
 18 30 days prior to such sale. The title to the occupied graves shall  
 19 be inalienable. *\*\*At any time any person claiming ownership of*  
 20 *any interment space disposed of in accordance with this section may*  
 21 *make application to the board for an order directed to the trustees*  
 22 *of the fund to reimburse to said owner such net proceeds.\*\**

## CHAPTER 8

## REMOVAL AND REINTERMENT OF BODIES; ABANDONMENT

1 8A:8-1. The provisions of this chapter shall have application  
 2 to every cemetery company, religious corporation and religious  
 3 society.

1 8A:8-2. The governing body of any cemetery in any incorpo-  
 2 rated borough, town, township or city in this State may remove  
 3 or cause to be removed from the grounds or churchyard of the  
 4 corporation any body or bodies buried therein, provided there is  
 5 a cemetery under the control of a legally incorporated cemetery  
 6 in or near such borough, town, township, or city, to which the same  
 7 may be removed.

8 The directors of any cemetery shall, prior to the removal of  
 9 bodies from its grounds, procure a proper and suitable place in  
 10 such other cemetery for thereinterment of the bodies so removed,  
 11 and shall cause the same to be conveyed to such other cemetery  
 12 and buried therein in a careful manner. If memorials have been  
 13 erected on or over the graves of bodies so removed, the directors  
 14 shall cause the same to be re-erected over or on the graves in the  
 15 cemetery to which the bodies shall be removed.

16 Any director violating the provisions of this section shall forfeit  
 17 the sum of \$100.00, to be collected by the municipality, in a civil  
 18 action for the use of the poor.

1 8A:8-3. The directors of any cemetery owning lands in which  
 2 burials have been made may remove the bodies buried therein and  
 3 sell such lands, or any part thereof. Before making such removal  
 4 and sale the corporation shall obtain the consents in writing of  
 5 the living owner or owners of the burial plots or lots and permits  
 6 for burials in such lands, and the consents in writing of the  
 7 living lineal descendants and widow or widower, if any, of the per-  
 8 son or persons buried in such lands, or the part thereof sold.

9 If the consents required cannot be obtained because the persons  
10 from whom they are required to be obtained cannot, upon diligent  
11 inquiry, be found, the corporation or society may apply to the  
12 Superior Court for an order for the sale thereof. The application  
13 shall show the name of the applying corporation, the location of  
14 the land sought to be sold, the names of all known persons owning  
15 plots or lots and permits for burials in such lands, and a descrip-  
16 tion and map of the lands sought to be sold.

17 Upon proof of the facts set forth in the application, the Superior  
18 Court may make an order setting forth the nature of the appli-  
19 cation and the names of all owners of plots or lots and permits  
20 for burials in the lands sought to be sold who have not consented  
21 in writing to the sale, requiring them to show cause, at a time to  
22 be fixed by the court, why such lands should not be sold. A notice  
23 of such order shall be published in a newspaper designated by  
24 such court, for 4 successive weeks, or as the court shall direct.

25 At the time fixed in the order and notice, or upon such adjourn-  
26 ment day as the Superior Court may fix, no objections in writing  
27 being made thereto or filed with such court previous thereto by  
28 the lineal descendants or widow or widower of the persons buried  
29 in such lands, such court may make an order authorizing the sale  
30 of the lands and the removal of any bodies buried therein.

1 8A:8-4. When burials have been made in any cemetery, the  
2 Superior Court may make an order authorizing the directors to  
3 remove the bodies buried therein to another part of the lands  
4 owned by it. The court shall prescribe the notice to be given and  
5 the conditions, if any, of the granting of the order.

1 8A:8-5. If any cemetery company or religious corporation or  
2 religious society owning or operating a cemetery sells any land in  
3 which any person has acquired a right of burial, the said company,  
4 corporation or society shall, at the discretion of the cemetery  
5 board, either refund to the party having such right, his heirs,  
6 executors or assigns, the amount paid therefor, with interest com-  
7 puted at the rate of 2% per annum from the date of payment, or  
8 shall convey to such party, his heirs, executors or assigns, an  
9 eligible plot of ground of equal size in burial grounds adjacent  
10 thereto, and shall pay all cost and expense incurred in the removal  
11 of any bodies interred in the lands sought to be vacated and sold  
12 and the cost of properly reintering the same.

1 8A:8-6. Where lands in any municipality in this State have been  
2 given or donated to a church organization for the use of burial  
3 and church purposes, upon condition that when the same shall  
4 cease to be used for church purposes they should revert to the

5 original donor or his heirs, and the lands so given or donated have  
 6 been abandoned and have ceased to be used for church purposes,  
 7 and there have been no interments therein for 10 years, such lands  
 8 shall be deemed to have been abandoned, and the church organiza-  
 9 tion having custody or control thereof may, with the consent of  
 10 the board of health of the municipality wherein they are situate,  
 11 and the cemetery board, disinter and remove the bodies interred  
 12 therein to some other suitable burial grounds or cemetery to be  
 13 provided by the church organization.

14 Notice of the intended removal shall be published in at least  
 15 two newspapers published and circulating in the municipality  
 16 where the abandoned burial grounds are situate, for 4 weeks, at  
 17 least once in each week, prior to the intended removal.

#### CHAPTER 9

##### CEMETERY SALESMEN

1 8A:9-1. The following definitions apply to this chapter:

2 a. "Person" means an individual, a corporation, a partnership,  
 3 an association, society or joint stock company.

4 b. "Cemetery salesman" means any person engaged in, or hold-  
 5 ing himself out as engaged in, directly or indirectly, the business,  
 6 practice or profession of solicitation for sale, offering for sale,  
 7 or selling interment space or goods, materials or services supplied  
 8 or performed by a cemetery company.

9 c. "Sale" or "selling" includes every contract of sale, or con-  
 10 tract to sell or dispose of interment space or goods, materials and  
 11 services supplied or performed by a cemetery company.

12 d. "Offer" or "offer to sell" includes every attempt or offer  
 13 to dispose of or solicitation of an offer to buy interment space or  
 14 goods, materials or services supplied or performed by a cemetery  
 15 company.

16 e. "Option" means every future right to purchase or privilege  
 17 to convert one property to another.

1 8A:9-2. It shall be unlawful for any person or cemetery com-  
 2 pany to use, publish or circulate any advertising matter which is  
 3 misleading, untruthful, or designed to deceive.

1 8A:9-3. It shall be unlawful for any person in connection with  
 2 an offer to sell, or sale, or an option to purchase interment space,  
 3 or goods, materials or services supplied or performed by a ceme-  
 4 tery company, directly or indirectly:

5 a. To employ any device, scheme or artifice to defraud;

6 b. To make any false statement of a material fact or to omit  
 7 to state a material fact necessary to a clear understanding;

8 c. To engage in any act, practice, or course of business which

9 operates or would operate as a fraud or deceit upon any person;  
10 d. In any other respect to willfully violate or neglect to observe  
11 or comply with any order, permit, decision, demand or require-  
12 ment of the board made pursuant to the provisions of this act.

1 8A:9-4. It shall be unlawful for any cemetery company to pay  
2 or offer to pay, or for any person to receive, directly or indirectly,  
3 a commission, bonus, rebate or other thing of value, for, or in  
4 connection with, the sale of interment space, or for the furnishing  
5 by or through the cemetery company of any service, goods or  
6 articles, except to a licensed cemetery salesman and as herein-  
7 after provided. Any person violating this section is a disorderly  
8 person. The provisions of this subdivision shall not apply to a  
9 person regularly employed and supervised by the cemetery com-  
10 pany.

1 8A:9-5. It shall be unlawful for any person to act as a cemetery  
2 salesman in this State unless he is licensed to do so by the New  
3 Jersey Cemetery Board as hereinafter provided.

1 8A:9-6. Nothing in this act shall apply to prohibit the following:

- 2 a. A person acting to effect an occasional sale of his own prop-  
3 erty;
- 4 b. The services rendered by an attorney-at-law in performing  
5 his duties to his client when such duties require that he perform,  
6 on isolated occasions, the functions of a cemetery salesman;
- 7 c. The sale by a receiver, trustee in bankruptcy, or any other  
8 person acting under the orders of any court of competent juris-  
9 diction;
- 10 d. The sale by a trustee selling under a deed of trust;
- 11 e. The sale by a real estate broker or real estate salesman act-  
12 ing as such in connection with the sale, lease or exchange of real  
13 property or interest therein when the transfer of cemetery prop-  
14 erty is purely incidental to the sale, lease or exchange of the real  
15 property;
- 16 f. The sale by an officer, superintendent, manager or clerk of a  
17 cemetery company.

1 8A:9-7. Except as herein otherwise provided, no person, firm  
2 or corporation, other than a cemetery company or a sales manage-  
3 ment company having a contract with the cemetery for the sale  
4 of its lots shall sell any interment space and no person shall pur-  
5 chase the same for the sole purpose of speculative resale, except  
6 that the owner of any interment space purchased prior to the  
7 effective date of this act may resell the same pursuant to and in  
8 accordance with the provisions of this act, and provided this sec-

9 tion shall not preclude the sale to its members of interment space,  
10 or the right to use any interment space, by a membership or  
11 religious corporation or society or unincorporated association or  
12 society which provides interment space solely for its members and  
13 their families. Any sale of interment space to a membership or  
14 religious corporation or society or unincorporated association  
15 which provides interment space solely for its members and their  
16 families shall be subject to the prior approval of the cemetery  
17 board.

1 8A:9-8. No person shall be licensed by the New Jersey Cemetery  
2 Board as a cemetery salesman unless he is a resident of this State,  
3 a person of good moral character, has never been convicted of  
4 crime involving moral turpitude and has passed his twenty-first  
5 birthday. A nonresident of this State may also be licensed pro-  
6 vided he otherwise qualified under this section and has filed with  
7 the New Jersey Cemetery Board an authorization to accept service  
8 of process on his behalf in any suit brought against him in this  
9 State.

1 8A:9-9. The New Jersey Cemetery Board shall investigate the  
2 qualifications of all applicants for a salesman's license and shall  
3 issue a salesman's license to all those who qualify as herein pro-  
4 vided.

5 A license will be granted to any person who for the period of 5  
6 years prior to the effective date of this act has been employed by  
7 a New Jersey cemetery company as a salesman or as an officer of  
8 a cemetery company and who otherwise qualifies as to age, good  
9 moral character, absence of a criminal record, residency, or in the  
10 case of nonresidency, had filed an authorization with the board  
11 in form as required by 8A:9-8.

1 8A:9-10. Application to be licensed as a cemetery salesman  
2 shall be made in writing to the New Jersey Cemetery Board on  
3 forms provided by the board. Said application shall attest that  
4 the applicant possesses all the qualifications listed in this act ex-  
5 cept that it need not be attested that he is conversant with the  
6 general cemetery law of this State. Thereafter, the board may in  
7 its discretion issue a temporary license which shall be valid for 45  
8 days and may be extended from time to time as the board deems  
9 necessary. In no event may such temporary license be extended  
10 beyond the date of the announcement of the result of the first  
11 investigation period held pursuant to the provisions of this act  
12 following the expiration of the 45-day period of initial issuance.  
13 All applications shall be accompanied by an examination fee in the  
14 sum of \***[\$10.00]**\* \*\$25.00\*.

1 8A:9-11. If upon investigation by the New Jersey Cemetery  
2 Board an applicant for a license as a cemetery salesman is found  
3 to be qualified, has shown that he in good faith intends to carry  
4 on the business of a cemetery salesman, the board shall, upon the  
5 payment of a license fee of \*~~[\$10.00]~~\* \*\$20.00\*, issue to the appli-  
6 cant a license as a cemetery salesman, except that no license shall be  
7 issued where there has been a showing that the granting of license  
8 to said applicant would not be in the public interest.

1 8A:9-12. No license shall be issued or renewed for a period  
2 exceeding 1 year and all licenses, whether on original issue or  
3 renewal, shall expire and terminate June 30 following the date of  
4 their issuance, unless sooner revoked and cancelled.

1 8A:9-13. Applications for renewal for a cemetery salesman's  
2 license shall be made to the New Jersey Cemetery Board no later  
3 than 30 days prior to the date of expiration. The application shall  
4 be upon the form prescribed by the board and shall be accompanied  
5 by an annual renewal fee of \*~~[\$5.00]~~\* \*\$10.00\*. A duplicate license  
6 may be obtained upon proof of loss or destruction and payment of a  
7 fee of \$2.00.

8 If a cemetery salesman fails to apply for a renewal of his license  
9 prior to the time prescribed therefor, no renewal license shall be  
10 issued to him except upon payment of a renewal fee in double the  
11 amount required in the case of a timely application.

12 Any cemetery salesman who fails to renew his license within 1  
13 year of the expiration date must, before a new license can be ob-  
14 tained, comply with all of the provisions of this act pertaining to  
15 the original issue of said license. The license shall remain in the  
16 possession of the salesman until cancelled. The salesman shall  
17 produce his license for inspection whenever so requested in the  
18 course of his sales activity.

19 The license shall state the name and address of the cemetery  
20 with whom the salesman is associated. All rights granted to this  
21 licensee cease upon termination of employment. A new license  
22 will be issued by the board upon written request of the new em-  
23 ploying cemetery and written request of salesman seeking relicens-  
24 ing. The license shall be issued in the same manner as a renewal  
25 and shall be considered timely if applied for within 3 months of  
26 date of termination of last employment as licensed cemetery sales-  
27 man.

1 8A:9-14. When any cemetery salesman is discharged by a ceme-  
2 tery company for a violation of any of the provisions of this act,  
3 a verified written statement of the facts with reference thereto  
4 shall be filed forthwith with the board by the employer.

1 8A:9-15. A corporation, a partnership, an association society  
2 or stock company may acquire and retain a license as a cemetery  
3 salesman if at least one of its executives or managing officers,  
4 directors, trustees, agents or partners obtain a license, keeps it  
5 in force and continues his connection with the entity in the stated  
6 capacity. Provided, however, that no such entity so licensed shall  
7 employ any individual to perform the duties of or to act as a  
8 salesman unless that individual has a valid subsisting license ac-  
9 quired pursuant to this act.

1 8A:9-16. Cemetery salesmen licensed under this act shall not  
2 be required to obtain a license from any municipality for the sale  
3 of cemetery lots.

#### CHAPTER 10

##### PENALTIES, ENFORCEMENT

1 8A:10-1. a. The cemetery board shall have power to enforce  
2 this act, and any person violating any of its provisions shall for-  
3 feit and pay to the board a penalty of not less than \$25.00 nor  
4 more than \$50.00 for the first offense; not less than \$50.00 nor  
5 more than \$100.00 for the second offense; and not less than \$100.00  
6 nor more than \$300.00 for the third and each subsequent offense.

7 b. In the event the offending person does not pay any penalty  
8 within the time fixed by the board, the penalty shall be sued for  
9 and recovered by and in the name of the New Jersey Cemetery  
10 Board.

1 8A:10-2. Any penalty imposed because of the violation of any  
2 of the provisions of this act, shall be collected and enforced by  
3 summary proceedings in a civil action pursuant to the penalty  
4 enforcement law (N. J. S. 2A:58-1 et seq.). Process shall issue  
5 at the suit of the board as plaintiff, and shall be either in the nature  
6 of a summons or warrant.

1 8A:10-3. The Superior Court may in an action brought by the  
2 New Jersey Cemetery Board in the name of the State on the re-  
3 lation of the board enjoin a continuing or habitual violation of  
4 this act or by its order or judgment direct or compel compliance  
5 with this act or any of the orders, rules or regulations issued by  
6 the board.

1 8A:10-4. After notice of hearing as hereinafter provided, the  
2 board may refuse to grant or renew, or may suspend or revoke  
3 any license or certificate of authority if it determines that the  
4 applicant for or holder of such license or certificate of authority  
5 has been guilty of any of the following acts or omissions:

6 a. Fraud and deception in applying for a license or its renewal

7 or in applying for a certificate of authority or in the passing of  
8 an examination provided for in this act;

9 b. Conviction in a court of competent jurisdiction of a high  
10 misdemeanor;

11 c. False or fraudulent advertising or willfully advertising in  
12 any manner which is deceptive, misleading, improbable or unethi-  
13 cal or which is calculated to deceive the public with respect to  
14 either merchandise or services, including the offering of free ser-  
15 vices;

16 d. Any conduct which is of a character likely to deceive or de-  
17 fraud the public;

18 e. Engaged in fraudulent business activities; and

19 f. The willful, deliberate and persistent failure or refusal to  
20 comply with the terms of this act or the orders, rules or regula-  
21 tions of the New Jersey Cemetery Board;

22 g. In addition the board may refuse to grant or renew or may  
23 suspend the license of a cemetery salesman for:

24 (1) Chronic and persistent inebriety, or the habitual use of  
25 narcotics;

26 (2) Conviction of a crime involving moral turpitude; or where  
27 any licensee or applicant for a license has pleaded nolo contendere  
28 or non vult to any indictment, allegation or complaint, alleging  
29 the commission of a crime involving moral turpitude. The record  
30 of conviction or the entry of such a plea in any court of this State  
31 or any other state, or in any of the courts of the United States  
32 shall be sufficient warrant for the revocation or suspension of a  
33 license.

1 8A:10-5. a. The cemetery board may prefer charges of viola-  
2 tions of this act, against any cemetery company or its officers or  
3 against any person violating this act.

4 b. Such charges shall be in writing, sworn to by the complainant,  
5 and submitted to the board, such charges unless dismissed without  
6 hearing by the board as unfounded or trivial, shall be heard and  
7 determined by the board within 3 months after the date on which  
8 they are preferred.

9 c. The time and place for such hearing shall be fixed by the  
10 board. A copy of the charges, together with a notice of the time  
11 and place of hearing shall be personally served on the accused or  
12 personally served on an officer of the accused cemetery company  
13 by a person designated by the board at least 15 days before the  
14 day fixed for the hearing, the date of hearing and determination  
15 may be adjourned by the board as the board may determine.

16 d. A stenographic record or a sound recording of each proceed-  
17 ing shall be made at the expense of the board. At the hearing,  
18 the accused shall have the right to appear personally and by coun-  
19 sel, to cross examine witnesses and to produce evidence and wit-  
20 nesses in his defense. If after said hearing the board finds that  
21 the charges have been sustained, the penalties and sanctions set  
22 forth in this act may be imposed and enforced.

1 8A:10-6. a. The executive secretary, the chairman or any mem-  
2 ber of the New Jersey Cemetery Board may administer oaths and  
3 affirmations and shall have power to issue subpoenas, to compel  
4 the attendance of any person, or the production of any books or  
5 papers necessary or incidental to any hearing before the board.  
6 Such subpoena may be served and the same witness fees paid as in  
7 cases in the County or Superior Court, as allowed by law.

8 b. In the event any person who has been duly served with a  
9 subpoena by the board fails or refused to attend and testify and  
10 answer proper questions or to produce books, records, documents,  
11 papers, or other physical exhibits pursuant to the command of  
12 said subpoena, the board is authorized to apply to the Superior  
13 Court for an order compelling compliance with the subpoena or order  
14 of the board. Failure to obey the subpoena or the order of the  
15 court in reference thereto shall, in addition to any other action  
16 that may properly be taken by the courts, carry a penalty of \$100.00  
17 to be collected by the board as provided in chapter 9 of this act.

1 8A:10-7. Whenever the board shall suspend the certificate of  
2 authority of any cemetery company, it may, when deemed neces-  
3 sary to protect the public interest, institute an action in the name  
4 of the State on the relation of the board in the Superior Court  
5 for the appointment of a receiver, injunctive or other relief as  
6 may be necessary to protect the public interest, or to prohibit the  
7 violation of this act or the orders, rules or regulations of the board.  
8 The relief authorized by this paragraph shall not be limited or  
9 barred by the imposition of any penalties imposed by the board  
10 under chapter 10 or any other provision of this act. The receiver-  
11 ship shall be discharged as soon as the condition which caused the  
12 suspension has been corrected.

1 8A:10-8. Any person or cemetery company aggrieved by any  
2 action or decision of the board shall have the right of appeal to  
3 the Superior Court\*\*, *Appellate Division\*\**.

## CHAPTER 11

## REINSTATEMENT OF CHARTER

1 8A:11-1. The charter of any cemetery association, heretofore  
2 incorporated pursuant to "An act to authorize the incorporation  
3 of rural cemetery associations and regulate cemeteries," approved  
4 April 9, 1875, or under "An act concerning corporations (Revi-  
5 sion)," approved April 7, 1875, or under any act amendatory  
6 thereof or supplemental thereto, whose period of corporate exist-  
7 ence has terminated by lapse of time, which has continued to op-  
8 erate a cemetery in which burials have been made since said period  
9 of corporate existence terminated, may be reinstated in perpe-  
10 tuity upon the recording in the office of the clerk of the county, in  
11 which the certificate of incorporation of the association is recorded,  
12 of a certificate of extension of corporate existence, executed and  
13 acknowledged by five or more proprietors of lots in the cemetery  
14 of the association stating, under oath, that the said association  
15 has been engaged in operating a cemetery and that burials have  
16 been made in said cemetery since the termination of its corporate  
17 existence and upon the recording of said certificate the charter of  
18 said cemetery association shall be reinstated and the corporate  
19 existence of said association shall be extended accordingly and said  
20 association shall be entitled to all the rights, privileges and exemp-  
21 tions to which it was entitled prior to the termination of the period  
22 of its corporate existence.

## CHAPTER 12

## REPEALERS, SEVERABILITY CLAUSE, APPROPRIATION, EFFECTIVE DATE

1 8A:12-1. This act is a revision law and all acts and parts of  
2 acts inconsistent herewith are hereby superseded.

3 This act shall be deemed to be a part of the general and perma-  
4 nent statutes of this State. The abbreviation of "N. J. S. 8A"  
5 shall constitute a reference to this act, and sections of this act  
6 may be cited by section number only, preceded by such abbrevia-  
7 tion.

1 8A:12-2. The following acts and parts of acts together with all  
2 amendments and supplements thereto are repealed:

3 Title 8, Cemeteries, of the Revised Statutes;

4 P. L. 1947, c. 240 (C. 8:2-51.1 to 8:2-51.3);

5 R. S. 26:6-42 to 26:6-48, inclusive.

1 8A:12-3. Special acts creating a cemetery are hereby preserved  
2 and reaffirmed.

1 8A:12-4. If any provision of this act, or any application of any  
 2 provision, is held invalid, the invalidity shall not affect other  
 3 applications of the provision, or other provisions of the act, which  
 4 reasonably can be given effect despite the invalidity.

1 8A:12-5. There is hereby appropriated to the Department of  
 2 \***[Law and Public Safety]**\* \**Banking*\* for the purpose of admin-  
 3 istering this act all fees and revenue received by the board from the  
 4 effective date of this act until June 30, 1971. The expenditure of  
 5 such appropriation shall be authorized by the \***[Attorney General]**\*  
 6 \**Commissioner of Banking*\* with the approval of the Director of  
 7 the Division of Budget and Accounting.

1 8A:12-6. This act shall take effect immediately, except that sec-  
 2 tions 8A:3-1, 8A:3-2, 8A:3-9 and 8A:9-5 of this act shall take  
 3 effect 90 days after enactment.

#### TABLE

Showing Disposition of Statutes included in or allocated to  
 Title 8 of the Revised Statutes and repealed by this act.

#### CHAPTER 1

##### FORMATION AND ORGANIZATION OF CEMETERY ASSOCIATIONS

1	8:1-1	—8A:3-5	8:1-2	—8A:3-7—8A:3-13
2	8:1-3	—Omitted	8:1-4	—8A:3-8
3	8:1-5	—Omitted	8:1-6	—8A:3-15
4	8:1-7	—Omitted	8:1-8	—8A:3-14
5	8:1-9	—8A:3-16	8:1-10	—8A:3-14
6	8:1-11	—Omitted	8:1-12	—Omitted
7	8:1-13	—Omitted	8:1-14	—Omitted
8	8:1-15	—Omitted	8:1-16	—Omitted
9	8:1-17	—Omitted	8:1-18	—Omitted
10	8:1-19	—8A:3-16	8:1-20	—Omitted
11	8:1-20.1	—8A:5-15	8:1-20.2	—8A:5-16
12	8:1-21	—Omitted	8:1-22	—Omitted

#### CHAPTER 2

##### PROPERTY, AND RIGHTS AND INTERESTS THEREIN

1	8:2-1	—8A:6-1	8:2-1.1	—Omitted
2	8:2-2	—Omitted	8:2-3	—8A:6-2—8A:6-4
3	8:2-4	—Omitted	8:2-5	—Omitted
4	8:2-6	—Omitted	8:2-7	—8A:6-4
5	8:2-8	—8A:4-18	8:2-9	—8A:6-7
6	8:2-10	—8A:6-9	8:2-11	—8A:4-2—8A:4-4—
7			8A:4-5a—8A:4-10—8A:6-3	
8	8:2-12	—8A:6-11	8:2-13	—Omitted

9	8:2-14 —8A:4-18	8:2-15 —Omitted
10	8:2-16 —Omitted	8:2-17 —8A:4-18
11	8:2-18 —8A:5-9	8:2-19 —Omitted
12	8:2-20 —8A:7-1—8A:7-9	8:2-21 —8A:6-8—8A:7-2
13	8:2-22 —8A:7-3—8A:7-4—	8:2-23 —8A:7-4
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14	8:2-24 —8A:5-2f—8A:7-5—	8:2-25 —Omitted
15	8A:7-6—8A:7-7—8A:7-8—	
15A	8A:7-9	
16	8:2-26 —Omitted	8:2-27 —8A:5-10—8A:5-11—
17		8A:5-12—8A:5-13
18	8:2-28 —8A:5-10—8A:5-12	8:2-29 —8A:5-13—8A:5-16
19	8:2-30 —8A:4-7—8A:4-8	8:2-31 —8A:4-6—8A:4-8
20	8:2-32 —8A:4-8	8:2-33 —8A:4-7—8A:4-8
21	8:2-34 —8A:4-7—8A:4-8	8:2-35 —8A:4-2—8A:4-12
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26	8:2-42 —8A:4-16	8:2-43 —Omitted
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28	8:2-46 —Omitted	8:2-47 —8A:4-16—8A:6-2
29	8:2-48 —8A:4-16	8:2-49 —Omitted
30	8:2-50 —8A:4-16	8:2-51 —8A:4-16
31	8:2-51.1—8A:4-16	8:2-51.2—8A:4-16
32	8:2-51.3—8A:4-16	8:2-52 —8A:4-16
33	8:2-53 —Omitted	

## CHAPTER 3

## CONTROL, REGULATION, AND PROTECTION OF CEMETERIES

1	8:3-1 —8A:6-6	8:3-2 —8A:3-9—8A:3-10—
2		8A:3-11—8A:3-12—8A:6-5
3	8:3-2.1 —Omitted	8:3-3 —Omitted
4	8:3-4 —Omitted	8:3-4.2 —Omitted
5	8:3-5 —Omitted	8:3-6 —Omitted
6	8:3-7 —Omitted	8:3-8 —8A:8-3
7	8:3-9 —Omitted	8:3-10 —8A:8-3
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9	8:3-13 —8A:8-3	8:3-14 —8A:8-4
10	8:3-15 —Omitted	8:3-16 —8A:8-5
11	8:3-17 —8A:8-6	8:3-17.1—Omitted
12	8:3-17.2—Omitted	8:3-17.3—Omitted

## CHAPTER 4

## REINSTATEMENT OF CHARTER

1	8:4-1 —8A:11-1
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FROM THE OFFICE OF THE GOVERNOR

DECEMBER 1, 1971

FOR RELEASE:  
IMMEDIATE

Governor William T. Cahill today signed into law Senate bill 877 establishing regulations for cemeteries.

The bill, sponsored by Senator Joseph C. Woodcock (R., Bergen), is intended to provide protection for persons who purchase cemetery lots. The Governor said that the new law, which establishes a regulatory board and sets up a fund for maintenance of cemeteries, "will prevent the members of the public from being the unwitting victims of the shoddy practices of some cemetery owners."

The bill establishes a New Jersey Cemetery Board including the Attorney General, Commissioner of Banking, Commissioner of Health, five representatives from cemeteries and a public member. The Governor emphasized that it takes six votes of members of the Cemetery Board to adopt regulations or conduct other cemetery business. He said that the five representatives of cemeteries will bring to the board expertise in the operation of cemeteries and the board will now have full power to investigate any written complaint on the operation of any cemetery in the State of New Jersey.

The new law also requires that 15 percent of the gross sale price of any lot in any cemetery must be set aside in a fund for the maintenance of cemeteries. In addition, \$10 per burial must also be set aside for the same purpose. The fund will be used for the maintenance of the entire cemetery.

The Governor said that many cemeteries which have been hit by the present inflationary trend find themselves without funds when all the burial plots have been sold; and consequently, no longer have funds for the maintenance of cemeteries. He pointed out that in many parts of the State, cemeteries have been allowed to deteriorate in appearance because of this condition and said the new law has been designed to prevent such incidence.

The Governor said "this is an effort to provide a safeguard for persons who, in good conscience, purchase lots in cemeteries and who have every right to expect that the cemetery will be maintained and operated in a proper manner and the members of this board plus the establishment of the fund for each cemetery will guarantee this."