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LAW/RWH

§§4,5 -  
C.45:27-39 &  
45:27-40  
§6 - Repealer

P.L.2011, CHAPTER 230, *approved January 17, 2012*  
Assembly, No. 4374

1 AN ACT concerning crematories, amending and supplementing  
2 P.L.2003, c.261 and repealing various sections of P.L.1950,  
3 c.256.

4  
5 **BE IT ENACTED** by the Senate and General Assembly of the State  
6 of New Jersey:

7  
8 1. Section 2 of P.L.2003, c.261 (C.45:27-2) is amended to read  
9 as follows:

10 2. The following definitions, unless the context indicates  
11 otherwise, apply to this act:

12 "Annual, endowed or special care" means care or maintenance of  
13 an individual interment space provided for by agreement between  
14 the cemetery and the owner of the space.

15 "Board" means the New Jersey Cemetery Board.

16 "Burial" means disposition of human remains by placing them in  
17 a grave or crypt, but does not include their temporary storage.

18 "Burial right" means a right for the burial of human remains in a  
19 particular grave or crypt created by contract between a person and a  
20 cemetery.

21 "Cemetery" means any land or place used or dedicated for use  
22 for burial of human remains, cremation of human remains, or  
23 disposition of cremated human remains **[**, and also includes a  
24 crematory located on dedicated cemetery property**]**.

25 "Cemetery company" means a person that owns, manages,  
26 operates or controls a cemetery, directly or indirectly, but does not  
27 include a religious organization that owns a cemetery which  
28 restricts burials to members of that religion or their families unless  
29 the organization has obtained a certificate of authority for the  
30 cemetery.

31 "Columbarium" means a building or structure containing niches  
32 for placement of cremated human remains.

33 "Cremated human remains" means the recoverable bone  
34 fragments and container residue resulting from the process of  
35 cremation.

36 "Cremation" means the process of reducing human remains to  
37 bone fragments through flame, heat and vaporization.

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

Matter underlined thus is new matter.

- 1 "Crematory" means a structure containing cremation chambers  
2 used to cremate human remains.
- 3 "Crypt" means an interment space in a mausoleum or other  
4 structure, above or below ground.
- 5 "Embellishment" means an item contributing to beauty, comfort  
6 or enhancement of a cemetery, but does not include a memorial or a  
7 disposable, perishable or seasonal item.
- 8 "General maintenance charge" means a fee assessed against each  
9 interment space for the general upkeep of the cemetery.
- 10 "Grave" means a place for underground disposition of human  
11 remains or cremated human remains. A grave may include spaces  
12 for the disposition of human remains of more than one person,  
13 arranged by depth.
- 14 "Human remains" means a body, or part of a body, of a deceased  
15 human being.
- 16 "Interment" means the disposition of human remains by burial in  
17 a grave or crypt but does not mean the temporary storage of  
18 remains.
- 19 "Interment space" means a grave or crypt intended for the  
20 interment of human remains.
- 21 "Maintenance" means all activities of a cemetery company which  
22 further the care and upkeep of a cemetery, including cutting lawns,  
23 and preservation and repair of drains, water lines, roads, buildings,  
24 fences and other structures.
- 25 "Maintenance and preservation" means the care of the entire  
26 cemetery to the extent of the income of the Maintenance and  
27 Preservation Fund; it does not include providing specific care to  
28 individual graves or plots.
- 29 "Mausoleum" means a permanent building in a cemetery above  
30 or below ground, containing crypts to be used for burial.
- 31 "Memorial" means a marker or monument located at a grave  
32 containing the name of a deceased person or the family name of a  
33 deceased person, or an effigy or other representation of a deceased  
34 person buried in the grave. It does not include an embellishment.
- 35 "Niche" means a space in a columbarium or mausoleum for  
36 placement of cremated human remains.
- 37 "Path" means a course or way intended to provide pedestrian  
38 access to interment spaces.
- 39 "Person" includes an individual, corporation, partnership,  
40 association or any other public or private entity.
- 41 "Plot" or "lot" means an area of cemetery ground containing two  
42 or more adjoining graves.
- 43 "Private mausoleum" means a mausoleum constructed by or for a  
44 plot owner and not owned by the cemetery.
- 45 "Public mausoleum" means a mausoleum, built in accordance  
46 with regulations of the Department of Community Affairs, owned  
47 by a cemetery or cemetery company with the intention of use of  
48 interment spaces in it by the general public. A mausoleum is

1 distinguished from a single or multiple vault in that it is a single  
2 integrated structure assembled on the premises. It shall not consist  
3 of one or more vaults constructed off the cemetery premises and  
4 installed singly or in series at the cemetery premises.

5 "Roadway" means a course or way intended to provide vehicle  
6 access to interment spaces.

7 "Vault" means a prefabricated outer burial case of any material,  
8 designed to be installed in the ground to receive one or more  
9 burials, and not a part of a public or private mausoleum or any other  
10 structure.

11 (cf: P.L.2003, c.261, s.2)

12

13 2. Section 13 of P.L.2003, c.261 (C.45:27-13) is amended to  
14 read as follows:

15 13. a. As a condition for the issuance of its certificate of  
16 authority to operate a cemetery, a cemetery company established  
17 after December 1, 1971 shall make an initial deposit of \$75,000 to  
18 its Maintenance and Preservation Fund. [A cemetery company that  
19 operates or seeks to operate only a crematory shall not be required  
20 to make the \$75,000 initial trust fund deposit.] A for-profit  
21 corporation, partnership, association or other private entity  
22 managing or operating a cemetery company pursuant to a certificate  
23 of authority granted under section 1 of P.L.2006, c.26 (C.45:27-7.1)  
24 shall not be required to make that initial deposit of \$75,000 to its  
25 Maintenance and Preservation Fund; however the cemetery  
26 company and the for-profit corporation, partnership, association or  
27 other private entity shall be jointly and severally liable for the  
28 maintenance and use of that Maintenance and Preservation Fund.

29 b. A cemetery company established before December 1, 1971  
30 shall transfer into the Maintenance and Preservation Fund any funds  
31 established for the maintenance and preservation of the cemetery  
32 and any additional amount set by the board.

33 c. A cemetery company shall collect and pay into the  
34 Maintenance and Preservation Fund the following fees and charges:

35 (1) on the initial sale by a cemetery company of each grave,  
36 15% of the gross sales price;

37 (2) 10% of the initial sales price of a crypt or niche in a public  
38 mausoleum or columbarium;

39 (3) on bulk sales of graves, 15% of the current retail gross  
40 [sale] sales price of comparable graves;

41 (4) on bulk sales of crypts or niches, 10% of the current retail  
42 gross [sale] sales price of comparable crypts or niches;

43 (5) on transfer of a grave, 15% of the current gross sales price of  
44 equivalent graves, less any amounts previously paid to the  
45 Maintenance and Preservation Fund on sales of that grave;

46 (6) on transfer of a crypt or niche, 15% of the current gross sales  
47 price of equivalent crypts or niches, less any amounts previously

1 paid to the Maintenance and Preservation Fund on sales of that  
2 crypt or niche;

3 (7) for each interment or for the placement of cremated human  
4 remains, 3% of the charge for the interment or placement or \$20,  
5 whichever is more;

6 (8) for a foundation, base or installation, 10% of the charge for  
7 the foundation, base or installation, or \$20, whichever is more.

8 For the purposes of paragraphs (5) and (6) of this subsection,  
9 "transfer" shall not include sales to the cemetery company or to the  
10 next of kin.

11 d. Monies required to be deposited into the Maintenance and  
12 Preservation Fund shall be paid to the fund on a monthly basis.  
13 Such deposits shall be made by the last day of the month following  
14 the month in which the monies were received. In the event of an  
15 installment sale of a grave, crypt or niche, the cemetery company  
16 may make the required deposit at the time the deed is issued or  
17 when the payments are received.

18 e. A cemetery company may make additional payments or  
19 accept contributions into the Maintenance and Preservation Fund.  
20 (cf: P.L.2006, c.26, s.2)

21

22 3. Section 19 of P.L.2003, c.261 (C.45:27-19) is amended to  
23 read as follows:

24 19. a. A cemetery company shall keep a record of every  
25 interment and placement of cremated human remains, which shall  
26 include the date, the name and age of the person, the cause of death  
27 when shown on the burial permit, the location of the burial or  
28 disposition, and the name and address of the funeral director.

29 b. A record shall be kept by a cemetery company of the owner  
30 of each interment space that has been conveyed by the cemetery  
31 company and of each transfer of an interment space to which the  
32 cemetery company has consented. A transfer of an interment space  
33 or a right of burial shall not be complete or effective until it is  
34 recorded on the books of the cemetery company and any fees  
35 required are paid.

36 c. The instrument of conveyance of [a] an interment space  
37 shall include the actual amount paid for it and a description of the  
38 interment space sufficient to identify it, including its number as it  
39 appears on the cemetery map, and any other information required  
40 by regulation of the board. The instrument shall show the  
41 dimensions of the interment space.

42 d. A cemetery company that performs a cremation shall keep a  
43 record [indicating the date and the recipient of the cremated  
44 remains] containing the following information:

45 (1) the name, last residence, age, place and date of death of the  
46 decedent;

47 (2) the name and address of the person who authorized the  
48 cremation;

1       (3) the name and address of the funeral home from whom the  
2 remains were received for cremation;

3       (4) the name and license number of the funeral director of the  
4 funeral home who delivered the remains for cremation; and

5       (5) the date of the cremation and the recipient of the cremated  
6 remains or, if no recipient, the final disposition.

7 (cf: P.L.2003, c.261, s.19)

8  
9       4. (New section) a. In addition to any other statutory or  
10 regulatory requirements concerning the construction of a crematory,  
11 no crematory shall be constructed without prior approval of the  
12 board. An applicant for construction of a crematory shall file a  
13 written application on the form prescribed by the board. The board  
14 may assess a reasonable application fee, which shall accompany the  
15 application. As soon as practicable after an application for the  
16 construction of a crematory has been filed with the board, the board  
17 shall notify the Commissioner of Health and Senior Services of the  
18 application. The board may adopt additional regulations concerning  
19 the construction or operation of a crematory as the board deems  
20 appropriate and consistent with P.L.2003, c.261 (C.45:27-1 et seq.).

21  
22       5. (New section) A crematory shall be located only on  
23 dedicated cemetery property not exclusively devoted to: (1) the  
24 operation of a crematory; or (2) the operation of a crematory and  
25 the disposition of cremated remains. This section shall not apply to  
26 a crematorium operated in conjunction with a funeral home  
27 pursuant to paragraph (4) of subsection c. of section 16 of PL.2003,  
28 c.261 (C.45:27-16).

29  
30       6. The following sections are repealed:  
31 Sections 1 through 5 of P.L.1950, c.256 (C.26:7-11 through  
32 C.26:7-15); and  
33 Sections 7 and 8 of P.L.1950, c.256 (C.26:7-17 and C.26:7-18).

34  
35       7. This act shall take effect immediately.

36

37

#### 38 STATEMENT

39

40       This bill makes certain revisions to the statutes concerning the  
41 construction and operation of crematories. The bill is intended to  
42 clarify that a crematory is only to be located on dedicated cemetery  
43 property. Specifically, the bill provides that a crematory shall be  
44 located only on dedicated cemetery property not exclusively  
45 devoted to: (1) the operation of a crematory; or (2) the operation of  
46 a crematory and the disposition of cremated remains. A  
47 crematorium operated in conjunction with a funeral home prior to  
48 December 1, 1971 is exempt from this requirement.

1       In addition, the bill repeals certain outdated provisions concerning  
2 cremation to bring the construction and operation of crematories  
3 more clearly under the regulation of the New Jersey Cemetery  
4 Board in the Division of Consumer Affairs in the Department of  
5 Law and Public Safety. The bill provides that no crematory shall be  
6 built without prior approval of the New Jersey Cemetery Board and  
7 provides the board with the authority to adopt regulations  
8 concerning the construction and operation of crematories. The bill  
9 also requires the New Jersey Cemetery Board to notify the  
10 Commissioner of Health and Senior Services, as soon as  
11 practicable, whenever an application is filed for a new crematory.

12

13

14

15

16       Revises statutes concerning crematories and the cremation of  
17 human remains.



# ASSEMBLY, No. 4374

## STATE OF NEW JERSEY 214th LEGISLATURE

INTRODUCED DECEMBER 1, 2011

**Sponsored by:**

**Assemblyman VINCENT PRIETO**

**District 32 (Bergen and Hudson)**

**Assemblyman THOMAS P. GIBLIN**

**District 34 (Essex and Passaic)**

**Assemblyman ANGEL FUENTES**

**District 5 (Camden and Gloucester)**

**Co-Sponsored by:**

**Senators Gill and T.Kean**

**SYNOPSIS**

Revises statutes concerning crematories and the cremation of human remains.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 1/10/2012)**

1 AN ACT concerning crematories, amending and supplementing  
2 P.L.2003, c.261 and repealing various sections of P.L.1950,  
3 c.256.

4  
5 **BE IT ENACTED** *by the Senate and General Assembly of the State*  
6 *of New Jersey:*

7  
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9 as follows:

10 2. The following definitions, unless the context indicates  
11 otherwise, apply to this act:

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13 an individual interment space provided for by agreement between  
14 the cemetery and the owner of the space.

15 "Board" means the New Jersey Cemetery Board.

16 "Burial" means disposition of human remains by placing them in  
17 a grave or crypt, but does not include their temporary storage.

18 "Burial right" means a right for the burial of human remains in a  
19 particular grave or crypt created by contract between a person and a  
20 cemetery.

21 "Cemetery" means any land or place used or dedicated for use  
22 for burial of human remains, cremation of human remains, or  
23 disposition of cremated human remains [ , and also includes a  
24 crematory located on dedicated cemetery property ].

25 "Cemetery company" means a person that owns, manages,  
26 operates or controls a cemetery, directly or indirectly, but does not  
27 include a religious organization that owns a cemetery which  
28 restricts burials to members of that religion or their families unless  
29 the organization has obtained a certificate of authority for the  
30 cemetery.

31 "Columbarium" means a building or structure containing niches  
32 for placement of cremated human remains.

33 "Cremated human remains" means the recoverable bone  
34 fragments and container residue resulting from the process of  
35 cremation.

36 "Cremation" means the process of reducing human remains to  
37 bone fragments through flame, heat and vaporization.

38 "Crematory" means a structure containing cremation chambers  
39 used to cremate human remains.

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41 structure, above or below ground.

42 "Embellishment" means an item contributing to beauty, comfort  
43 or enhancement of a cemetery, but does not include a memorial or a  
44 disposable, perishable or seasonal item.

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

**Matter underlined thus is new matter.**

1 "General maintenance charge" means a fee assessed against each  
2 interment space for the general upkeep of the cemetery.

3 "Grave" means a place for underground disposition of human  
4 remains or cremated human remains. A grave may include spaces  
5 for the disposition of human remains of more than one person,  
6 arranged by depth.

7 "Human remains" means a body, or part of a body, of a deceased  
8 human being.

9 "Interment" means the disposition of human remains by burial in  
10 a grave or crypt but does not mean the temporary storage of  
11 remains.

12 "Interment space" means a grave or crypt intended for the  
13 interment of human remains.

14 "Maintenance" means all activities of a cemetery company which  
15 further the care and upkeep of a cemetery, including cutting lawns,  
16 and preservation and repair of drains, water lines, roads, buildings,  
17 fences and other structures.

18 "Maintenance and preservation" means the care of the entire  
19 cemetery to the extent of the income of the Maintenance and  
20 Preservation Fund; it does not include providing specific care to  
21 individual graves or plots.

22 "Mausoleum" means a permanent building in a cemetery above  
23 or below ground, containing crypts to be used for burial.

24 "Memorial" means a marker or monument located at a grave  
25 containing the name of a deceased person or the family name of a  
26 deceased person, or an effigy or other representation of a deceased  
27 person buried in the grave. It does not include an embellishment.

28 "Niche" means a space in a columbarium or mausoleum for  
29 placement of cremated human remains.

30 "Path" means a course or way intended to provide pedestrian  
31 access to interment spaces.

32 "Person" includes an individual, corporation, partnership,  
33 association or any other public or private entity.

34 "Plot" or "lot" means an area of cemetery ground containing two  
35 or more adjoining graves.

36 "Private mausoleum" means a mausoleum constructed by or for a  
37 plot owner and not owned by the cemetery.

38 "Public mausoleum" means a mausoleum, built in accordance  
39 with regulations of the Department of Community Affairs, owned  
40 by a cemetery or cemetery company with the intention of use of  
41 interment spaces in it by the general public. A mausoleum is  
42 distinguished from a single or multiple vault in that it is a single  
43 integrated structure assembled on the premises. It shall not consist  
44 of one or more vaults constructed off the cemetery premises and  
45 installed singly or in series at the cemetery premises.

46 "Roadway" means a course or way intended to provide vehicle  
47 access to interment spaces.

1 "Vault" means a prefabricated outer burial case of any material,  
2 designed to be installed in the ground to receive one or more  
3 burials, and not a part of a public or private mausoleum or any other  
4 structure.

5 (cf: P.L.2003, c.261, s.2)

6

7 2. Section 13 of P.L.2003, c.261 (C.45:27-13) is amended to  
8 read as follows:

9 13. a. As a condition for the issuance of its certificate of  
10 authority to operate a cemetery, a cemetery company established  
11 after December 1, 1971 shall make an initial deposit of \$75,000 to  
12 its Maintenance and Preservation Fund. **[A cemetery company that**  
13 **operates or seeks to operate only a crematory shall not be required**  
14 **to make the \$75,000 initial trust fund deposit.]** A for-profit  
15 corporation, partnership, association or other private entity  
16 managing or operating a cemetery company pursuant to a certificate  
17 of authority granted under section 1 of P.L.2006, c.26 (C.45:27-7.1)  
18 shall not be required to make that initial deposit of \$75,000 to its  
19 Maintenance and Preservation Fund; however the cemetery  
20 company and the for-profit corporation, partnership, association or  
21 other private entity shall be jointly and severally liable for the  
22 maintenance and use of that Maintenance and Preservation Fund.

23 b. A cemetery company established before December 1, 1971  
24 shall transfer into the Maintenance and Preservation Fund any funds  
25 established for the maintenance and preservation of the cemetery  
26 and any additional amount set by the board.

27 c. A cemetery company shall collect and pay into the  
28 Maintenance and Preservation Fund the following fees and charges:

29 (1) on the initial sale by a cemetery company of each grave,  
30 15% of the gross sales price;

31 (2) 10% of the initial sales price of a crypt or niche in a public  
32 mausoleum or columbarium;

33 (3) on bulk sales of graves, 15% of the current retail gross  
34 **[sale] sales** price of comparable graves;

35 (4) on bulk sales of crypts or niches, 10% of the current retail  
36 gross **[sale] sales** price of comparable crypts or niches;

37 (5) on transfer of a grave, 15% of the current gross sales price of  
38 equivalent graves, less any amounts previously paid to the  
39 Maintenance and Preservation Fund on sales of that grave;

40 (6) on transfer of a crypt or niche, 15% of the current gross sales  
41 price of equivalent crypts or niches, less any amounts previously  
42 paid to the Maintenance and Preservation Fund on sales of that  
43 crypt or niche;

44 (7) for each interment or for the placement of cremated human  
45 remains, 3% of the charge for the interment or placement or \$20,  
46 whichever is more;

47 (8) for a foundation, base or installation, 10% of the charge for  
48 the foundation, base or installation, or \$20, whichever is more.

1 For the purposes of paragraphs (5) and (6) of this subsection,  
2 "transfer" shall not include sales to the cemetery company or to the  
3 next of kin.

4 d. Monies required to be deposited into the Maintenance and  
5 Preservation Fund shall be paid to the fund on a monthly basis.  
6 Such deposits shall be made by the last day of the month following  
7 the month in which the monies were received. In the event of an  
8 installment sale of a grave, crypt or niche, the cemetery company  
9 may make the required deposit at the time the deed is issued or  
10 when the payments are received.

11 e. A cemetery company may make additional payments or  
12 accept contributions into the Maintenance and Preservation Fund.  
13 (cf: P.L.2006, c.26, s.2)

14

15 3. Section 19 of P.L.2003, c.261 (C.45:27-19) is amended to  
16 read as follows:

17 19. a. A cemetery company shall keep a record of every  
18 interment and placement of cremated human remains, which shall  
19 include the date, the name and age of the person, the cause of death  
20 when shown on the burial permit, the location of the burial or  
21 disposition, and the name and address of the funeral director.

22 b. A record shall be kept by a cemetery company of the owner  
23 of each interment space that has been conveyed by the cemetery  
24 company and of each transfer of an interment space to which the  
25 cemetery company has consented. A transfer of an interment space  
26 or a right of burial shall not be complete or effective until it is  
27 recorded on the books of the cemetery company and any fees  
28 required are paid.

29 c. The instrument of conveyance of [a] an interment space  
30 shall include the actual amount paid for it and a description of the  
31 interment space sufficient to identify it, including its number as it  
32 appears on the cemetery map, and any other information required  
33 by regulation of the board. The instrument shall show the  
34 dimensions of the interment space.

35 d. A cemetery company that performs a cremation shall keep a  
36 record [indicating the date and the recipient of the cremated  
37 remains] containing the following information:

38 (1) the name, last residence, age, place and date of death of the  
39 decedent;

40 (2) the name and address of the person who authorized the  
41 cremation;

42 (3) the name and address of the funeral home from whom the  
43 remains were received for cremation;

44 (4) the name and license number of the funeral director of the  
45 funeral home who delivered the remains for cremation; and

46 (5) the date of the cremation and the recipient of the cremated  
47 remains or, if no recipient, the final disposition.

48 (cf: P.L.2003, c.261, s.19)



**A4374 PRIETO, GIBLIN**

7

- 1 also requires the New Jersey Cemetery Board to notify the
- 2 Commissioner of Health and Senior Services, as soon as
- 3 practicable, whenever an application is filed for a new crematory.

# ASSEMBLY REGULATED PROFESSIONS COMMITTEE

## STATEMENT TO

### ASSEMBLY, No. 4374

# STATE OF NEW JERSEY

DATED: DECEMBER 8, 2011

The Assembly Regulated Professions Committee reports favorably on Assembly Bill No. 4374.

This bill makes certain revisions to the statutes concerning the construction and operation of crematories. The bill stipulates that a crematory is only to be located on dedicated cemetery property. Specifically, the bill provides that a crematory shall be located only on dedicated cemetery property not exclusively devoted to: (1) the operation of a crematory; or (2) the operation of a crematory and the disposition of cremated remains. A crematorium operated in conjunction with a funeral home prior to December 1, 1971 is exempt from this requirement.

In addition, the bill repeals certain outdated provisions concerning cremation to bring the construction and operation of crematories more clearly under the regulation of the New Jersey Cemetery Board in the Division of Consumer Affairs in the Department of Law and Public Safety. The bill provides that no crematory shall be built without prior approval of the New Jersey Cemetery Board and provides the board with the authority to adopt regulations concerning the construction and operation of crematories. The bill also requires the New Jersey Cemetery Board to notify the Commissioner of Health and Senior Services, as soon as practicable, whenever an application is filed for a new crematory.



# ASSEMBLY BUDGET COMMITTEE

## STATEMENT TO

### ASSEMBLY, No. 4374

# STATE OF NEW JERSEY

DATED: JANUARY 5, 2012

The Assembly Budget Committee reports favorably Assembly Bill No. 4374.

This bill makes certain changes to the provisions of current law that govern the construction and operation of crematories and the cremation of human remains.

The bill requires a crematory that is constructed and operated for the cremation of human remains to be located only on dedicated cemetery property not exclusively devoted to the operation of a crematory or to the operation of a crematory and the disposition of cremated remains. The bill exempts a crematorium operated in conjunction with a funeral home prior to December 1, 1971 from this requirement.

The bill prohibits a crematory from being built without prior approval of the New Jersey Cemetery Board in the Division of Consumer Affairs in the Department of Law and Public Safety. The bill requires an applicant for the construction of a crematory to file a written application with the board on a form prescribed by the board, and permits the board to assess a reasonable application fee. The bill requires the board to notify the Commissioner of Health and Senior Services when an application is filed for the construction of a crematory, and authorizes the cemetery board to adopt regulations concerning the construction or operation of crematories.

The bill repeals certain provisions of current law that govern the cremation of human remains to transfer certain oversight associated with crematories and the cremation of human remains from the Department of Health and Senior Services to the New Jersey Cemetery Board. Under the bill, the repealed provisions of law include:

-- Sections 1 through 5 of P.L.1950, c.256 (N.J.S.A.26:7-11 through N.J.S.A.26:7-15), concerning licenses required to engage in the business of cremating dead human bodies, certain definitions, applications, fees, and rules and regulations related to those licenses, and certain records required to be kept in connection with the cremation of a human body by persons engaged in the business of cremating dead human bodies; and

-- Sections 7 and 8 of P.L.1950, c.256 (N.J.S.A.26:7-17 and N.J.S.A.26:7-18) concerning the revocation and suspension of licenses required to engage in the business of cremating dead human bodies

and the issuance of certain permits to use certain lands for the interment of the cremated remains of dead human bodies.

The bill clarifies certain information required to be maintained by cemetery companies that perform a cremation of human remains. Under the bill, a cemetery company that performs a cremation is required to keep a record of a cremation which contains information concerning: (1) the name, last residence, age, place and death of the decedent; (2) the name and address of the person who authorized the cremation; (3) the name and address of the funeral home from whom the remains were received for cremation; (4) the name and license number of the funeral director of the funeral home who delivered the remains for cremation; and (5) the date of the cremation and the recipient of the cremated remains or, if no recipient, the final disposition.

The bill makes certain other technical changes and clarifications to conform certain other provisions of current law to the requirements imposed by the bill and to correct certain errors as to punctuation and grammar.

**FISCAL IMPACT:**

The Office of Legislative Services (OLS) lacks sufficient data to quantify the fiscal impact of the bill at this time. However, the OLS notes that the repeal of a current statute authorizing the imposition of a \$50 fee in connection with the application and issuance of a license required to engage in the business of cremating dead human bodies may decrease State revenues made available to the Department of Health and Senior Services by some unknown amount in fiscal years following enactment, and notes that the imposition of a new “reasonable application fee” in connection with an application for the construction of a crematory in accordance with this bill may increase State revenues made available to the New Jersey Cemetery Board in the Division of Consumer Affairs in the Department of Law and Public Safety by some unknown amount in fiscal years following enactment.

**LEGISLATIVE FISCAL ESTIMATE**  
**ASSEMBLY, No. 4374**  
**STATE OF NEW JERSEY**  
**214th LEGISLATURE**

DATED: JANUARY 10, 2012

**SUMMARY**

**Synopsis:** Revises statutes concerning crematories and the cremation of human remains.

**Type of Impact:** Indeterminate Fiscal Impact.

**Agencies Affected:** New Jersey Cemetery Board, Division of Consumer Affairs, Department of Health and Senior Services

**Office of Legislative Services Estimate**

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
<b>State Cost &amp; Revenue</b>	Indeterminate Impact		

- The Office of Legislative Services notes that this bill has an indeterminate fiscal impact resulting from an elimination of the \$50 licensure fee in the Department of Health and Senior Services (DHSS) and the establishment of a new application fee in the New Jersey Cemetery Board in the Division of Consumer Affairs.
- Eliminate statutes in which the Department of Health and Senior Services regulated cremation and establishes oversight by the New Jersey Cemetery Board in the Division of Consumer Affairs.
- Requires the New Jersey Cemetery Board to notify the Department of Health and Senior Services whenever an application is filed for a new crematory.
- Clarifies that crematories may only be located on dedicated cemetery property, unless the property operated a crematorium in conjunction with a funeral home prior to December 1, 1971.

**BILL DESCRIPTION**

Assembly Bill No. 4374 of 2011 makes certain revisions to the statutes concerning the construction and operation of crematories.

The bill is intended to clarify that a crematory is only to be located on dedicated cemetery property. Specifically, the bill provides that a crematory shall be located only on dedicated cemetery property not exclusively devoted to: (1) the operation of a crematory; or (2) the operation of a crematory and the disposition of cremated remains. A crematorium operated in conjunction with a funeral home prior to December 1, 1971 is exempt from this requirement.

In addition, the bill repeals certain outdated provisions concerning cremation to bring the construction and operation of crematories more clearly under the regulation of the New Jersey Cemetery Board in the Division of Consumer Affairs in the Department of Law and Public Safety. The bill provides that no crematory shall be built without prior approval of the New Jersey Cemetery Board and provides the board with the authority to adopt regulations concerning the construction and operation of crematories.

The bill also requires the New Jersey Cemetery Board to notify the Commissioner of Health and Senior Services, as soon as practicable, whenever an application is filed for a new crematory.

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

#### ***Department of Health and Senior Services***

None received.

#### ***Department of Law and Public Safety***

The Division of Consumer Affairs determined that this bill would not create a fiscal impact to the division.

### ***OFFICE OF LEGISLATIVE SERVICES***

The Office of Legislative Services notes that this bill has an indeterminate fiscal impact resulting from an elimination of the \$50 licensure fee in the DHSS and the establishment of a new application fee in the New Jersey Cemetery Board in the Division of Consumer Affairs.

The bill repeals the licensure fee of \$50 to the DHSS which will potentially decrease revenue in this department. The bill however permits the board to establish a reasonable application fee which will generate an unknown amount of revenue for the division.

*Section:* Law and Public Safety

*Analyst:* Kristin B. Santos  
Senior Fiscal Analyst

*Approved:* David J. Rosen  
Legislative Budget and Finance Officer

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

# SENATE, No. 3125

## STATE OF NEW JERSEY 214th LEGISLATURE

INTRODUCED DECEMBER 1, 2011

**Sponsored by:**

**Senator NIA H. GILL**

**District 34 (Essex and Passaic)**

**Senator THOMAS H. KEAN, JR.**

**District 21 (Essex, Morris, Somerset and Union)**

**SYNOPSIS**

Revises statutes concerning crematories and the cremation of human remains.

**CURRENT VERSION OF TEXT**

As introduced.



1 AN ACT concerning crematories, amending and supplementing  
2 P.L.2003, c.261 and repealing various sections of P.L.1950,  
3 c.256.

4  
5 **BE IT ENACTED** *by the Senate and General Assembly of the State*  
6 *of New Jersey:*

7  
8 1. Section 2 of P.L.2003, c.261 (C.45:27-2) is amended to read  
9 as follows:

10 2. The following definitions, unless the context indicates  
11 otherwise, apply to this act:

12 "Annual, endowed or special care" means care or maintenance of  
13 an individual interment space provided for by agreement between  
14 the cemetery and the owner of the space.

15 "Board" means the New Jersey Cemetery Board.

16 "Burial" means disposition of human remains by placing them in  
17 a grave or crypt, but does not include their temporary storage.

18 "Burial right" means a right for the burial of human remains in a  
19 particular grave or crypt created by contract between a person and a  
20 cemetery.

21 "Cemetery" means any land or place used or dedicated for use  
22 for burial of human remains, cremation of human remains, or  
23 disposition of cremated human remains [ , and also includes a  
24 crematory located on dedicated cemetery property ].

25 "Cemetery company" means a person that owns, manages,  
26 operates or controls a cemetery, directly or indirectly, but does not  
27 include a religious organization that owns a cemetery which  
28 restricts burials to members of that religion or their families unless  
29 the organization has obtained a certificate of authority for the  
30 cemetery.

31 "Columbarium" means a building or structure containing niches  
32 for placement of cremated human remains.

33 "Cremated human remains" means the recoverable bone  
34 fragments and container residue resulting from the process of  
35 cremation.

36 "Cremation" means the process of reducing human remains to  
37 bone fragments through flame, heat and vaporization.

38 "Crematory" means a structure containing cremation chambers  
39 used to cremate human remains.

40 "Crypt" means an interment space in a mausoleum or other  
41 structure, above or below ground.

42 "Embellishment" means an item contributing to beauty, comfort  
43 or enhancement of a cemetery, but does not include a memorial or a  
44 disposable, perishable or seasonal item.

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

**Matter underlined thus is new matter.**

1 "General maintenance charge" means a fee assessed against each  
2 interment space for the general upkeep of the cemetery.

3 "Grave" means a place for underground disposition of human  
4 remains or cremated human remains. A grave may include spaces  
5 for the disposition of human remains of more than one person,  
6 arranged by depth.

7 "Human remains" means a body, or part of a body, of a deceased  
8 human being.

9 "Interment" means the disposition of human remains by burial in  
10 a grave or crypt but does not mean the temporary storage of  
11 remains.

12 "Interment space" means a grave or crypt intended for the  
13 interment of human remains.

14 "Maintenance" means all activities of a cemetery company which  
15 further the care and upkeep of a cemetery, including cutting lawns,  
16 and preservation and repair of drains, water lines, roads, buildings,  
17 fences and other structures.

18 "Maintenance and preservation" means the care of the entire  
19 cemetery to the extent of the income of the Maintenance and  
20 Preservation Fund; it does not include providing specific care to  
21 individual graves or plots.

22 "Mausoleum" means a permanent building in a cemetery above  
23 or below ground, containing crypts to be used for burial.

24 "Memorial" means a marker or monument located at a grave  
25 containing the name of a deceased person or the family name of a  
26 deceased person, or an effigy or other representation of a deceased  
27 person buried in the grave. It does not include an embellishment.

28 "Niche" means a space in a columbarium or mausoleum for  
29 placement of cremated human remains.

30 "Path" means a course or way intended to provide pedestrian  
31 access to interment spaces.

32 "Person" includes an individual, corporation, partnership,  
33 association or any other public or private entity.

34 "Plot" or "lot" means an area of cemetery ground containing two  
35 or more adjoining graves.

36 "Private mausoleum" means a mausoleum constructed by or for a  
37 plot owner and not owned by the cemetery.

38 "Public mausoleum" means a mausoleum, built in accordance  
39 with regulations of the Department of Community Affairs, owned  
40 by a cemetery or cemetery company with the intention of use of  
41 interment spaces in it by the general public. A mausoleum is  
42 distinguished from a single or multiple vault in that it is a single  
43 integrated structure assembled on the premises. It shall not consist  
44 of one or more vaults constructed off the cemetery premises and  
45 installed singly or in series at the cemetery premises.

46 "Roadway" means a course or way intended to provide vehicle  
47 access to interment spaces.

1 "Vault" means a prefabricated outer burial case of any material,  
2 designed to be installed in the ground to receive one or more  
3 burials, and not a part of a public or private mausoleum or any other  
4 structure.

5 (cf: P.L.2003, c.261, s.2)

6

7 2. Section 13 of P.L.2003, c.261 (C.45:27-13) is amended to  
8 read as follows:

9 13. a. As a condition for the issuance of its certificate of  
10 authority to operate a cemetery, a cemetery company established  
11 after December 1, 1971 shall make an initial deposit of \$75,000 to  
12 its Maintenance and Preservation Fund. [A cemetery company that  
13 operates or seeks to operate only a crematory shall not be required  
14 to make the \$75,000 initial trust fund deposit.] A for-profit  
15 corporation, partnership, association or other private entity  
16 managing or operating a cemetery company pursuant to a certificate  
17 of authority granted under section 1 of P.L.2006, c.26 (C.45:27-7.1)  
18 shall not be required to make that initial deposit of \$75,000 to its  
19 Maintenance and Preservation Fund; however the cemetery  
20 company and the for-profit corporation, partnership, association or  
21 other private entity shall be jointly and severally liable for the  
22 maintenance and use of that Maintenance and Preservation Fund.

23 b. A cemetery company established before December 1, 1971  
24 shall transfer into the Maintenance and Preservation Fund any funds  
25 established for the maintenance and preservation of the cemetery  
26 and any additional amount set by the board.

27 c. A cemetery company shall collect and pay into the  
28 Maintenance and Preservation Fund the following fees and charges:

29 (1) on the initial sale by a cemetery company of each grave,  
30 15% of the gross sales price;

31 (2) 10% of the initial sales price of a crypt or niche in a public  
32 mausoleum or columbarium;

33 (3) on bulk sales of graves, 15% of the current retail gross  
34 [sale] sales price of comparable graves;

35 (4) on bulk sales of crypts or niches, 10% of the current retail  
36 gross [sale] sales price of comparable crypts or niches;

37 (5) on transfer of a grave, 15% of the current gross sales price of  
38 equivalent graves, less any amounts previously paid to the  
39 Maintenance and Preservation Fund on sales of that grave;

40 (6) on transfer of a crypt or niche, 15% of the current gross sales  
41 price of equivalent crypts or niches, less any amounts previously  
42 paid to the Maintenance and Preservation Fund on sales of that  
43 crypt or niche;

44 (7) for each interment or for the placement of cremated human  
45 remains, 3% of the charge for the interment or placement or \$20,  
46 whichever is more;

47 (8) for a foundation, base or installation, 10% of the charge for  
48 the foundation, base or installation, or \$20, whichever is more.



1 For the purposes of paragraphs (5) and (6) of this subsection,  
2 "transfer" shall not include sales to the cemetery company or to the  
3 next of kin.

4 d. Monies required to be deposited into the Maintenance and  
5 Preservation Fund shall be paid to the fund on a monthly basis.  
6 Such deposits shall be made by the last day of the month following  
7 the month in which the monies were received. In the event of an  
8 installment sale of a grave, crypt or niche, the cemetery company  
9 may make the required deposit at the time the deed is issued or  
10 when the payments are received.

11 e. A cemetery company may make additional payments or  
12 accept contributions into the Maintenance and Preservation Fund.  
13 (cf: P.L.2006, c.26, s.2)

14  
15 3. Section 19 of P.L.2003, c.261 (C.45:27-19) is amended to  
16 read as follows:

17 19. a. A cemetery company shall keep a record of every  
18 interment and placement of cremated human remains, which shall  
19 include the date, the name and age of the person, the cause of death  
20 when shown on the burial permit, the location of the burial or  
21 disposition, and the name and address of the funeral director.

22 b. A record shall be kept by a cemetery company of the owner  
23 of each interment space that has been conveyed by the cemetery  
24 company and of each transfer of an interment space to which the  
25 cemetery company has consented. A transfer of an interment space  
26 or a right of burial shall not be complete or effective until it is  
27 recorded on the books of the cemetery company and any fees  
28 required are paid.

29 c. The instrument of conveyance of [a] an interment space  
30 shall include the actual amount paid for it and a description of the  
31 interment space sufficient to identify it, including its number as it  
32 appears on the cemetery map, and any other information required  
33 by regulation of the board. The instrument shall show the  
34 dimensions of the interment space.

35 d. A cemetery company that performs a cremation shall keep a  
36 record [indicating the date and the recipient of the cremated  
37 remains] containing the following information:

38 (1) the name, last residence, age, place and date of death of the  
39 decedent;

40 (2) the name and address of the person who authorized the  
41 cremation;

42 (3) the name and address of the funeral home from whom the  
43 remains were received for cremation;

44 (4) the name and license number of the funeral director of the  
45 funeral home who delivered the remains for cremation; and

46 (5) the date of the cremation and the recipient of the cremated  
47 remains or, if no recipient, the final disposition.

48 (cf: P.L.2003, c.261, s.19)

1 4. (New section) a. In addition to any other statutory or  
2 regulatory requirements concerning the construction of a crematory,  
3 no crematory shall be constructed without prior approval of the  
4 board. An applicant for construction of a crematory shall file a  
5 written application on the form prescribed by the board. The board  
6 may assess a reasonable application fee, which shall accompany the  
7 application. As soon as practicable after an application for the  
8 construction of a crematory has been filed with the board, the board  
9 shall notify the Commissioner of Health and Senior Services of the  
10 application. The board may adopt additional regulations concerning  
11 the construction or operation of a crematory as the board deems  
12 appropriate and consistent with P.L.2003, c.261 (C.45:27-1 et seq.).  
13

14 5. (New section) A crematory shall be located only on  
15 dedicated cemetery property not exclusively devoted to: (1) the  
16 operation of a crematory; or (2) the operation of a crematory and  
17 the disposition of cremated remains. This section shall not apply to  
18 a crematorium operated in conjunction with a funeral home  
19 pursuant to paragraph (4) of subsection c. of section 16 of PL.2003,  
20 c.261 (C.45:27-16).  
21

22 6. The following sections are repealed:  
23 Sections 1 through 5 of P.L.1950, c.256 (C.26:7-11 through  
24 C.26:7-15); and  
25 Sections 7 and 8 of P.L.1950, c.256 (C.26:7-17 and C.26:7-18).  
26

27 7. This act shall take effect immediately.  
28  
29

#### 30 STATEMENT 31

32 This bill makes certain revisions to the statutes concerning the  
33 construction and operation of crematories. The bill is intended to  
34 clarify that a crematory is only to be located on dedicated cemetery  
35 property. Specifically, the bill provides that a crematory shall be  
36 located only on dedicated cemetery property not exclusively  
37 devoted to: (1) the operation of a crematory; or (2) the operation of  
38 a crematory and the disposition of cremated remains. A  
39 crematorium operated in conjunction with a funeral home prior to  
40 December 1, 1971 is exempt from this requirement.

41 In addition, the bill repeals certain outdated provisions concerning  
42 cremation to bring the construction and operation of crematories  
43 more clearly under the regulation of the New Jersey Cemetery  
44 Board in the Division of Consumer Affairs in the Department of  
45 Law and Public Safety. The bill provides that no crematory shall be  
46 built without prior approval of the New Jersey Cemetery Board and  
47 provides the board with the authority to adopt regulations  
48 concerning the construction and operation of crematories. The bill

**S3125 GILL, T. KEAN**

7

1 also requires the New Jersey Cemetery Board to notify the  
2 Commissioner of Health and Senior Services, as soon as  
3 practicable, whenever an application is filed for a new crematory.

SENATE COMMERCE COMMITTEE

STATEMENT TO

**SENATE, No. 3125**

**STATE OF NEW JERSEY**

DATED: DECEMBER 8, 2011

The Senate Commerce Committee reports favorably Senate Bill No. 3125.

This bill makes certain revisions to the statutes concerning the construction and operation of crematories. The bill stipulates that a crematory is only to be located on dedicated cemetery property. Specifically, the bill provides that a crematory shall be located only on dedicated cemetery property not exclusively devoted to: (1) the operation of a crematory; or (2) the operation of a crematory and the disposition of cremated remains. A crematorium operated in conjunction with a funeral home prior to December 1, 1971 is exempt from this requirement.

In addition, the bill repeals certain outdated provisions concerning cremation to bring the construction and operation of crematories more clearly under the regulation of the New Jersey Cemetery Board in the Division of Consumer Affairs in the Department of Law and Public Safety. The bill provides that no crematory shall be built without prior approval of the New Jersey Cemetery Board and provides the board with the authority to adopt regulations concerning the construction and operation of crematories. The bill also requires the New Jersey Cemetery Board to notify the Commissioner of Health and Senior Services, as soon as practicable, whenever an application is filed for a new crematory.

**LEGISLATIVE FISCAL ESTIMATE**  
**SENATE, No. 3125**  
**STATE OF NEW JERSEY**  
**214th LEGISLATURE**

DATED: JANUARY 10, 2012

**SUMMARY**

**Synopsis:** Revises statutes concerning crematories and the cremation of human remains.

**Type of Impact:** Indeterminate Fiscal Impact.

**Agencies Affected:** New Jersey Cemetery Board, Division of Consumer Affairs, Department of Health and Senior Services

**Office of Legislative Services Estimate**

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
<b>State Cost &amp; Revenue</b>		Indeterminate Impact	

- The Office of Legislative Services notes that this bill has an indeterminate fiscal impact resulting from an elimination of the \$50 licensure fee in the Department of Health and Senior Services (DHSS) and the establishment of a new application fee in the New Jersey Cemetery Board in the Division of Consumer Affairs.
- Eliminate statutes in which the Department of Health and Senior Services regulated cremation and establishes oversight by the New Jersey Cemetery Board in the Division of Consumer Affairs.
- Requires the New Jersey Cemetery Board to notify the Department of Health and Senior Services whenever an application is filed for a new crematory.
- Clarifies that crematories may only be located on dedicated cemetery property, unless the property operated a crematorium in conjunction with a funeral home prior to December 1, 1971.

## **BILL DESCRIPTION**

Senate Bill No. 3125 of 2011 makes certain revisions to the statutes concerning the construction and operation of crematories.

The bill is intended to clarify that a crematory is only to be located on dedicated cemetery property. Specifically, the bill provides that a crematory shall be located only on dedicated cemetery property not exclusively devoted to: (1) the operation of a crematory; or (2) the operation of a crematory and the disposition of cremated remains. A crematorium operated in conjunction with a funeral home prior to December 1, 1971 is exempt from this requirement.

In addition, the bill repeals certain outdated provisions concerning cremation to bring the construction and operation of crematories more clearly under the regulation of the New Jersey Cemetery Board in the Division of Consumer Affairs in the Department of Law and Public Safety. The bill provides that no crematory shall be built without prior approval of the New Jersey Cemetery Board and provides the board with the authority to adopt regulations concerning the construction and operation of crematories.

The bill also requires the New Jersey Cemetery Board to notify the Commissioner of Health and Senior Services, as soon as practicable, whenever an application is filed for a new crematory.

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

#### ***Department of Health and Senior Services***

None received.

#### ***Department of Law and Public Safety***

The Division of Consumer Affairs determined that this bill would not create a fiscal impact to the division.

### ***OFFICE OF LEGISLATIVE SERVICES***

The Office of Legislative Services notes that this bill has an indeterminate fiscal impact resulting from an elimination of the \$50 licensure fee in the DHSS and the establishment of a new application fee in the New Jersey Cemetery Board in the Division of Consumer Affairs.

The bill repeals the licensure fee of \$50 to the DHSS which will potentially decrease revenue in this department. The bill however permits the board to establish a reasonable application fee which will generate an unknown amount of revenue for the division.

*Section:* Law and Public Safety

*Analyst:* Kristin B. Santos  
Senior Fiscal Analyst

*Approved:* David J. Rosen  
Legislative Budget and Finance Officer

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).