



Title 45.  
Chapter 27. (New)  
Cemeteries  
§§1-38 -  
C.45:27-1  
to 45:27-38  
§40 - C.3B:10-21.1  
§41 - C.45:7-95  
§42 - Repealer  
§43 - Note to all  
sections

P.L. 2003, CHAPTER 261, *approved January 14, 2004*  
Senate, No. 1992 (*First Reprint*)

1 **AN ACT** providing for the regulation of certain cemeteries and revising  
2 parts of the statutory law.

3

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

6

7 1. (New section) This act shall be known and may be cited as the  
8 “New Jersey Cemetery Act, <sup>1</sup>[2002] 2003<sup>1</sup>.”

9

10 2. (New section) The following definitions, unless the context  
11 indicates 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 the  
14 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 a  
17 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 for  
22 burial of human remains or disposition of cremated human remains,  
23 and also includes a crematory <sup>1</sup>located on dedicated cemetery  
24 property<sup>1</sup>.

25 “Cemetery company” means a person that owns <sup>1</sup>, manages,  
26 operates<sup>1</sup> or controls a cemetery, <sup>1</sup>directly or indirectly,<sup>1</sup> but does not  
27 include a religious organization that owns a cemetery which restricts  
28 burials to members of that religion or their families unless the  
29 organization has obtained a certificate of authority for the cemetery.

30 “Columbarium” means a building or structure containing niches for  
31 placement of cremated human remains.

32 “Cremated human remains” means the recoverable bone fragments

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

**Matter underlined thus is new matter.**

**Matter enclosed in superscript numerals has been adopted as follows:**

<sup>1</sup> Senate SCM committee amendments adopted June 12, 2003.

1 and container residue resulting from the process of cremation.

2 “Cremation” means the process of reducing human remains to bone  
3 fragments through flame, heat and vaporization.

4 “Crematory” means a structure containing cremation chambers used  
5 to cremate human remains.

6 “Crypt” means an interment space in a mausoleum or other  
7 structure, above or below ground.

8 “Embellishment” means an item contributing to beauty, comfort or  
9 enhancement of a cemetery, but does not include a memorial <sup>1</sup>or a  
10 disposable, perishable or seasonal item<sup>1</sup>.

11 “General maintenance charge” means a fee assessed against each  
12 interment space for the general upkeep of the cemetery.

13 “Grave” means a place for underground disposition of human  
14 remains or cremated human remains. A grave may include spaces for  
15 the disposition of human remains of more than one person, arranged  
16 by depth.

17 “Human remains” means a body, or part of a body, of a deceased  
18 human being.

19 “Interment” means the disposition of human remains by burial in a  
20 grave or crypt but does not mean the temporary storage of remains.

21 “Interment space” means a grave or crypt intended for the interment  
22 of human remains.

23 “Maintenance” means all activities of a cemetery company which  
24 further the care and upkeep of a cemetery, including cutting lawns, and  
25 preservation and repair of drains, water lines, roads, buildings, fences  
26 and other structures.

27 “Maintenance and preservation” means the care of the entire  
28 cemetery to the extent of the income of the Maintenance and  
29 Preservation Fund; it does not include providing specific care to  
30 individual graves or plots.

31 “Mausoleum” means a permanent building in a cemetery above or  
32 below ground, containing crypts to be used for burial.

33 “Memorial” means a marker <sup>1</sup>or monument<sup>1</sup> located at a grave  
34 containing the name of a deceased person or the family name of a  
35 deceased person, or an effigy or other representation of a deceased  
36 person buried in the grave. It does not include an embellishment.

37 “Niche” means a space in a columbarium or mausoleum for  
38 placement of cremated human remains.

39 “Path” means a course or way intended to provide pedestrian access  
40 to interment spaces.

41 “Person” includes an individual, corporation, partnership<sup>1</sup>,  
42 association<sup>1</sup> or <sup>1</sup>any<sup>1</sup> other public or private entity.

43 “Plot” <sup>1</sup>or "lot"<sup>1</sup> means an area of cemetery ground containing two  
44 or more adjoining graves.

45 “Private mausoleum” means a mausoleum constructed by or for a  
46 plot owner and not owned by the cemetery.

1 “Public mausoleum” means a mausoleum, built in accordance with  
2 regulations of the Department of Community Affairs, owned by a  
3 1cemetery or<sup>1</sup> cemetery company with the intention of use of interment  
4 spaces in it by the general public. A mausoleum is distinguished from  
5 a single or multiple vault in that it is a single integrated structure  
6 1assembled on the premises<sup>1</sup>. It shall not consist of one or more vaults  
7 constructed off the cemetery premises and installed singly or in series  
8 at the cemetery premises.

9 “Roadway” means a course or way intended to provide vehicle  
10 access to interment spaces.

11 “Vault” means a prefabricated outer burial case <sup>1</sup>[, opening at the  
12 top,] of any material, designed to be<sup>1</sup> installed in the ground to receive  
13 one or more burials <sup>1</sup>, and not a part of a public or private mausoleum  
14 or any other structure<sup>1</sup>.

15  
16 3. (New section) a. The New Jersey Cemetery Board is continued  
17 and established within the Division of Consumer Affairs in the  
18 Department of Law and Public Safety.

19 b. The board shall consist of <sup>1</sup>[~~nine~~] ten<sup>1</sup> members. Five members  
20 shall be persons who have served, for a period of at least five  
21 consecutive years immediately preceding appointment, as a member of  
22 the governing board or an official of a cemetery company. Two  
23 members shall be public members and shall have no interest directly or  
24 indirectly in any cemetery company or any allied industry. Each of  
25 these seven members shall be appointed by the Governor with the  
26 advice and consent of the Senate, to serve for the term of four years  
27 and until the appointment and qualification of a successor. Vacancies  
28 shall be filled in the same manner as original appointments but for the  
29 unexpired term only. One member shall be the Commissioner of  
30 Community Affairs or the commissioner’s designee serving ex-officio  
31 1, one member shall be the Attorney General or his designee serving  
32 ex-officio<sup>1</sup> and one member shall be the designee of the Commissioner  
33 of Health and Senior Services.

34 c. The Governor may remove any member of the board from office  
35 for cause upon notice and opportunity to be heard.

36 d. The members of the board shall elect a chair and other officers  
37 from among themselves. The board shall meet at least four times each  
38 year, at the call of its chair or at the written request of two members  
39 of the board directed to its chair. The chair shall fix the time and place  
40 for the meetings.

41 e. The Division of Consumer Affairs shall assign its employees to  
42 serve as staff for the board.

43  
44 4. (New section) a. The board shall administer the provisions of  
45 this act and shall have general supervision and regulation of, and  
46 jurisdiction and control over, all cemetery companies and their

1 property, property rights, equipment and facilities so far as may be  
2 necessary to carry out the provisions of this act.

3 b. The board shall adopt regulations to carry out the purposes of  
4 this act. Regulations shall be adopted in accordance with the  
5 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
6 seq.). This act and the regulations shall be enforced in accordance  
7 with P.L.1978, c.73 (C.45:1-14 et seq.) and the "Penalty Enforcement  
8 Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.).

9 c. The board may adjust charges and fees as provided by section 2  
10 of P.L.1974, c.46 (C.45:1-3.2) to defray the proper expenses of  
11 administration of this act.

12 d. Nothing in this act shall affect any of the powers regarding  
13 cemeteries heretofore exercised by the Attorney General.

14 e. Nothing in this act shall authorize the board to establish the  
15 prices at which graves or crypts may be sold or the charges made for  
16 services rendered by cemetery companies.

17 f. The board may institute an action in the Superior Court for  
18 injunctive or other relief or for appointment of a receiver to enforce  
19 this act or regulations established under it.

20

21 5. (New section) The Attorney General and the board shall be  
22 served with notice of any action or proceeding by or against <sup>1</sup>[a  
23 cemetery or]<sup>1</sup> a cemetery company and may intervene in the action or  
24 proceeding to protect the public interest.

25

26 6. (New section) A cemetery established after December 1, 1971  
27 shall be owned or operated only by a governmental entity, a religious  
28 <sup>1</sup>corporation or<sup>1</sup> organization or by a cemetery company organized in  
29 accordance with this act.

30

31 7. (New section) a. A cemetery company organized in accordance  
32 with this act after December 1, 1971 shall not operate a cemetery  
33 unless the company is a nonprofit corporation organized and operated  
34 in compliance with Title 15A of the New Jersey Statutes and has been  
35 issued a certificate of authority to do so by the board.

36 b. The application for a certificate of authority by a cemetery  
37 company shall be made in writing under oath in the form established  
38 by the board. <sup>1</sup>Public notice of an application shall be provided in the  
39 agenda of the board for the first meeting of the board following receipt  
40 of the application. All applications shall be subject to public access.<sup>1</sup>  
41 The application shall contain the information that the board requires  
42 to determine:

43 (1) the necessity for the services the applicant seeks to provide,  
44 considering present or future public need and convenience, land or  
45 territorial qualifications; and

46 (2) the applicant's fitness and ability to: perform proposed

1 services; conform to this act and to board requirements; and comply  
2 with health protection regulations of the New Jersey Department of  
3 Health and Senior Services, the New Jersey Department of  
4 Environmental Protection, or a local health authority.

5 c. The application fee and all other fees required pursuant to this  
6 act shall be set by the board by regulation. The application fee shall  
7 not be required from any company that existed before December 1,  
8 1971, which no longer has cemetery land to sell, and exists solely for  
9 maintenance and preservation of the cemetery.

10 d. The board shall not act on an application for 60 days after  
11 receipt of an application <sup>1</sup>, and shall only act after public notice of the  
12 application has been provided<sup>1</sup>. If the board receives a written  
13 objection to the application, it shall hold a hearing on notice to the  
14 objector and the applicant before it acts on the application.

15 e. A cemetery company organized prior to December 1, 1971 shall  
16 not continue to operate a cemetery unless the company has been issued  
17 a certificate of authority by the board. The board shall grant the  
18 company a certificate of authority preserving any rights and  
19 obligations of its charter subject to applicable law and regulations.

20  
21 8. (New section). a. The charter or certificate of incorporation of  
22 a cemetery company organized after December 1, 1971 shall state in  
23 that section of the charter devoted to the purposes for which the  
24 cemetery company is organized one or more of the following  
25 purposes:

26 (1) The procuring and preservation of lands to be used exclusively  
27 as a cemetery.

28 (2) The disposition of human remains, including maintenance and  
29 operation of land and the construction of structures including  
30 crematories, mausoleums, columbariums and other places for human  
31 remains or cremated human remains.

32 b. The stated purposes of the cemetery company shall be  
33 considered by the board and may be used as a basis for its  
34 determination as to whether to issue a certificate of authority.

35 c. Except as provided by section 9 of this act, for a cemetery  
36 company to amend its charter or certificate of incorporation, it first  
37 shall have the amendment approved by the board.

38 d. A cemetery company shall not be dissolved or merged without  
39 the board's approval. The board shall not approve the action unless  
40 it finds that the company has complied with regulations and has made  
41 adequate provision for maintenance and preservation.

42  
43 9. (New section) a. A cemetery company organized as a for-profit  
44 corporation may amend its charter or certificate of incorporation to  
45 operate as a nonprofit lot owner cemetery subject to the provisions of  
46 this act provided a plan for the conversion of its issued stock to

1 certificates of interest is first approved by a majority of its  
2 stockholders, and by a majority of the owners of interment spaces in  
3 attendance at and voting at a meeting called for that purpose. The  
4 stockholders shall be given 10 days notice of the meeting by mail and  
5 the owners of interment spaces shall be notified of the meeting by a  
6 notice published at least 10 days in advance of the meeting date in a  
7 newspaper qualified to publish legal notices and circulated in the  
8 county in which the cemetery is located. The notice shall set forth the  
9 purpose of the meeting.

10 b. Upon approval of its stockholders and the owners of interment  
11 spaces, the cemetery company shall file a certified copy of the  
12 amended charter with the board, and pay the filing fees. The cemetery  
13 company, at the same time, shall make any filing required by the  
14 Division of Commercial Recording in the Department of the Treasury.

15  
16 10. (New section) a. In a cemetery company organized under this  
17 act, each owner of a grave, crypt or niche shall be a member of the  
18 cemetery company and shall have one vote for each grave, crypt or  
19 niche owned whenever voting by the members is required under the  
20 provisions of any law. Voting shall be subject to the following  
21 qualifications:

22 (1) If a grave, crypt or niche is owned by more than one person,  
23 then a majority of its owners shall decide among themselves who shall  
24 cast the vote.

25 (2) An owner shall not be entitled to vote unless all charges and  
26 assessments against the grave, crypt or niche have been paid.

27 (3) Proxy voting shall be permitted except that a proxy shall not be  
28 valid for more than three years after its date.

29 (4) Any person who owns certificates of interest or indebtedness  
30 shall have one vote for each \$250 of the face amount of the  
31 certificates.

32 (5) A corporation, partnership or association that owns more than  
33 one grave, crypt or niche shall have one vote for each grave, crypt or  
34 niche owned, except that it shall not have more than 100 votes.

35 b. The directors or trustees of a cemetery company shall hold an  
36 annual meeting and report at each annual meeting on their activities  
37 and management and the condition of the property and affairs of the  
38 cemetery company. At least 20 days before the annual meeting a  
39 notice of the meeting shall be placed at some prominent place at the  
40 office of the cemetery company and shall be published in a newspaper  
41 having general circulation in the county in which the cemetery is  
42 located.

43  
44 11. (New section) The charter of any cemetery association,  
45 incorporated pursuant to prior laws whose period of corporate  
46 existence has terminated by lapse of time, which has continued to

1 operate a cemetery in which burials have been made after corporate  
2 existence terminated, may be reinstated in perpetuity upon the  
3 recording in the office of the clerk of the county in which the  
4 certificate of incorporation of the association is recorded, of a  
5 certificate of extension of corporate existence, executed and  
6 acknowledged by five or more owners of lots in the cemetery of the  
7 cemetery company stating, under oath, that the cemetery company has  
8 been engaged in operating a cemetery and that burials have been made  
9 in the cemetery since the termination of its corporate existence and  
10 upon the recording of the certificate, the charter of the cemetery  
11 company shall be reinstated and the corporate existence of cemetery  
12 company shall be extended.

13

14 12. (New section) a. It is the public policy of this State that a  
15 primary obligation of each cemetery company shall be the creation of  
16 a fund for the permanent maintenance and preservation of the  
17 cemetery.

18 b. Every cemetery company shall establish an irrevocable trust fund,  
19 called the Maintenance and Preservation Fund, the income from which  
20 shall be expended for the maintenance and preservation of the  
21 cemetery.

22 c. A cemetery company shall make the deposits to the Maintenance  
23 and Preservation Fund required by this act and may make additional  
24 deposits.

25 d. The Maintenance and Preservation Fund shall be established in  
26 a State or federally regulated financial institution <sup>1</sup>having and  
27 maintaining a principal place of business within this State<sup>1</sup>. The fund  
28 shall be invested in accordance with the "Prudent Investor Act,"  
29 P.L.1997, c.26 (C.3B:20-11.1 et seq.) and the income may be applied  
30 only to the maintenance of the cemetery.

31 e. For the purposes of this section, except as provided by  
32 regulations of the board, capital gains shall not be considered income,  
33 and shall be retained as principal.

34 f. <sup>1</sup>[The board may allow a cemetery company to combine trust  
35 funds, and two or more cemetery companies to combine trust funds,  
36 if the board is satisfied that income and principal can be allocated  
37 proportionately among the combined funds.

38 g.]<sup>1</sup> The board shall supervise the creation and operation of the  
39 Maintenance and Preservation Fund and may regulate its operation and  
40 use.

41

42 13. (New section) a. As a condition for the issuance of its  
43 certificate of authority to operate a cemetery, a cemetery company  
44 established after December 1, 1971 shall make an initial deposit of  
45 \$75,000 to its Maintenance and Preservation Fund. A cemetery  
46 company that operates or seeks to operate only a crematory shall not



1 be required to make the \$75,000 initial trust fund deposit.

2 b. A cemetery company established before December 1, 1971 shall  
3 transfer into the Maintenance and Preservation Fund any funds  
4 established for the maintenance and preservation of the cemetery and  
5 any additional amount set by the board.

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

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

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

12 (3) on bulk sales of graves, 15% of the current retail gross sale  
13 price of comparable graves;

14 (4) on bulk sales of crypts or niches, 10% of the current retail gross  
15 sale price of comparable crypts or niches;

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

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

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

26 (8) for a foundation, <sup>1</sup>base or installation,<sup>1</sup> 10% of the charge for  
27 the foundation <sup>1</sup>, base or installation,<sup>1</sup> or \$20, whichever is more.

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

31 d. <sup>1</sup>[When a fee or charge is paid in installments, the cemetery  
32 shall deposit an appropriate percentage of the installments in the  
33 Maintenance and Preservation Fund.] Monies required to be deposited  
34 into the Maintenance and Preservation Fund shall be paid to the fund  
35 on a monthly basis. Such deposits shall be made by the last day of the  
36 month following the month in which the monies were received. In the  
37 event of an installment sale of a grave, crypt or niche, the cemetery  
38 company may make the required deposit at the time the deed is issued  
39 or when the payments are received.<sup>1</sup>

40 e. A cemetery company may make additional payments or accept  
41 contributions into the Maintenance and Preservation Fund.

42  
43 14. (New section) a. A minimum of 10% of the gross contract  
44 price for construction and placement of any private mausoleum shall  
45 be deposited, before the structure is erected, with the cemetery  
46 company, in trust for the maintenance of the structure and the area on

1 which it is located.

2 b. A cemetery or cemetery company shall not begin to use a public  
3 mausoleum for the burial of human remains until it has established a  
4 Building Maintenance Fund, an irrevocable trust fund of not less than  
5 10% of the total cost of the structure, walkways, architect fees,  
6 building permit fees, landscaping, installation of utility lines and  
7 internal furnishings. The income from the trust fund, and the income  
8 only, shall be used for the maintenance of the structure. This  
9 provision shall not apply to temporary receiving vaults.

10 c. Any person may create a trust fund to be held in perpetuity or  
11 for a time to be used for the care or embellishment of any grave or  
12 crypt, mausoleum or memorial. However, the trust fund shall be  
13 consistent with regulations of the cemetery and shall not be larger than  
14 necessary to achieve the trust's purposes. If a court finds that the trust  
15 fund is excessive, it may reduce it to a reasonable sum.

16 d. A cemetery company may receive funds for the care or  
17 embellishment of any grave or crypt, mausoleum or memorial. It shall  
18 maintain these funds separate from the Maintenance and Preservation  
19 Fund or any other trust fund required by this act. Each fund shall be  
20 administered as agreed between the grantor and the cemetery  
21 company. The income from each of these funds shall be used for the  
22 particular purpose of the fund.

23 e. The funds shall be established in a State or federally regulated  
24 financial institution <sup>1</sup>having and maintaining a principal place of  
25 business within this State<sup>1</sup> and shall be invested in accordance with the  
26 "Prudent Investor Act," P.L.1997, c.26 (C.3B:20-11.1 et seq.). The  
27 board may adopt regulations on the operation and use of trust funds.  
28 <sup>1</sup>[The board may allow a cemetery to combine trust funds, and two or  
29 more cemeteries to combine trust funds, if the board is satisfied that  
30 income and principal can be allocated proportionately among the  
31 combined funds.]<sup>1</sup> This subsection shall not apply to a religious  
32 organization that constructs a structure for the interment of human  
33 remains.

34 f. The cemetery company or other trustee of a fund required by this  
35 section may collect fees for the administration of the trust allowed by  
36 law and regulations of the board.

37

38 15. (New section) a. Every cemetery company, other than a  
39 municipality, shall file an annual report with the board within 120 days  
40 after the close of the cemetery company's fiscal year. The report shall  
41 be filed by the cemetery company in a form established by the board,  
42 showing the extent and sources of augmentation of the Maintenance  
43 and Preservation Fund, the manner of expenditure of the income of the  
44 fund during the preceding year, and a list of the securities in which the  
45 trust funds are invested. At the time of filing the Maintenance and  
46 Preservation Fund report, a cemetery company, other than a religious

1 corporation, shall pay a filing fee set by regulation. If the report filed  
2 is inadequate to apprise the board of the information it requires to  
3 administer the provisions of this act effectively, it shall request a  
4 supplemental report and it may order an investigation of the operations  
5 of the cemetery company. Officers and employees of a cemetery  
6 company shall exhibit the company's books, papers and securities to  
7 the board when requested and otherwise facilitate any examination of  
8 the company. Any officer or employee of a cemetery company may be  
9 required to testify under oath as to the conditions and affairs of the  
10 cemetery company.

11 b. Every cemetery <sup>1</sup>company<sup>1</sup> that contains a public mausoleum  
12 shall file an annual report in the form described in subsection a. of this  
13 section relating to its public mausoleum Building Maintenance Fund  
14 within 120 days after the end of the fiscal year.

15 c. If it appears to the board that the corpus of any trust fund is not  
16 being invested in accordance with the "Prudent Investor Act,"  
17 P.L.1997, c.26 (C.3B:20-11.1 et seq.), the board may order the  
18 cemetery company to dispose of unauthorized securities immediately.  
19 If it appears that the Maintenance and Preservation Fund is not being  
20 maintained as required, the board may formulate a plan for the  
21 maintenance of the fund. Failure on the part of the cemetery company  
22 to implement the plan shall be a violation of this act.

23 d. The board, for good cause, may grant reasonable extensions for  
24 filing annual reports.

25

26 16. (New section) a. A cemetery company shall:

27 (1) adopt reasonable regulations for the use, management and  
28 protection of the cemetery and of all interment spaces in it; for  
29 regulating the dividing marks between graves; for prohibiting or  
30 regulating the erection of structures; for preventing unsightly  
31 monuments, effigies and structures within the cemetery, and for their  
32 removal;

33 (2) fix <sup>1</sup>reasonable<sup>1</sup> charges for interment spaces, niches, products  
34 and services offered by the cemetery company; and

35 (3) keep its books, records and accounts so as to reflect the  
36 conduct of its business.

37 b. A cemetery company may:

38 (1) prohibit the placement of memorials, effigies or structures on  
39 parts of the cemetery and adopt reasonable regulations relating to  
40 uniformity, class, composition, material, kinds and sizes of all markers,  
41 monuments and other structures within the cemetery provided that the  
42 regulations are not established to prevent competition;

43 (2) sell adornments, embellishments, sod and plantings for use in  
44 the cemetery;

45 (3) prevent the use of interment spaces or niches for purposes that  
46 violate the cemetery restrictions and regulations;

- 1 (4) regulate the conduct of persons and prevent improper  
2 assemblages in the cemetery;
- 3 (5) reserve to the cemetery the exclusive right to open and fill  
4 graves, furnish equipment, manufacture and install foundations, set and  
5 seal crypts and vaults, seal niches and install flush memorials;
- 6 (6) regulate or prevent the introduction of embellishments or plants  
7 within the cemetery;
- 8 (7) prevent the interment in any interment space of human remains  
9 not entitled to interment there;
- 10 (8) as provided in this act, make provisions for the removal at the  
11 cost of the lot owner of any memorial, effigy or structure when either  
12 placed in violation of cemetery company rules and regulations or when  
13 it becomes dangerous or unsightly; and
- 14 (9) to the extent allowed by the regulations of the board, prohibit  
15 the interment of human remains or the placement of any memorial  
16 when there are any outstanding charges against the interment space.
- 17 c. A cemetery company, and any person engaged in the  
18 management, operation or control of a cemetery owned by a cemetery  
19 company, <sup>1</sup>directly or indirectly, <sup>1</sup> is specifically prohibited from  
20 engaging, directly or indirectly, in any of the following activities:
- 21 (1) the manufacture or sale of memorials;
- 22 (2) the manufacture or sale of private mausoleums;
- 23 (3) the manufacture or sale of vaults, including vaults installed in a  
24 grave before <sup>1</sup>or after<sup>1</sup> sale and including vaults joined with each other  
25 in the ground; and
- 26 (4) the conduct of any funeral home or the business or profession  
27 of mortuary science; provided that crematoriums operated in  
28 conjunction with funeral homes prior to December 1, 1971 are  
29 excepted from the provisions of this paragraph (4).
- 30
- 31 17. (New section) a. A copy of a survey or map of land to be  
32 used for cemetery purposes shall be filed with the board. The filing  
33 shall constitute dedication of the land for cemetery purposes.
- 34 b. Before graves are sold, the part of the cemetery, including those  
35 graves, shall be surveyed and a map prepared showing the location of  
36 the graves with those roadways, paths and building areas as the  
37 cemetery company directs. A map of the land shall be kept at the  
38 office of the cemetery company. The map shall be made available for  
39 inspection by owners of interment spaces.
- 40 c. A cemetery company may amend a map to include areas not  
41 previously laid out or to change the layout of plots not sold. Existing  
42 roadways and walks to graves already sold shall not be abandoned but  
43 may be altered as long as similar access to existing interment spaces  
44 is not denied. Paths may be renovated or reduced in size if the  
45 minimum width specified by regulation is maintained. The amended  
46 map shall be filed with the board.

1

2 18. (New section) a. Before conducting any business with the  
3 public, a cemetery company shall file with the board the name and  
4 address of the cemetery company and a copy of its regulations and its  
5 charges for services. New and amended regulations and changes in  
6 charges for services shall be filed before they take effect. Each filing  
7 shall be accompanied by the filing fee set by regulation.

8 b. The rules, regulations and charges for services shall be suitably  
9 printed and shall be conspicuously posted by the cemetery company in  
10 each of its <sup>1</sup>public<sup>1</sup> offices and on cemetery grounds.

11

12 19. (New section) a. A cemetery company shall keep a record of  
13 every interment and placement of cremated human remains, which  
14 shall include the date, the name and age of the person, the cause of  
15 death when shown on the burial permit, the location of the burial or  
16 disposition, and the name and address of the funeral director.

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

23 c. The instrument of conveyance of a interment space shall include  
24 the actual amount paid for it and a description of the interment space  
25 sufficient to identify it, including its number as it appears on the  
26 cemetery map, and any other information required by regulation of the  
27 board. The instrument shall show the dimensions of the interment  
28 space.

29 d. A cemetery company that performs a cremation shall keep a  
30 record indicating the date and the recipient of the cremated remains.

31

32 20. (New section) a. Cemetery companies shall be exempt from  
33 the payment of any real estate taxes, rates and assessments or personal  
34 property taxes on lands and equipment dedicated to cemetery  
35 purposes. Cemetery companies shall be exempt from business taxes,  
36 sales taxes, income taxes, and inheritance taxes.

37 b. Land dedicated to cemetery purposes owned by any person shall  
38 be exempt from all taxes, rates or assessments.

39 c. Charges paid to a cemetery for an interment space shall be  
40 exempt from the payment of sales or use tax.

41 d. Trust funds, and the income from trust funds, held by a cemetery  
42 company shall be exempt from taxation and assessment, and sale,  
43 seizure or sale for collection of judgments against the cemetery  
44 company.

45 e. Land dedicated to cemetery purposes and structures, buildings,  
46 and equipment used for the maintenance of that land or the operation  
47 of a cemetery shall be exempt from sale for collection of judgments.

1 Income derived from cemetery property other than income required by  
2 law to be deposited in trust funds or used for a particular purpose may  
3 be taken and used for the payment of a judgment against a cemetery  
4 company. If a judgment against a cemetery company cannot be paid,  
5 a court may also order the issuance of bonds, notes or other evidences  
6 of indebtedness by the cemetery company. This subsection shall not  
7 apply to liens existing on land before it is dedicated to cemetery  
8 purposes.

9 f. A street or road shall not be laid through any land of a cemetery  
10 company that is actually in use for cemetery purposes without the  
11 consent of the cemetery company, unless otherwise provided by law.

12 g. When bankruptcy, receivership or other court proceeding  
13 necessitates the selling of cemetery company lands, the court shall  
14 require the purchaser to incorporate as a cemetery company.

15 h. A receiver or trustee of a cemetery company appointed by a  
16 court may issue bonds, notes or other evidence of indebtedness that  
17 include a provision allowing the holders to select the governing body  
18 of the cemetery company until they are paid.

19

20 21. (New section) a. Dedication of property to cemetery purposes  
21 pursuant to this act shall not be invalid as violating any law against  
22 perpetuities or the suspension of the power of alienation of title to use  
23 of property. It shall be expressly permitted in respect for the dead and  
24 as provision for the burial of human remains and as a duty to, and for  
25 the benefit of, the general welfare.

26 b. After property is dedicated to cemetery purposes by a cemetery  
27 company, neither the dedication nor the title of the interment space  
28 owner shall be affected by the dissolution of the cemetery company by  
29 nonuse on its part, by alienation of the property, by any encumbrances,  
30 by sale under execution, or otherwise except as provided in this act  
31 and by law.

32

33 22. (New section) a. If a decedent <sup>1</sup>[leaves a signed directive  
34 concerning the disposition of his human remains or nominating a  
35 person to control the disposition of the human remains, disposition  
36 shall be in accordance with the directive. To be valid, a directive shall  
37 be separate from an agreement for the provision of funeral services or  
38 products. A signed directive can be revoked only by a later signed  
39 directive of the decedent.

40 If a signed directive has not been left by the decedent], in a will as  
41 defined in N.J.S.3B:1-2, appoints a person to control the funeral and  
42 disposition of the human remains, the funeral and disposition shall be  
43 in accordance with the instructions of the person so appointed. A  
44 person so appointed shall not have to be executor of the will. The  
45 funeral and disposition may occur prior to probate of the will, in  
46 accordance with N.J.S.3B:10-21. If the decedent has not left a will

1 appointing a person to control the funeral and disposition of the  
2 remains.<sup>1</sup> the right to control the <sup>1</sup>funeral and<sup>1</sup> disposition of the  
3 human remains shall be in the following order <sup>1</sup>, unless other directions  
4 have been given by a court of competent jurisdiction<sup>1</sup>:

5 (1) The surviving spouse of the decedent.

6 (2) A majority of the surviving adult children of the decedent.

7 (3) The surviving parent or parents of the decedent.

8 (4) A majority of the brothers and sisters of the decedent.

9 (5) Other next of kin of the decedent according to the degree of  
10 consanguinity.

11 (6) If there are no known living relatives, a cemetery may rely on  
12 the written authorization of any other person acting on behalf of the  
13 decedent.

14 b. A cemetery may permit the disposition of human remains on the  
15 authorization of a funeral director handling arrangements for the  
16 decedent, or on the written authorization of a person who claims to be,  
17 and is believed to be, a person who has the right to control the  
18 disposition. The cemetery shall not be liable for disposition pursuant  
19 to this authorization unless it had reasonable notice that the person did  
20 not have the right to control the disposition.

21 c. A cemetery shall not bury human remains of more than one  
22 person in a grave unless:

23 (1) directions have been given for the burials in accordance with  
24 this section on behalf of all persons so buried; or

25 (2) the rights to be buried in the grave were sold by the cemetery  
26 with explicit provision allowing separate sales of rights to burial at  
27 different depths in the grave.

28 d. A person who signs an authorization for the <sup>1</sup>funeral and<sup>1</sup>  
29 disposition of human remains warrants the truth of the facts stated, the  
30 identity of the person whose remains are disposed and the authority to  
31 order the disposition. The person shall be liable for damages caused  
32 by a false statement or breach of warranty. A cemetery <sup>1</sup>or funeral  
33 director<sup>1</sup> shall not be liable for disposition in accordance with the  
34 authorization unless it had reasonable notice that the representations  
35 were untrue or that the person lacked the right to control the  
36 disposition.

37 e. An action against a cemetery company relating to the disposition  
38 of human remains left in its temporary custody may not be brought  
39 more than one year from the date of delivery of the remains to the  
40 cemetery company unless otherwise provided by a written contract.

41  
42 23. (New section) a. Except as otherwise provided in this section,  
43 or pursuant to court order, human remains shall not be removed from  
44 an interment space unless:

45 (1) the surviving spouse, adult children and the owner of the  
46 interment space authorize removal in writing;

1 (2) removal is authorized by a State disinterment permit issued by  
2 the local board of health; and

3 (3) the cemetery finds that removal is feasible.

4 b. No disinterment permit is required:

5 (1) for the temporary removal or repositioning of vaulted human  
6 remains to allow for the deepening of an interment space within the  
7 same lot;

8 (2) for the transfer of temporarily stored remains from the place of  
9 temporary storage to the place of final interment within the same  
10 cemetery in accordance with applicable <sup>1</sup>[regulations] law<sup>1</sup>;

11 (3) for the removal of cremated human remains. However, prior  
12 consent shall be obtained from the interment space owner and the  
13 person having the right to control the removal of the decedent's  
14 remains.

15 c. Human remains buried on property that is not part of a cemetery  
16 may be removed by the owner of the property provided that removal  
17 is in compliance with applicable <sup>1</sup>[health regulations] law<sup>1</sup> and the  
18 remains are then properly re-buried in a cemetery.

19 d. A person who signs an authorization for the disinterment of  
20 human remains warrants the truth of the facts stated and the authority  
21 to order the disinterment. The person shall be liable for damages  
22 caused by a false statement or breach of warranty. A cemetery <sup>1</sup>or  
23 funeral director<sup>1</sup> shall not be liable for disinterment in accordance with  
24 the authorization unless it had reasonable notice that the  
25 representations were untrue or that the person lacked the right to  
26 control the disinterment. An action against a cemetery company  
27 relating to the disinterment of human remains shall not be brought  
28 more than one year from the date of disinterment.

29

30 24. (New section) a. A cemetery company may remove any  
31 authorized memorial, embellishment or impediment for safety reasons.  
32 Before removal, the cemetery company shall take photographs of the  
33 memorial and its condition and shall retain them in its permanent  
34 records. Within 30 days after removal, the cemetery company shall  
35 notify the interment space owner in writing of the removal at the  
36 address on file with the cemetery company. The notice shall include a  
37 provision advising that, within six months of the notice, the interment  
38 space owner may apply to the board for appropriate relief.

39 b. A cemetery company may remove any memorial, embellishment  
40 or impediment that was placed in violation of the regulations of the  
41 cemetery. The cemetery may recover the cost of the removal.

42 c. Upon removal of a memorial, embellishment or impediment, the  
43 cemetery company shall store it in a reasonably secure manner. If after  
44 one year, the interment space owner has not taken possession of the  
45 memorial, embellishment or impediment, the cemetery may dispose of  
46 it. The cemetery company shall notify the board in writing 90 days



1 prior to disposal.

2 d. A cemetery company may not renovate a section or area of the  
3 cemetery necessitating the removal of memorials from an interment  
4 space without board approval. The board may require specific actions  
5 or procedures by the cemetery company for the proposed renovation.  
6 The cemetery company shall notify the interment space owner of the  
7 proposed renovations 30 days before the action. Publication in a local  
8 newspaper circulating in the county in which the interment space is  
9 located and posting on the grounds shall be considered sufficient  
10 notice. Repairs or improvements done at the request of the interment  
11 space owner do not constitute renovation work which requires board  
12 approval.

13 e. Site work necessary to repair or restore any part of a cemetery  
14 as an emergency response to vandalism, damage by weather conditions  
15 or other acts of God shall not constitute planned renovation work.

16 f. Memorials may be temporarily removed from interment spaces in  
17 order to provide access for equipment and personnel to perform  
18 openings and general debris clean-up. Memorials shall be reinstalled  
19 promptly.

20

21 25. (New section) a. A cemetery shall not be established or  
22 enlarged in any municipality without first obtaining the consent of the  
23 municipality by resolution.

24 b. No more than five cemeteries may be established in any one  
25 municipality, and not more than 3% of the area of any municipality  
26 shall be devoted to cemetery purposes.

27 c. A cemetery shall not be established or expanded to exceed 250  
28 acres at any one location.

29 d. The governing body of a municipality, by resolution, may waive  
30 the limitations of subsection b. or c. of this section if it finds that there  
31 is a public need for additional cemetery lands and that it is in the public  
32 interest to waive them.

33 e. A cemetery company shall not dedicate additional land to  
34 cemetery purposes without board approval.

35

36 26. (New section) If the board approves, a cemetery company may  
37 issue certificates with a fixed face value and a specified interest rate to  
38 pay for land acquired for cemetery purposes, for the initial  
39 improvements to that land, and for subsequent capital improvements.  
40 The board shall review the dollar amount and terms of the certificates  
41 so as to assure the financial soundness of the cemetery company.

42

43 27. (New section) a. A public mausoleum shall not be constructed  
44 without obtaining a permit from the construction official of the  
45 municipality in which it is to be constructed. Failure to issue a permit  
46 is reviewable by the appropriate construction board of appeals

1 established pursuant to the "State Uniform Construction Code Act,"  
2 P.L.1975, c.217 (C.52:27D-119 et seq.).

3 b. Construction shall not begin until detailed plans and  
4 specifications of the structure have been approved by the State  
5 Department of Community Affairs and the certificate of approval is  
6 filed in the office of the municipal enforcing agency where the  
7 structure is to be constructed. The State Department of Community  
8 Affairs shall not grant a certificate of approval unless it is satisfied that  
9 the proposed structure can be operated without constituting a hazard  
10 to public health or safety.

11 c. Construction of the structure shall be under the supervision of  
12 the municipal construction official, who shall see that the approved  
13 plans and specifications are complied with. No departure from the  
14 original plans and specifications shall be permitted unless an amended  
15 certificate of approval is granted and filed with the construction  
16 official of the municipality where the mausoleum is to be constructed.

17 d. A structure constructed under the provisions of this section shall  
18 not be used for burial until the construction official of the municipality  
19 has issued a certificate indicating that the plans and specifications as  
20 filed have been complied with fully and the Building Maintenance Fund  
21 for the structure has been established.

22 e. The Department of Community Affairs shall adopt regulations  
23 concerning the construction of <sup>1</sup>public<sup>1</sup> mausoleums <sup>1</sup>, which shall  
24 conform with the definition of public mausoleum as defined by this  
25 act<sup>1</sup>. The regulations shall be the standards adopted in the subcodes  
26 of the Uniform Construction Code, or other national model codes or  
27 standards, but the commissioner may adopt additional standards if,  
28 after a public hearing, the commissioner finds that they are necessary  
29 to protect the public interest. A municipality may enact zoning  
30 ordinances which provide for reasonable height and setback  
31 requirements in keeping with standards established for property  
32 immediately abutting a cemetery, but any other ordinance regulating  
33 the construction of mausoleums shall be of no effect.

34 f. Private mausoleums shall be constructed in accordance with  
35 applicable industry construction code standards and regulations of the  
36 cemetery.

37

38 28. (New section) a. When a cemetery transfers an interment  
39 space or niche and records the transfer, the person or persons to whom  
40 it was transferred become the owner of the interment space or niche.  
41 The conveyance issued by a cemetery shall indicate whether the  
42 cemetery company is transferring title to the interment space or niche  
43 or only a right of burial in it. The conveyance may:

44 (1) provide that the owner take title subject to existing and future  
45 reasonable regulations of the cemetery; and

46 (2) contain other reasonable restrictions on use or transfer

1 consistent with this act.

2 b. Except as limited by subsection c. of this section, the owner of  
3 an interment space or an interest in one in a cemetery may transfer the  
4 space or interest to any person or to the cemetery company. Transfers  
5 may be made on agreed conditions, provided the conditions are  
6 recorded in the office of the cemetery company. The cemetery  
7 company shall record a cemetery transfer in its records when a  
8 document of transfer is presented to the cemetery company and any  
9 other requirements imposed by law or regulations of the cemetery  
10 company are met. The transfer shall be effective on recordation by the  
11 cemetery company.

12 c. After human remains have been buried in a grave or crypt, that  
13 grave or crypt shall not be transferred except as follows:

14 (1) Ownership of the grave or crypt may be transferred by will if  
15 it is identified specifically in the will rather than by a residuary clause  
16 or by general reference to real property. Otherwise, on the death of  
17 the owner, ownership shall descend in the order listed below:

18 (a) to the surviving spouse and the owner's children, if any, per  
19 stirpes, as equal tenants in common;

20 (b) if there is no surviving spouse, to the children per stirpes as  
21 equal tenants in common;

22 (c) if there is no surviving spouse nor surviving children, then to  
23 the owner's parents as equal tenants in common;

24 (d) if there is no surviving spouse, children or parents, then to the  
25 owner's siblings as equal tenants in common;

26 (e) if there is no surviving spouse, children, parents or siblings,  
27 then ownership in the grave or crypt shall pass to the owner's next of  
28 kin as tenants in common pursuant to the laws of intestacy;

29 (f) Notwithstanding subparagraphs (a) through (e) of this  
30 paragraph (1), if an owner dies leaving a surviving spouse, but having  
31 surviving children from a prior marriage or relationship, those children  
32 and the surviving spouse shall be owners of the grave or crypt as  
33 tenants in common.

34 (2) If the grave or crypt is owned by more than one person, one  
35 owner's share may be transferred to another owner.

36 (3) Ownership of the grave or crypt may be transferred to any heir  
37 at law of the person buried in the space.

38 (4) The owner may convey the grave or crypt in trust to a bank or  
39 trust company or to the cemetery company for the benefit of the owner  
40 of the grave or crypt and the protection of the human remains already  
41 buried in it, pursuant to the terms of the deed of trust. Acceptance of  
42 the conveyance in trust by the cemetery company shall require a  
43 majority vote of its governing board.

44 (5) If additional burials are permitted to be made in the grave or  
45 crypt, the grave or crypt may be transferred to allow for those burials.

46 d. A cemetery company shall maintain records of transfers of

1 ownership of interment spaces. Records shall be kept in the manner  
2 specified by the board in its regulations. Records shall be indexed  
3 both by the number of each interment space and by the name of each  
4 owner.

5

6 29. (New section) a. When there are two or more owners of an  
7 interment space:

8 (1) each individual owner's interest may be transferred only by that  
9 owner or that owner's authorized representative;

10 (2) each individual owner has a right of interment in the space.

11 b. When there are two or more owners of an interment space, they  
12 may designate one or more of the co-owners to represent them by  
13 filing written notice of the designation with the cemetery company. If  
14 such a notice has been filed, the cemetery company shall follow the  
15 direction of the representative as to interment in the space, and in  
16 regard to memorials, embellishments and care for the interment space.  
17 In the absence of that notice the cemetery company may rely on the  
18 direction of any co-owner as to burial, memorials, embellishments or  
19 care and shall not be liable to any person for doing so.

20

21 30. (New section) a. A cemetery company may adopt reasonable  
22 regulations on interment. In the absence of regulation, the cemetery  
23 company shall allow human remains of the following persons to be  
24 interred in an available interment space:

25 (1) a deceased person who at the time of death was an owner of  
26 the interment space;

27 (2) the spouse of the deceased person who owned the interment  
28 space at the time of death; and

29 (3) any other person authorized by a written directive of the  
30 designated owner of the interment space as provided in subsection b.  
31 of section 29 of this act, or if there is no designated owner, by the  
32 written directive of any owner.

33 b. The right of a person to be interred in an interment space may be  
34 waived in writing. The right terminates if the person is interred  
35 elsewhere.

36 c. If more persons have a right to be interred in an interment space  
37 than may be interred there, any person with a right to interment in the  
38 interment space may be interred in it even though that will make the  
39 interment space unavailable to others.

40 d. A person who signs an authorization for the disposition of  
41 human remains warrants the truth of the facts stated, the identity of the  
42 human remains and the authority to order the disposition. The person  
43 shall be liable for damages caused by a false statement or breach of  
44 warranty. A cemetery <sup>1</sup>or funeral director <sup>1</sup>shall not be liable for  
45 disposition in accordance with the authorization unless it had  
46 reasonable notice that the representations were untrue or that the  
47 person lacked the right to control the disposition. An action against

1 a cemetery company relating to the disposition of human remains left  
2 in its temporary custody shall not be brought more than one year from  
3 the date of delivery of the remains to the cemetery company unless  
4 otherwise provided by a written contract.

5  
6 31. (New section) a. Owners of interment spaces, or other  
7 interested persons, may maintain their own interment spaces, or  
8 provide for maintenance by an independent contractor provided that  
9 the maintenance is subject to the supervision of the management of the  
10 cemetery company to insure compliance with the rules and regulations  
11 of the cemetery.

12 b. The cemetery company may not charge for maintenance by  
13 others. The cemetery company may impose a reasonable fee for actual  
14 supervision of maintenance if the fee has been filed with the board.

15  
16 32. (New section) a. Except as provided in subsection b. of this  
17 section, a person shall not purchase an interment space for the sole  
18 purpose of resale, and a cemetery company shall not sell an interment  
19 space to a person whom it reasonably should know is purchasing an  
20 interment space for the purpose of resale. The board may adopt  
21 regulations to enforce this subsection.

22 b. A membership or religious corporation or unincorporated  
23 association or society may purchase interment spaces in bulk for the  
24 purpose of resale, transfer or assignment of interment rights provided  
25 that:

26 (1) if the purchase is for 17 interment spaces or more, it has  
27 received approval from the board to do so;

28 (2) it sells, gives or assigns the interment spaces only to its  
29 members and the interment spaces are intended for the use of its  
30 members and their families;

31 (3) at the time it sells, gives or assigns an interment space, it  
32 provides notification to the cemetery company for recording;

33 (4) it designates in writing to the cemetery company an agent with  
34 authority to consent to burials in interment spaces owned by it; and

35 (5) it makes the payments to the Maintenance and Preservation  
36 Fund required by section 13 of this act.

37 c. If the corporation, association or society fails to meet its  
38 obligations under subsection b. of this section, the cemetery company  
39 may reclaim the unoccupied interment spaces owned by it in the  
40 manner and with the restrictions set by the board.

41  
42 33. (New section) a. A cemetery company may reclaim a grave or  
43 crypt if:

44 (1) the cemetery company sold the grave or crypt before December  
45 1, 1971;

46 (2) no provision has been made for the adequate maintenance of the  
47 grave or crypt;

1 (3) no burial has been made in the grave or crypt; and

2 (4) no burial has been made for 30 years in the plot that includes the  
3 grave or crypt.

4 For the purposes of this section, “adequate maintenance” has been  
5 provided if the grave or crypt was sold with perpetual care, endowed  
6 care, or a similar level of care, or if the owner of the grave or crypt  
7 has made other provision for that care.

8 b. To reclaim a grave or crypt, a cemetery company shall:

9 (1) make a diligent effort to locate the owners and notify them that  
10 they may prevent the cemetery from reclaiming the grave or crypt by  
11 sending a written objection to the cemetery company within 30 days;

12 (2) if the cemetery company cannot locate the owners, publish a  
13 notice in a newspaper circulating in the county in which the grave or  
14 crypt is located, directed to the owners as registered in the cemetery  
15 company's records, containing the names of each deceased person  
16 buried in the plot that includes the grave or crypt and date of each  
17 burial, where such information is ascertainable. The notice shall advise  
18 that if the owners do not send a written objection within 30 days the  
19 grave or crypt will be subject to resale.

20 c. If written objection has not been filed with the cemetery within  
21 30 days after notice or publication, the cemetery may sell the grave or  
22 crypt. The sales price less sales commissions and expenses of sale, but  
23 in no event less than three-fourths of the gross sales price, shall be  
24 deposited in the Maintenance and Preservation Fund.

25 d. At any time, a person proving ownership of a grave or crypt  
26 reclaimed and sold in accordance with this section may either agree to  
27 take a comparable grave or crypt in the cemetery or may make  
28 application to the board for an order directing the cemetery company  
29 to reimburse the owner the proceeds of the sale that were deposited  
30 into the Maintenance and Preservation Fund.

31

32 34. (New section) a. A cemetery may lease or transfer any land  
33 or interest in land dedicated to cemetery purposes if:

34 (1) it has not conveyed any part of the land as graves;

35 (2) it determines that the land or the interest in the land to be  
36 transferred is not necessary or not suitable for burial purposes or it  
37 determines that the land to be leased will not be necessary for burial  
38 purposes during the term of the lease; and

39 (3) the land is owned by a cemetery company and the board  
40 approves the transaction as made in good faith and for fair  
41 consideration.

42 b. The cemetery may transfer land in which any person has  
43 acquired a right of burial, if:

44 (1) the cemetery either refunds to the person who has the right of  
45 burial the amount paid for the right or conveys to the person who has  
46 the right of burial substantially similar graves in the cemetery; and

47 (2) the land is owned by a cemetery company and the board

1 approves the transaction as made in good faith and for fair  
2 consideration.

3 c. A cemetery may transfer land in which human remains have been  
4 buried only if the cemetery:

5 (1) receives consent from the owner of each grave in which human  
6 remains have been buried or an order from the Superior Court to  
7 remove the human remains;

8 (2) removes the human remains and reburies them in substantially  
9 similar graves in the cemetery or in another cemetery and assumes the  
10 responsibility and expense for removal and reburial;

11 (3) removes any property of the owner from the grave and gives it  
12 to the owner; and

13 (4) if owned by a cemetery company, obtains the written consent of  
14 the board.

15 d. The Superior Court shall not approve the removal of human  
16 remains from lands to be transferred unless notice and an opportunity  
17 to be heard in opposition has been given to the owners of all affected  
18 graves. If the owner of a grave is not known or cannot be located, the  
19 court may order notice by publication.

20 e. The deed of conveyance for any transfer of cemetery land under  
21 this section shall include a <sup>1</sup>[25-year] perpetual<sup>1</sup> prohibition on any  
22 use of the land <sup>1</sup>, directly or indirectly, for any of the purposes or  
23 uses<sup>1</sup> which cemetery companies are specifically prohibited from  
24 engaging in by this act. Any lease of cemetery land under this section  
25 shall prohibit any use of the land <sup>1</sup>, directly or indirectly, for any of the  
26 purposes or uses<sup>1</sup> which cemetery companies are specifically  
27 prohibited from engaging in by this act. The board shall order not less  
28 than 15% of the proceeds of the sale or lease deposited in the  
29 Maintenance and Preservation Fund.

30 f. If the transfer of land results from condemnation, the  
31 responsibility and expense for removal and reburial shall be borne by  
32 the condemnor, not by the cemetery.

33

34 35. (New section) a. A license from the board is required for any  
35 natural person to be compensated to act as a cemetery salesperson for  
36 interment spaces in cemeteries operated by cemetery companies or for  
37 goods or services provided by cemetery companies.

38 (1) Each salesperson license shall state the name and address of  
39 each cemetery company with which the salesperson is associated.

40 (2) A salesperson shall produce the license for inspection when  
41 requested during sales activities, and shall retain possession of the  
42 license until it expires or is canceled, revoked or suspended.

43 (3) A copy of the license shall be posted by the cemetery company  
44 in each of its offices.

45 b. No municipality of this State shall require a licensed salesperson  
46 to obtain a municipal license to sell interment spaces or cemetery  
47 goods or services.

1 c. The following may sell cemetery property without a cemetery  
2 salesperson license:

3 (1) The owner of an interest in an interment space, or a person  
4 acting for the owner, making an occasional sale of the interment space;

5 (2) An officer, manager or employee of a cemetery company  
6 engaging in sales activities whose primary responsibility is other than  
7 sales activities; or

8 (3) A receiver, trustee in bankruptcy or other person acting under  
9 court order for a trustee selling under a deed of trust.

10

11 36. (New section) A cemetery salesperson license shall be issued  
12 or renewed for a period established by the board by regulation.

13

14 37. (New section) a. An applicant for a cemetery salesperson  
15 license shall file a written application on the form prescribed by the  
16 board. The application fee prescribed by the board by regulation shall  
17 accompany the application.

18 b. The board shall investigate the qualifications of each applicant  
19 for a cemetery salesperson license and shall issue a salesperson license  
20 if:

21 (1) the board finds that the applicant is 18 years or older, of good  
22 moral character, and has not been convicted of a crime which would  
23 allow the board to deny the application pursuant to the P.L.1968,  
24 c.282 (C.2A:168A-1 et seq.);

25 (2) the application complies with the regulations;

26 (3) the applicant paid the license fee prescribed by regulation; and

27 (4) the applicant is not barred from making cemetery sales by other  
28 employment.

29 c. The board, upon receipt of a completed application form and  
30 appropriate fees, and prior to receipt of the criminal history  
31 background check, may issue a temporary license valid for 60 days  
32 which the board may extend for additional periods not exceeding 30  
33 days each.

34

35 38. (New section) The board may institute an action in the name  
36 of the State in the Superior Court for the appointment of a receiver,  
37 injunctive or other relief to protect the public interest, or to prohibit  
38 the violation of this act or the orders, rules or regulations of the board.  
39 Relief shall not be limited or barred by the imposition of any penalties  
40 imposed by the board. The receivership shall be discharged as soon as  
41 the condition which caused the suspension has been corrected.

42

43 39. Section 1 of P.L.1974, c.46 (C.45:1-3.1) is amended to read as  
44 follows:

45 1. The provisions of this act shall apply to the following boards and  
46 commissions: the New Jersey State Board of Accountancy, the New  
47 Jersey State Board of Architects, the New Jersey State Board of



1 Cosmetology and Hairstyling, the Board of Examiners of Electrical  
2 Contractors, the New Jersey State Board of Dentistry, the State Board  
3 of Mortuary Science of New Jersey, the State Board of Professional  
4 Engineers and Land Surveyors, the State Board of Marriage and  
5 Family Therapy Examiners, the State Board of Medical Examiners, the  
6 New Jersey Board of Nursing, the New Jersey State Board of  
7 Optometrists, the State Board of Examiners of Ophthalmic Dispensers  
8 and Ophthalmic Technicians, the Board of Pharmacy, the State Board  
9 of Professional Planners, the State Board of Psychological Examiners,  
10 the State Board of Examiners of Master Plumbers, the State Board of  
11 Shorthand Reporting, the State Board of Veterinary Medical  
12 Examiners, the Radiologic Technology Board of Examiners, the  
13 Acupuncture Examining Board, the State Board of Chiropractic  
14 Examiners, the State Board of Respiratory Care, the State Real Estate  
15 Appraiser Board, the New Jersey Cemetery Board and the State Board  
16 of Social Work Examiners.

17 (cf: P.L.1995, c.366, s.22)

18

19 <sup>1</sup>40. (New section) Prior to probate, a decedent's appointment of

20 a person in a will to control the funeral and disposition of human

21 remains may be carried out in accordance with section 22 of P.L. ,

22 c. (C. )(now before the Legislature as this bill). If known to

23 them, a person named executor in a will shall notify such a person of

24 their appointment and advise them of what financial means are

25 available to carry out the funeral and disposition arrangements.<sup>1</sup>

26

27 <sup>1</sup>41. (New section) A funeral director may permit the funeral,

28 disinterment or disposition of human remains on the written

29 authorization of a person who claims to be, and is believed to be, a

30 person who has the right to control the funeral, disinterment or

31 disposition as provided by sections 22 and 23 of P.L. , c. (C. )

32 (now before the Legislature as this bill). A cemetery or funeral

33 director shall not be liable for the funeral, disinterment or disposition

34 pursuant to this authorization unless it had reasonable notice that the

35 person did not have the right to control the funeral, disinterment or

36 disposition. If there are no known living relatives, a funeral director

37 may rely on the written authorization of any person acting in good

38 faith on behalf of the decedent.

39 A person who signs an authorization for the funeral, disinterment

40 or disposition of human remains warrants the truth of the facts stated,

41 the identity of the person whose remains are disposed, and the

42 authority to order the funeral, disinterment or disposition. A cemetery

43 or funeral director shall not be liable for the funeral, disinterment or

44 disposition in accordance with the authorization unless it had

45 reasonable notice that the representations were untrue or that the

46 person lacked the right to control the funeral, disinterment or

47 disposition.<sup>1</sup>

1

2       <sup>1</sup>[40.] 42.<sup>1</sup> N.J.S.8A:1-1 et seq., section 2 of P.L.1979, c.255  
3 (C.8A:3-14.1) and P.L.2001, c.439 (C.8A:3-14.2) are repealed.

4

5       <sup>1</sup>[41.] 43.<sup>1</sup> This act shall take effect on the 90th day following  
6 enactment.

7

8

9

10

11 Enacts "New Jersey Cemetery Act, 2002."

**SENATE, No. 1992**

---

**STATE OF NEW JERSEY**  
**210th LEGISLATURE**

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INTRODUCED OCTOBER 24, 2002

**Sponsored by:**

**Senator GERALD CARDINALE**

**District 39 (Bergen)**

**Senator BYRON M. BAER**

**District 37 (Bergen)**

**SYNOPSIS**

Enacts "New Jersey Cemetery Act, 2002."

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 5/30/2003)**

1 AN ACT providing for the regulation of certain cemeteries and revising  
2 parts of the statutory law.

3

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

6

7 1. (New section) This act shall be known and may be cited as the  
8 “New Jersey Cemetery Act, 2002.”

9

10 2. (New section) The following definitions, unless the context  
11 indicates 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 the  
14 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 a  
17 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 for  
22 burial of human remains or disposition of cremated human remains,  
23 and also includes a crematory.

24 “Cemetery company” means a person that owns or controls a  
25 cemetery, but does not include a religious organization that owns a  
26 cemetery which restricts burials to members of that religion or their  
27 families unless the organization has obtained a certificate of authority  
28 for the cemetery.

29 “Columbarium” means a building or structure containing niches for  
30 placement of cremated human remains.

31 “Cremated human remains” means the recoverable bone fragments  
32 and container residue resulting from the process of cremation.

33 “Cremation” means the process of reducing human remains to bone  
34 fragments through flame, heat and vaporization.

35 “Crematory” means a structure containing cremation chambers used  
36 to cremate human remains.

37 “Crypt” means an interment space in a mausoleum or other  
38 structure, above or below ground.

39 “Embellishment” means an item contributing to beauty, comfort or  
40 enhancement of a cemetery, but does not include a memorial.

41 “General maintenance charge” means a fee assessed against each  
42 interment space for the general upkeep of the cemetery.

43 “Grave” means a place for underground disposition of human

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

**Matter underlined thus is new matter.**

1 remains or cremated human remains. A grave may include spaces for  
2 the disposition of human remains of more than one person, arranged  
3 by depth.

4 “Human remains” means a body, or part of a body, of a deceased  
5 human being.

6 “Interment” means the disposition of human remains by burial in a  
7 grave or crypt but does not mean the temporary storage of remains.

8 “Interment space” means a grave or crypt intended for the interment  
9 of human remains.

10 “Maintenance” means all activities of a cemetery company which  
11 further the care and upkeep of a cemetery, including cutting lawns, and  
12 preservation and repair of drains, water lines, roads, buildings, fences  
13 and other structures.

14 “Maintenance and preservation” means the care of the entire  
15 cemetery to the extent of the income of the Maintenance and  
16 Preservation Fund; it does not include providing specific care to  
17 individual graves or plots.

18 “Mausoleum” means a permanent building in a cemetery above or  
19 below ground, containing crypts to be used for burial.

20 “Memorial” means a marker located at a grave containing the name  
21 of a deceased person or the family name of a deceased person, or an  
22 effigy or other representation of a deceased person buried in the grave.  
23 It does not include an embellishment.

24 “Niche” means a space in a columbarium or mausoleum for  
25 placement of cremated human remains.

26 “Path” means a course or way intended to provide pedestrian access  
27 to interment spaces.

28 “Person” includes an individual, corporation, partnership or other  
29 public or private entity.

30 “Plot” means an area of cemetery ground containing two or more  
31 adjoining graves.

32 “Private mausoleum” means a mausoleum constructed by or for a  
33 plot owner and not owned by the cemetery.

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

41 “Roadway” means a course or way intended to provide vehicle  
42 access to interment spaces.

43 “Vault” means a prefabricated outer burial case, opening at the  
44 top, installed in the ground to receive one or more burials.

45

46 3. (New section) a. The New Jersey Cemetery Board is continued

1 and established within the Division of Consumer Affairs in the  
2 Department of Law and Public Safety.

3 b. The board shall consist of nine members. Five members shall be  
4 persons who have served, for a period of at least five consecutive  
5 years immediately preceding appointment, as a member of the  
6 governing board or an official of a cemetery company. Two members  
7 shall be public members and shall have no interest directly or indirectly  
8 in any cemetery company or any allied industry. Each of these seven  
9 members shall be appointed by the Governor with the advice and  
10 consent of the Senate, to serve for the term of four years and until the  
11 appointment and qualification of a successor. Vacancies shall be filled  
12 in the same manner as original appointments but for the unexpired  
13 term only. One member shall be the Commissioner of Community  
14 Affairs or the commissioner's designee serving ex-officio and one  
15 member shall be the designee of the Commissioner of Health and  
16 Senior Services.

17 c. The Governor may remove any member of the board from office  
18 for cause upon notice and opportunity to be heard.

19 d. The members of the board shall elect a chair and other officers  
20 from among themselves. The board shall meet at least four times each  
21 year, at the call of its chair or at the written request of two members  
22 of the board directed to its chair. The chair shall fix the time and place  
23 for the meetings.

24 e. The Division of Consumer Affairs shall assign its employees to  
25 serve as staff for the board.

26

27 4. (New section) a. The board shall administer the provisions of  
28 this act and shall have general supervision and regulation of, and  
29 jurisdiction and control over, all cemetery companies and their  
30 property, property rights, equipment and facilities so far as may be  
31 necessary to carry out the provisions of this act.

32 b. The board shall adopt regulations to carry out the purposes of  
33 this act. Regulations shall be adopted in accordance with the  
34 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
35 seq.). This act and the regulations shall be enforced in accordance  
36 with P.L.1978, c.73 (C.45:1-14 et seq.) and the "Penalty Enforcement  
37 Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.).

38 c. The board may adjust charges and fees as provided by section 2  
39 of P.L.1974, c.46 (C.45:1-3.2) to defray the proper expenses of  
40 administration of this act.

41 d. Nothing in this act shall affect any of the powers regarding  
42 cemeteries heretofore exercised by the Attorney General.

43 e. Nothing in this act shall authorize the board to establish the  
44 prices at which graves or crypts may be sold or the charges made for  
45 services rendered by cemetery companies.

46 f. The board may institute an action in the Superior Court for

1 injunctive or other relief or for appointment of a receiver to enforce  
2 this act or regulations established under it.

3

4 5. (New section) The Attorney General and the board shall be  
5 served with notice of any action or proceeding by or against a  
6 cemetery or a cemetery company and may intervene in the action or  
7 proceeding to protect the public interest.

8

9 6. (New section) A cemetery established after December 1, 1971  
10 shall be owned or operated only by a governmental entity, a religious  
11 organization or by a cemetery company organized in accordance with  
12 this act.

13

14 7. (New section) a. A cemetery company organized in accordance  
15 with this act after December 1, 1971 shall not operate a cemetery  
16 unless the company is a nonprofit corporation organized and operated  
17 in compliance with Title 15A of the New Jersey Statutes and has been  
18 issued a certificate of authority to do so by the board.

19 b. The application for a certificate of authority by a cemetery  
20 company shall be made in writing under oath in the form established  
21 by the board. The application shall contain the information that the  
22 board requires to determine:

23 (1) the necessity for the services the applicant seeks to provide,  
24 considering present or future public need and convenience, land or  
25 territorial qualifications; and

26 (2) the applicant's fitness and ability to: perform proposed  
27 services; conform to this act and to board requirements; and comply  
28 with health protection regulations of the New Jersey Department of  
29 Health and Senior Services, the New Jersey Department of  
30 Environmental Protection, or a local health authority.

31 c. The application fee and all other fees required pursuant to this  
32 act shall be set by the board by regulation. The application fee shall  
33 not be required from any company that existed before December 1,  
34 1971, which no longer has cemetery land to sell, and exists solely for  
35 maintenance and preservation of the cemetery.

36 d. The board shall not act on an application for 60 days after  
37 receipt of an application. If the board receives a written objection to  
38 the application, it shall hold a hearing on notice to the objector and the  
39 applicant before it acts on the application.

40 e. A cemetery company organized prior to December 1, 1971 shall  
41 not continue to operate a cemetery unless the company has been issued  
42 a certificate of authority by the board. The board shall grant the  
43 company a certificate of authority preserving any rights and  
44 obligations of its charter subject to applicable law and regulations.

45

46 8. (New section). a. The charter or certificate of incorporation of

1 a cemetery company organized after December 1, 1971 shall state in  
2 that section of the charter devoted to the purposes for which the  
3 cemetery company is organized one or more of the following  
4 purposes:

5 (1) The procuring and preservation of lands to be used exclusively  
6 as a cemetery.

7 (2) The disposition of human remains, including maintenance and  
8 operation of land and the construction of structures including  
9 crematories, mausoleums, columbariums and other places for human  
10 remains or cremated human remains.

11 b. The stated purposes of the cemetery company shall be  
12 considered by the board and may be used as a basis for its  
13 determination as to whether to issue a certificate of authority.

14 c. Except as provided by section 9 of this act, for a cemetery  
15 company to amend its charter or certificate of incorporation, it first  
16 shall have the amendment approved by the board.

17 d. A cemetery company shall not be dissolved or merged without  
18 the board's approval. The board shall not approve the action unless  
19 it finds that the company has complied with regulations and has made  
20 adequate provision for maintenance and preservation.

21  
22 9. (New section) a. A cemetery company organized as a for-profit  
23 corporation may amend its charter or certificate of incorporation to  
24 operate as a nonprofit lot owner cemetery subject to the provisions of  
25 this act provided a plan for the conversion of its issued stock to  
26 certificates of interest is first approved by a majority of its  
27 stockholders, and by a majority of the owners of interment spaces in  
28 attendance at and voting at a meeting called for that purpose. The  
29 stockholders shall be given 10 days notice of the meeting by mail and  
30 the owners of interment spaces shall be notified of the meeting by a  
31 notice published at least 10 days in advance of the meeting date in a  
32 newspaper qualified to publish legal notices and circulated in the  
33 county in which the cemetery is located. The notice shall set forth the  
34 purpose of the meeting.

35 b. Upon approval of its stockholders and the owners of interment  
36 spaces, the cemetery company shall file a certified copy of the  
37 amended charter with the board, and pay the filing fees. The cemetery  
38 company, at the same time, shall make any filing required by the  
39 Division of Commercial Recording in the Department of the Treasury.

40  
41 10. (New section) a. In a cemetery company organized under this  
42 act, each owner of a grave, crypt or niche shall be a member of the  
43 cemetery company and shall have one vote for each grave, crypt or  
44 niche owned whenever voting by the members is required under the  
45 provisions of any law. Voting shall be subject to the following  
46 qualifications:



1 (1) If a grave, crypt or niche is owned by more than one person,  
2 then a majority of its owners shall decide among themselves who shall  
3 cast the vote.

4 (2) An owner shall not be entitled to vote unless all charges and  
5 assessments against the grave, crypt or niche have been paid.

6 (3) Proxy voting shall be permitted except that a proxy shall not be  
7 valid for more than three years after its date.

8 (4) Any person who owns certificates of interest or indebtedness  
9 shall have one vote for each \$250 of the face amount of the  
10 certificates.

11 (5) A corporation, partnership or association that owns more than  
12 one grave, crypt or niche shall have one vote for each grave, crypt or  
13 niche owned, except that it shall not have more than 100 votes.

14 b. The directors or trustees of a cemetery company shall hold an  
15 annual meeting and report at each annual meeting on their activities  
16 and management and the condition of the property and affairs of the  
17 cemetery company. At least 20 days before the annual meeting a  
18 notice of the meeting shall be placed at some prominent place at the  
19 office of the cemetery company and shall be published in a newspaper  
20 having general circulation in the county in which the cemetery is  
21 located.

22  
23 11. (New section) The charter of any cemetery association,  
24 incorporated pursuant to prior laws whose period of corporate  
25 existence has terminated by lapse of time, which has continued to  
26 operate a cemetery in which burials have been made after corporate  
27 existence terminated, may be reinstated in perpetuity upon the  
28 recording in the office of the clerk of the county in which the  
29 certificate of incorporation of the association is recorded, of a  
30 certificate of extension of corporate existence, executed and  
31 acknowledged by five or more owners of lots in the cemetery of the  
32 cemetery company stating, under oath, that the cemetery company has  
33 been engaged in operating a cemetery and that burials have been made  
34 in the cemetery since the termination of its corporate existence and  
35 upon the recording of the certificate, the charter of the cemetery  
36 company shall be reinstated and the corporate existence of cemetery  
37 company shall be extended.

38  
39 12. (New section) a. It is the public policy of this State that a  
40 primary obligation of each cemetery company shall be the creation of  
41 a fund for the permanent maintenance and preservation of the  
42 cemetery.

43 b. Every cemetery company shall establish an irrevocable trust fund,  
44 called the Maintenance and Preservation Fund, the income from which  
45 shall be expended for the maintenance and preservation of the  
46 cemetery.

1 c. A cemetery company shall make the deposits to the Maintenance  
2 and Preservation Fund required by this act and may make additional  
3 deposits.

4 d. The Maintenance and Preservation Fund shall be established in  
5 a State or federally regulated financial institution. The fund shall be  
6 invested in accordance with the "Prudent Investor Act," P.L.1997,  
7 c.26 (C. 3B:20-11.1 et seq.) and the income may be applied only to the  
8 maintenance of the cemetery.

9 e. For the purposes of this section, except as provided by  
10 regulations of the board, capital gains shall not be considered income,  
11 and shall be retained as principal.

12 f. The board may allow a cemetery company to combine trust  
13 funds, and two or more cemetery companies to combine trust funds,  
14 if the board is satisfied that income and principal can be allocated  
15 proportionately among the combined funds.

16 g. The board shall supervise the creation and operation of the  
17 Maintenance and Preservation Fund and may regulate its operation and  
18 use.

19

20 13. (New section) a. As a condition for the issuance of its  
21 certificate of authority to operate a cemetery, a cemetery company  
22 established after December 1, 1971 shall make an initial deposit of  
23 \$75,000 to its Maintenance and Preservation Fund. A cemetery  
24 company that operates or seeks to operate only a crematory shall not  
25 be required to make the \$75,000 initial trust fund deposit.

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

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

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

34 (2) 10% of the initial sales price of a crypt or niche in a public  
35 mausoleum or columbarium;

36 (3) on bulk sales of graves, 15% of the current retail gross sale  
37 price of comparable graves;

38 (4) on bulk sales of crypts or niches, 10% of the current retail gross  
39 sale price of comparable crypts or niches;

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

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

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

4 (8) for a foundation, 10% of the charge for the foundation or \$20,  
5 whichever is more.

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

9 d. When a fee or charge is paid in installments, the cemetery shall  
10 deposit an appropriate percentage of the installments in the  
11 Maintenance and Preservation Fund.

12 e. A cemetery company may make additional payments or accept  
13 contributions into the Maintenance and Preservation Fund.

14  
15 14. (New section) a. A minimum of 10% of the gross contract  
16 price for construction and placement of any private mausoleum shall  
17 be deposited, before the structure is erected, with the cemetery  
18 company, in trust for the maintenance of the structure and the area on  
19 which it is located.

20 b. A cemetery or cemetery company shall not begin to use a public  
21 mausoleum for the burial of human remains until it has established a  
22 Building Maintenance Fund, an irrevocable trust fund of not less than  
23 10% of the total cost of the structure, walkways, architect fees,  
24 building permit fees, landscaping, installation of utility lines and  
25 internal furnishings. The income from the trust fund, and the income  
26 only, shall be used for the maintenance of the structure. This  
27 provision shall not apply to temporary receiving vaults.

28 c. Any person may create a trust fund to be held in perpetuity or  
29 for a time to be used for the care or embellishment of any grave or  
30 crypt, mausoleum or memorial. However, the trust fund shall be  
31 consistent with regulations of the cemetery and shall not be larger than  
32 necessary to achieve the trust's purposes. If a court finds that the trust  
33 fund is excessive, it may reduce it to a reasonable sum.

34 d. A cemetery company may receive funds for the care or  
35 embellishment of any grave or crypt, mausoleum or memorial. It shall  
36 maintain these funds separate from the Maintenance and Preservation  
37 Fund or any other trust fund required by this act. Each fund shall be  
38 administered as agreed between the grantor and the cemetery  
39 company. The income from each of these funds shall be used for the  
40 particular purpose of the fund.

41 e. The funds shall be established in a State or federally regulated  
42 financial institution and shall be invested in accordance with the  
43 "Prudent Investor Act," P.L.1997, c.26 (C.3B:20-11.1 et seq.). The  
44 board may adopt regulations on the operation and use of trust funds.  
45 The board may allow a cemetery to combine trust funds, and two or  
46 more cemeteries to combine trust funds, if the board is satisfied that

1 income and principal can be allocated proportionately among the  
2 combined funds. This subsection shall not apply to a religious  
3 organization that constructs a structure for the interment of human  
4 remains.

5 f. The cemetery company or other trustee of a fund required by this  
6 section may collect fees for the administration of the trust allowed by  
7 law and regulations of the board.

8  
9 15. (New section) a. Every cemetery company, other than a  
10 municipality, shall file an annual report with the board within 120 days  
11 after the close of the cemetery company's fiscal year. The report shall  
12 be filed by the cemetery company in a form established by the board,  
13 showing the extent and sources of augmentation of the Maintenance  
14 and Preservation Fund, the manner of expenditure of the income of the  
15 fund during the preceding year, and a list of the securities in which the  
16 trust funds are invested. At the time of filing the Maintenance and  
17 Preservation Fund report, a cemetery company, other than a religious  
18 corporation, shall pay a filing fee set by regulation. If the report filed  
19 is inadequate to apprise the board of the information it requires to  
20 administer the provisions of this act effectively, it shall request a  
21 supplemental report and it may order an investigation of the operations  
22 of the cemetery company. Officers and employees of a cemetery  
23 company shall exhibit the company's books, papers and securities to  
24 the board when requested and otherwise facilitate any examination of  
25 the company. Any officer or employee of a cemetery company may be  
26 required to testify under oath as to the conditions and affairs of the  
27 cemetery company.

28 b. Every cemetery that contains a public mausoleum shall file an  
29 annual report in the form described in subsection a. of this section  
30 relating to its public mausoleum Building Maintenance Fund within  
31 120 days after the end of the fiscal year.

32 c. If it appears to the board that the corpus of any trust fund is not  
33 being invested in accordance with the "Prudent Investor Act,"  
34 P.L.1997, c.26 (C. 3B:20-11.1 et seq.), the board may order the  
35 cemetery company to dispose of unauthorized securities immediately.  
36 If it appears that the Maintenance and Preservation Fund is not being  
37 maintained as required, the board may formulate a plan for the  
38 maintenance of the fund. Failure on the part of the cemetery company  
39 to implement the plan shall be a violation of this act.

40 d. The board, for good cause, may grant reasonable extensions for  
41 filing annual reports.

42

43 16. (New section) a. A cemetery company shall:

44 (1) adopt reasonable regulations for the use, management and  
45 protection of the cemetery and of all interment spaces in it; for  
46 regulating the dividing marks between graves; for prohibiting or

1 regulating the erection of structures; for preventing unsightly  
2 monuments, effigies and structures within the cemetery, and for their  
3 removal;

4 (2) fix charges for interment spaces, niches, products and services  
5 offered by the cemetery company; and

6 (3) keep its books, records and accounts so as to reflect the  
7 conduct of its business.

8 b. A cemetery company may:

9 (1) prohibit the placement of memorials, effigies or structures on  
10 parts of the cemetery and adopt reasonable regulations relating to  
11 uniformity, class, composition, material, kinds and sizes of all markers,  
12 monuments and other structures within the cemetery provided that the  
13 regulations are not established to prevent competition;

14 (2) sell adornments, embellishments, sod and plantings for use in  
15 the cemetery;

16 (3) prevent the use of interment spaces or niches for purposes that  
17 violate the cemetery restrictions and regulations;

18 (4) regulate the conduct of persons and prevent improper  
19 assemblages in the cemetery;

20 (5) reserve to the cemetery the exclusive right to open and fill  
21 graves, furnish equipment, manufacture and install foundations, set and  
22 seal crypts and vaults, seal niches and install flush memorials;

23 (6) regulate or prevent the introduction of embellishments or plants  
24 within the cemetery;

25 (7) prevent the interment in any interment space of human remains  
26 not entitled to interment there;

27 (8) as provided in this act, make provisions for the removal at the  
28 cost of the lot owner of any memorial, effigy or structure when either  
29 placed in violation of cemetery company rules and regulations or when  
30 it becomes dangerous or unsightly; and

31 (9) to the extent allowed by the regulations of the board, prohibit  
32 the interment of human remains or the placement of any memorial  
33 when there are any outstanding charges against the interment space.

34 c. A cemetery company, and any person engaged in the  
35 management, operation or control of a cemetery owned by a cemetery  
36 company, is specifically prohibited from engaging, directly or  
37 indirectly, in any of the following activities:

38 (1) the manufacture or sale of memorials;

39 (2) the manufacture or sale of private mausoleums;

40 (3) the manufacture or sale of vaults, including vaults installed in a  
41 grave before sale and including vaults joined with each other in the  
42 ground; and

43 (4) the conduct of any funeral home or the business or profession  
44 of mortuary science; provided that crematoriums operated in  
45 conjunction with funeral homes prior to December 1, 1971 are  
46 excepted from the provisions of this paragraph (4).

1       17. (New section) a. A copy of a survey or map of land to be  
2 used for cemetery purposes shall be filed with the board. The filing  
3 shall constitute dedication of the land for cemetery purposes.

4       b. Before graves are sold, the part of the cemetery, including those  
5 graves, shall be surveyed and a map prepared showing the location of  
6 the graves with those roadways, paths and building areas as the  
7 cemetery company directs. A map of the land shall be kept at the  
8 office of the cemetery company. The map shall be made available for  
9 inspection by owners of interment spaces.

10      c. A cemetery company may amend a map to include areas not  
11 previously laid out or to change the layout of plots not sold. Existing  
12 roadways and walks to graves already sold shall not be abandoned but  
13 may be altered as long as similar access to existing interment spaces  
14 is not denied. Paths may be renovated or reduced in size if the  
15 minimum width specified by regulation is maintained. The amended  
16 map shall be filed with the board.

17

18      18. (New section) a. Before conducting any business with the  
19 public, a cemetery company shall file with the board the name and  
20 address of the cemetery company and a copy of its regulations and its  
21 charges for services. New and amended regulations and changes in  
22 charges for services shall be filed before they take effect. Each filing  
23 shall be accompanied by the filing fee set by regulation.

24      b. The rules, regulations and charges for services shall be suitably  
25 printed and shall be conspicuously posted by the cemetery company in  
26 each of its offices and on cemetery grounds.

27

28      19. (New section) a. A cemetery company shall keep a record of  
29 every interment and placement of cremated human remains, which  
30 shall include the date, the name and age of the person, the cause of  
31 death when shown on the burial permit, the location of the burial or  
32 disposition, and the name and address of the funeral director.

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

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

45      d. A cemetery company that performs a cremation shall keep a  
46 record indicating the date and the recipient of the cremated remains.

1       20. (New section) a. Cemetery companies shall be exempt from  
2 the payment of any real estate taxes, rates and assessments or personal  
3 property taxes on lands and equipment dedicated to cemetery  
4 purposes. Cemetery companies shall be exempt from business taxes,  
5 sales taxes, income taxes, and inheritance taxes.

6       b. Land dedicated to cemetery purposes owned by any person shall  
7 be exempt from all taxes, rates or assessments.

8       c. Charges paid to a cemetery for an interment space shall be  
9 exempt from the payment of sales or use tax.

10      d. Trust funds, and the income from trust funds, held by a cemetery  
11 company shall be exempt from taxation and assessment, and sale,  
12 seizure or sale for collection of judgments against the cemetery  
13 company.

14      e. Land dedicated to cemetery purposes and structures, buildings,  
15 and equipment used for the maintenance of that land or the operation  
16 of a cemetery shall be exempt from sale for collection of judgments.  
17 Income derived from cemetery property other than income required by  
18 law to be deposited in trust funds or used for a particular purpose may  
19 be taken and used for the payment of a judgment against a cemetery  
20 company. If a judgment against a cemetery company cannot be paid,  
21 a court may also order the issuance of bonds, notes or other evidences  
22 of indebtedness by the cemetery company. This subsection shall not  
23 apply to liens existing on land before it is dedicated to cemetery  
24 purposes.

25      f. A street or road shall not be laid through any land of a cemetery  
26 company that is actually in use for cemetery purposes without the  
27 consent of the cemetery company, unless otherwise provided by law.

28      g. When bankruptcy, receivership or other court proceeding  
29 necessitates the selling of cemetery company lands, the court shall  
30 require the purchaser to incorporate as a cemetery company.

31      h. A receiver or trustee of a cemetery company appointed by a  
32 court may issue bonds, notes or other evidence of indebtedness that  
33 include a provision allowing the holders to select the governing body  
34 of the cemetery company until they are paid.

35  
36      21. (New section) a. Dedication of property to cemetery purposes  
37 pursuant to this act shall not be invalid as violating any law against  
38 perpetuities or the suspension of the power of alienation of title to use  
39 of property. It shall be expressly permitted in respect for the dead and  
40 as provision for the burial of human remains and as a duty to, and for  
41 the benefit of, the general welfare.

42      b. After property is dedicated to cemetery purposes by a cemetery  
43 company, neither the dedication nor the title of the interment space  
44 owner shall be affected by the dissolution of the cemetery company by  
45 nonuse on its part, by alienation of the property, by any encumbrances,  
46 by sale under execution, or otherwise except as provided in this act  
47 and by law.

1       22. (New section) a. If a decedent leaves a signed directive  
2 concerning the disposition of his human remains or nominating a  
3 person to control the disposition of the human remains, disposition  
4 shall be in accordance with the directive. To be valid, a directive shall  
5 be separate from an agreement for the provision of funeral services or  
6 products. A signed directive can be revoked only by a later signed  
7 directive of the decedent.

8       If a signed directive has not been left by the decedent, the right to  
9 control the disposition of the human remains shall be in the following  
10 order:

11       (1) The surviving spouse of the decedent.

12       (2) A majority of the surviving adult children of the decedent.

13       (3) The surviving parent or parents of the decedent.

14       (4) A majority of the brothers and sisters of the decedent.

15       (5) Other next of kin of the decedent according to the degree of  
16 consanguinity.

17       (6) If there are no known living relatives, a cemetery may rely on  
18 the written authorization of any other person acting on behalf of the  
19 decedent.

20       b. A cemetery may permit the disposition of human remains on the  
21 authorization of a funeral director handling arrangements for the  
22 decedent, or on the written authorization of a person who claims to be,  
23 and is believed to be, a person who has the right to control the  
24 disposition. The cemetery shall not be liable for disposition pursuant  
25 to this authorization unless it had reasonable notice that the person did  
26 not have the right to control the disposition.

27       c. A cemetery shall not bury human remains of more than one  
28 person in a grave unless:

29       (1) directions have been given for the burials in accordance with  
30 this section on behalf of all persons so buried; or

31       (2) the rights to be buried in the grave were sold by the cemetery  
32 with explicit provision allowing separate sales of rights to burial at  
33 different depths in the grave.

34       d. A person who signs an authorization for the disposition of  
35 human remains warrants the truth of the facts stated, the identity of the  
36 person whose remains are disposed and the authority to order the  
37 disposition. The person shall be liable for damages caused by a false  
38 statement or breach of warranty. A cemetery shall not be liable for  
39 disposition in accordance with the authorization unless it had  
40 reasonable notice that the representations were untrue or that the  
41 person lacked the right to control the disposition.

42       e. An action against a cemetery company relating to the disposition  
43 of human remains left in its temporary custody may not be brought  
44 more than one year from the date of delivery of the remains to the  
45 cemetery company unless otherwise provided by a written contract.



1       23. (New section) a. Except as otherwise provided in this section,  
2 or pursuant to court order, human remains shall not be removed from  
3 an interment space unless:

4       (1) the surviving spouse, adult children and the owner of the  
5 interment space authorize removal in writing;

6       (2) removal is authorized by a State disinterment permit issued by  
7 the local board of health; and

8       (3) the cemetery finds that removal is feasible.

9       b. No disinterment permit is required:

10       (1) for the temporary removal or repositioning of vaulted human  
11 remains to allow for the deepening of an interment space within the  
12 same lot;

13       (2) for the transfer of temporarily stored remains from the place of  
14 temporary storage to the place of final interment within the same  
15 cemetery in accordance with applicable regulations;

16       (3) for the removal of cremated human remains. However, prior  
17 consent shall be obtained from the interment space owner and the  
18 person having the right to control the removal of the decedent's  
19 remains.

20       c. Human remains buried on property that is not part of a cemetery  
21 may be removed by the owner of the property provided that removal  
22 is in compliance with applicable health regulations and the remains are  
23 then properly re-buried in a cemetery.

24       d. A person who signs an authorization for the disinterment of  
25 human remains warrants the truth of the facts stated and the authority  
26 to order the disinterment. The person shall be liable for damages  
27 caused by a false statement or breach of warranty. A cemetery shall  
28 not be liable for disinterment in accordance with the authorization  
29 unless it had reasonable notice that the representations were untrue or  
30 that the person lacked the right to control the disinterment. An action  
31 against a cemetery company relating to the disinterment of human  
32 remains shall not be brought more than one year from the date of  
33 disinterment.

34  
35       24. (New section) a. A cemetery company may remove any  
36 authorized memorial, embellishment or impediment for safety reasons.  
37 Before removal, the cemetery company shall take photographs of the  
38 memorial and its condition and shall retain them in its permanent  
39 records. Within 30 days after removal, the cemetery company shall  
40 notify the interment space owner in writing of the removal at the  
41 address on file with the cemetery company. The notice shall include a  
42 provision advising that, within six months of the notice, the interment  
43 space owner may apply to the board for appropriate relief.

44       b. A cemetery company may remove any memorial, embellishment  
45 or impediment that was placed in violation of the regulations of the  
46 cemetery. The cemetery may recover the cost of the removal.

1 c. Upon removal of a memorial, embellishment or impediment, the  
2 cemetery company shall store it in a reasonably secure manner. If after  
3 one year, the interment space owner has not taken possession of the  
4 memorial, embellishment or impediment, the cemetery may dispose of  
5 it. The cemetery company shall notify the board in writing 90 days  
6 prior to disposal.

7 d. A cemetery company may not renovate a section or area of the  
8 cemetery necessitating the removal of memorials from an interment  
9 space without board approval. The board may require specific actions  
10 or procedures by the cemetery company for the proposed renovation.  
11 The cemetery company shall notify the interment space owner of the  
12 proposed renovations 30 days before the action. Publication in a local  
13 newspaper circulating in the county in which the interment space is  
14 located and posting on the grounds shall be considered sufficient  
15 notice. Repairs or improvements done at the request of the interment  
16 space owner do not constitute renovation work which requires board  
17 approval.

18 e. Site work necessary to repair or restore any part of a cemetery  
19 as an emergency response to vandalism, damage by weather conditions  
20 or other acts of God shall not constitute planned renovation work.

21 f. Memorials may be temporarily removed from interment spaces in  
22 order to provide access for equipment and personnel to perform  
23 openings and general debris clean-up. Memorials shall be reinstalled  
24 promptly.

25  
26 25. (New section) a. A cemetery shall not be established or  
27 enlarged in any municipality without first obtaining the consent of the  
28 municipality by resolution.

29 b. No more than five cemeteries may be established in any one  
30 municipality, and not more than 3% of the area of any municipality  
31 shall be devoted to cemetery purposes.

32 c. A cemetery shall not be established or expanded to exceed 250  
33 acres at any one location.

34 d. The governing body of a municipality, by resolution, may waive  
35 the limitations of subsection b. or c. of this section if it finds that there  
36 is a public need for additional cemetery lands and that it is in the public  
37 interest to waive them.

38 e. A cemetery company shall not dedicate additional land to  
39 cemetery purposes without board approval.

40  
41 26. (New section) If the board approves, a cemetery company may  
42 issue certificates with a fixed face value and a specified interest rate to  
43 pay for land acquired for cemetery purposes, for the initial  
44 improvements to that land, and for subsequent capital improvements.  
45 The board shall review the dollar amount and terms of the certificates  
46 so as to assure the financial soundness of the cemetery company.

1       27. (New section) a. A public mausoleum shall not be constructed  
2 without obtaining a permit from the construction official of the  
3 municipality in which it is to be constructed. Failure to issue a permit  
4 is reviewable by the appropriate construction board of appeals  
5 established pursuant to the "State Uniform Construction Code Act,"  
6 P.L.1975, c.217 (C.52:27D-119 et seq.).

7       b. Construction shall not begin until detailed plans and  
8 specifications of the structure have been approved by the State  
9 Department of Community Affairs and the certificate of approval is  
10 filed in the office of the municipal enforcing agency where the  
11 structure is to be constructed. The State Department of Community  
12 Affairs shall not grant a certificate of approval unless it is satisfied that  
13 the proposed structure can be operated without constituting a hazard  
14 to public health or safety.

15       c. Construction of the structure shall be under the supervision of  
16 the municipal construction official, who shall see that the approved  
17 plans and specifications are complied with. No departure from the  
18 original plans and specifications shall be permitted unless an amended  
19 certificate of approval is granted and filed with the construction  
20 official of the municipality where the mausoleum is to be constructed.

21       d. A structure constructed under the provisions of this section shall  
22 not be used for burial until the construction official of the municipality  
23 has issued a certificate indicating that the plans and specifications as  
24 filed have been complied with fully and the Building Maintenance Fund  
25 for the structure has been established.

26       e. The Department of Community Affairs shall adopt regulations  
27 concerning the construction of mausoleums. The regulations shall be  
28 the standards adopted in the subcodes of the Uniform Construction  
29 Code, or other national model codes or standards, but the  
30 commissioner may adopt additional standards if, after a public hearing,  
31 the commissioner finds that they are necessary to protect the public  
32 interest. A municipality may enact zoning ordinances which provide  
33 for reasonable height and setback requirements in keeping with  
34 standards established for property immediately abutting a cemetery,  
35 but any other ordinance regulating the construction of mausoleums  
36 shall be of no effect.

37       f. Private mausoleums shall be constructed in accordance with  
38 applicable industry construction code standards and regulations of the  
39 cemetery.

40

41       28. (New section) a. When a cemetery transfers an interment  
42 space or niche and records the transfer, the person or persons to whom  
43 it was transferred become the owner of the interment space or niche.  
44 The conveyance issued by a cemetery shall indicate whether the  
45 cemetery company is transferring title to the interment space or niche  
46 or only a right of burial in it. The conveyance may:

1 (1) provide that the owner take title subject to existing and future  
2 reasonable regulations of the cemetery; and

3 (2) contain other reasonable restrictions on use or transfer  
4 consistent with this act.

5 b. Except as limited by subsection c. of this section, the owner of  
6 an interment space or an interest in one in a cemetery may transfer the  
7 space or interest to any person or to the cemetery company. Transfers  
8 may be made on agreed conditions, provided the conditions are  
9 recorded in the office of the cemetery company. The cemetery  
10 company shall record a cemetery transfer in its records when a  
11 document of transfer is presented to the cemetery company and any  
12 other requirements imposed by law or regulations of the cemetery  
13 company are met. The transfer shall be effective on recordation by the  
14 cemetery company.

15 c. After human remains have been buried in a grave or crypt, that  
16 grave or crypt shall not be transferred except as follows:

17 (1) Ownership of the grave or crypt may be transferred by will if  
18 it is identified specifically in the will rather than by a residuary clause  
19 or by general reference to real property. Otherwise, on the death of  
20 the owner, ownership shall descend in the order listed below:

21 (a) to the surviving spouse and the owner's children, if any, per  
22 stirpes, as equal tenants in common;

23 (b) if there is no surviving spouse, to the children per stirpes as  
24 equal tenants in common;

25 (c) if there is no surviving spouse nor surviving children, then to  
26 the owner's parents as equal tenants in common;

27 (d) if there is no surviving spouse, children or parents, then to the  
28 owner's siblings as equal tenants in common;

29 (e) if there is no surviving spouse, children, parents or siblings,  
30 then ownership in the grave or crypt shall pass to the owner's next of  
31 kin as tenants in common pursuant to the laws of intestacy;

32 (f) Notwithstanding subparagraphs (a) through (e) of this  
33 paragraph (1), if an owner dies leaving a surviving spouse, but having  
34 surviving children from a prior marriage or relationship, those children  
35 and the surviving spouse shall be owners of the grave or crypt as  
36 tenants in common.

37 (2) If the grave or crypt is owned by more than one person, one  
38 owner's share may be transferred to another owner.

39 (3) Ownership of the grave or crypt may be transferred to any heir  
40 at law of the person buried in the space.

41 (4) The owner may convey the grave or crypt in trust to a bank or  
42 trust company or to the cemetery company for the benefit of the owner  
43 of the grave or crypt and the protection of the human remains already  
44 buried in it, pursuant to the terms of the deed of trust. Acceptance of  
45 the conveyance in trust by the cemetery company shall require a  
46 majority vote of its governing board.

1 (5) If additional burials are permitted to be made in the grave or  
2 crypt, the grave or crypt may be transferred to allow for those burials.

3 d. A cemetery company shall maintain records of transfers of  
4 ownership of interment spaces. Records shall be kept in the manner  
5 specified by the board in its regulations. Records shall be indexed  
6 both by the number of each interment space and by the name of each  
7 owner.

8  
9 29. (New section) a. When there are two or more owners of an  
10 interment space:

11 (1) each individual owner's interest may be transferred only by that  
12 owner or that owner's authorized representative;

13 (2) each individual owner has a right of interment in the space.

14 b. When there are two or more owners of an interment space, they  
15 may designate one or more of the co-owners to represent them by  
16 filing written notice of the designation with the cemetery company. If  
17 such a notice has been filed, the cemetery company shall follow the  
18 direction of the representative as to interment in the space, and in  
19 regard to memorials, embellishments and care for the interment space.  
20 In the absence of that notice the cemetery company may rely on the  
21 direction of any co-owner as to burial, memorials, embellishments or  
22 care and shall not be liable to any person for doing so.

23  
24 30. (New section) a. A cemetery company may adopt reasonable  
25 regulations on interment. In the absence of regulation, the cemetery  
26 company shall allow human remains of the following persons to be  
27 interred in an available interment space:

28 (1) a deceased person who at the time of death was an owner of  
29 the interment space;

30 (2) the spouse of the deceased person who owned the interment  
31 space at the time of death; and

32 (3) any other person authorized by a written directive of the  
33 designated owner of the interment space as provided in subsection b.  
34 of section 29 of this act, or if there is no designated owner, by the  
35 written directive of any owner.

36 b. The right of a person to be interred in an interment space may be  
37 waived in writing. The right terminates if the person is interred  
38 elsewhere.

39 c. If more persons have a right to be interred in an interment space  
40 than may be interred there, any person with a right to interment in the  
41 interment space may be interred in it even though that will make the  
42 interment space unavailable to others.

43 d. A person who signs an authorization for the disposition of  
44 human remains warrants the truth of the facts stated, the identity of the  
45 human remains and the authority to order the disposition. The person  
46 shall be liable for damages caused by a false statement or breach of

1 warranty. A cemetery shall not be liable for disposition in accordance  
2 with the authorization unless it had reasonable notice that the  
3 representations were untrue or that the person lacked the right to  
4 control the disposition. An action against a cemetery company  
5 relating to the disposition of human remains left in its temporary  
6 custody shall not be brought more than one year from the date of  
7 delivery of the remains to the cemetery company unless otherwise  
8 provided by a written contract.

9  
10 31. (New section) a. Owners of interment spaces, or other  
11 interested persons, may maintain their own interment spaces, or  
12 provide for maintenance by an independent contractor provided that  
13 the maintenance is subject to the supervision of the management of the  
14 cemetery company to insure compliance with the rules and regulations  
15 of the cemetery.

16 b. The cemetery company may not charge for maintenance by  
17 others. The cemetery company may impose a reasonable fee for actual  
18 supervision of maintenance if the fee has been filed with the board.

19  
20 32. (New section) a. Except as provided in subsection b. of this  
21 section, a person shall not purchase an interment space for the sole  
22 purpose of resale, and a cemetery company shall not sell an interment  
23 space to a person whom it reasonably should know is purchasing an  
24 interment space for the purpose of resale. The board may adopt  
25 regulations to enforce this subsection.

26 b. A membership or religious corporation or unincorporated  
27 association or society may purchase interment spaces in bulk for the  
28 purpose of resale, transfer or assignment of interment rights provided  
29 that:

30 (1) if the purchase is for 17 interment spaces or more, it has  
31 received approval from the board to do so;

32 (2) it sells, gives or assigns the interment spaces only to its  
33 members and the interment spaces are intended for the use of its  
34 members and their families;

35 (3) at the time it sells, gives or assigns an interment space, it  
36 provides notification to the cemetery company for recording;

37 (4) it designates in writing to the cemetery company an agent with  
38 authority to consent to burials in interment spaces owned by it; and

39 (5) it makes the payments to the Maintenance and Preservation  
40 Fund required by section 13 of this act.

41 c. If the corporation, association or society fails to meet its  
42 obligations under subsection b. of this section, the cemetery company  
43 may reclaim the unoccupied interment spaces owned by it in the  
44 manner and with the restrictions set by the board.

45  
46 33. (New section) a. A cemetery company may reclaim a grave or

1 crypt if:

2 (1) the cemetery company sold the grave or crypt before December  
3 1, 1971;

4 (2) no provision has been made for the adequate maintenance of the  
5 grave or crypt;

6 (3) no burial has been made in the grave or crypt; and

7 (4) no burial has been made for 30 years in the plot that includes the  
8 grave or crypt.

9 For the purposes of this section, "adequate maintenance" has been  
10 provided if the grave or crypt was sold with perpetual care, endowed  
11 care, or a similar level of care, or if the owner of the grave or crypt  
12 has made other provision for that care.

13 b. To reclaim a grave or crypt, a cemetery company shall:

14 (1) make a diligent effort to locate the owners and notify them that  
15 they may prevent the cemetery from reclaiming the grave or crypt by  
16 sending a written objection to the cemetery company within 30 days;

17 (2) if the cemetery company cannot locate the owners, publish a  
18 notice in a newspaper circulating in the county in which the grave or  
19 crypt is located, directed to the owners as registered in the cemetery  
20 company's records, containing the names of each deceased person  
21 buried in the plot that includes the grave or crypt and date of each  
22 burial, where such information is ascertainable. The notice shall advise  
23 that if the owners do not send a written objection within 30 days the  
24 grave or crypt will be subject to resale.

25 c. If written objection has not been filed with the cemetery within  
26 30 days after notice or publication, the cemetery may sell the grave or  
27 crypt. The sales price less sales commissions and expenses of sale, but  
28 in no event less than three-fourths of the gross sales price, shall be  
29 deposited in the Maintenance and Preservation Fund.

30 d. At any time, a person proving ownership of a grave or crypt  
31 reclaimed and sold in accordance with this section may either agree to  
32 take a comparable grave or crypt in the cemetery or may make  
33 application to the board for an order directing the cemetery company  
34 to reimburse the owner the proceeds of the sale that were deposited  
35 into the Maintenance and Preservation Fund.

36

37 34. (New section) a. A cemetery may lease or transfer any land  
38 or interest in land dedicated to cemetery purposes if:

39 (1) it has not conveyed any part of the land as graves;

40 (2) it determines that the land or the interest in the land to be  
41 transferred is not necessary or not suitable for burial purposes or it  
42 determines that the land to be leased will not be necessary for burial  
43 purposes during the term of the lease; and

44 (3) the land is owned by a cemetery company and the board  
45 approves the transaction as made in good faith and for fair  
46 consideration.

1       b. The cemetery may transfer land in which any person has  
2 acquired a right of burial, if:

3       (1) the cemetery either refunds to the person who has the right of  
4 burial the amount paid for the right or conveys to the person who has  
5 the right of burial substantially similar graves in the cemetery; and

6       (2) the land is owned by a cemetery company and the board  
7 approves the transaction as made in good faith and for fair  
8 consideration.

9       c. A cemetery may transfer land in which human remains have been  
10 buried only if the cemetery:

11       (1) receives consent from the owner of each grave in which human  
12 remains have been buried or an order from the Superior Court to  
13 remove the human remains;

14       (2) removes the human remains and reburies them in substantially  
15 similar graves in the cemetery or in another cemetery and assumes the  
16 responsibility and expense for removal and reburial;

17       (3) removes any property of the owner from the grave and gives it  
18 to the owner; and

19       (4) if owned by a cemetery company, obtains the written consent of  
20 the board.

21       d. The Superior Court shall not approve the removal of human  
22 remains from lands to be transferred unless notice and an opportunity  
23 to be heard in opposition has been given to the owners of all affected  
24 graves. If the owner of a grave is not known or cannot be located, the  
25 court may order notice by publication.

26       e. The deed of conveyance for any transfer of cemetery land under  
27 this section shall include a 25-year prohibition on any use of the land  
28 which cemetery companies are specifically prohibited from engaging  
29 in by this act. Any lease of cemetery land under this section shall  
30 prohibit any use of the land which cemetery companies are specifically  
31 prohibited from engaging in by this act. The board shall order not less  
32 than 15% of the proceeds of the sale or lease deposited in the  
33 Maintenance and Preservation Fund.

34       f. If the transfer of land results from condemnation, the  
35 responsibility and expense for removal and reburial shall be borne by  
36 the condemnor, not by the cemetery.

37

38       35. (New section) a. A license from the board is required for any  
39 natural person to be compensated to act as a cemetery salesperson for  
40 interment spaces in cemeteries operated by cemetery companies or for  
41 goods or services provided by cemetery companies.

42       (1) Each salesperson license shall state the name and address of  
43 each cemetery company with which the salesperson is associated.

44       (2) A salesperson shall produce the license for inspection when  
45 requested during sales activities, and shall retain possession of the  
46 license until it expires or is canceled, revoked or suspended.



1 (3) A copy of the license shall be posted by the cemetery company  
2 in each of its offices.

3 b. No municipality of this State shall require a licensed salesperson  
4 to obtain a municipal license to sell interment spaces or cemetery  
5 goods or services.

6 c. The following may sell cemetery property without a cemetery  
7 salesperson license:

8 (1) The owner of an interest in an interment space, or a person  
9 acting for the owner, making an occasional sale of the interment space;

10 (2) An officer, manager or employee of a cemetery company  
11 engaging in sales activities whose primary responsibility is other than  
12 sales activities; or

13 (3) A receiver, trustee in bankruptcy or other person acting under  
14 court order for a trustee selling under a deed of trust.

15

16 36. (New section) A cemetery salesperson license shall be issued  
17 or renewed for a period established by the board by regulation.

18

19 37. (New section) a. An applicant for a cemetery salesperson  
20 license shall file a written application on the form prescribed by the  
21 board. The application fee prescribed by the board by regulation shall  
22 accompany the application.

23 b. The board shall investigate the qualifications of each applicant  
24 for a cemetery salesperson license and shall issue a salesperson license  
25 if:

26 (1) the board finds that the applicant is 18 years or older, of good  
27 moral character, and has not been convicted of a crime which would  
28 allow the board to deny the application pursuant to the P.L.1968,  
29 c.282 (C.2A:168A-1 et seq.);

30 (2) the application complies with the regulations;

31 (3) the applicant paid the license fee prescribed by regulation; and

32 (4) the applicant is not barred from making cemetery sales by other  
33 employment.

34 c. The board, upon receipt of a completed application form and  
35 appropriate fees, and prior to receipt of the criminal history  
36 background check, may issue a temporary license valid for 60 days  
37 which the board may extend for additional periods not exceeding 30  
38 days each.

39

40 38. (New section) The board may institute an action in the name  
41 of the State in the Superior Court for the appointment of a receiver,  
42 injunctive or other relief to protect the public interest, or to prohibit  
43 the violation of this act or the orders, rules or regulations of the board.  
44 Relief shall not be limited or barred by the imposition of any penalties  
45 imposed by the board. The receivership shall be discharged as soon as  
46 the condition which caused the suspension has been corrected.

1       39. Section 1 of P.L.1974, c.46 (C.45:1-3.1) is amended to read as  
2 follows:

3       1. The provisions of this act shall apply to the following boards and  
4 commissions: the New Jersey State Board of Accountancy, the New  
5 Jersey State Board of Architects, the New Jersey State Board of  
6 Cosmetology and Hairstyling, the Board of Examiners of Electrical  
7 Contractors, the New Jersey State Board of Dentistry, the State Board  
8 of Mortuary Science of New Jersey, the State Board of Professional  
9 Engineers and Land Surveyors, the State Board of Marriage and  
10 Family Therapy Examiners, the State Board of Medical Examiners, the  
11 New Jersey Board of Nursing, the New Jersey State Board of  
12 Optometrists, the State Board of Examiners of Ophthalmic Dispensers  
13 and Ophthalmic Technicians, the Board of Pharmacy, the State Board  
14 of Professional Planners, the State Board of Psychological Examiners,  
15 the State Board of Examiners of Master Plumbers, the State Board of  
16 Shorthand Reporting, the State Board of Veterinary Medical  
17 Examiners, the Radiologic Technology Board of Examiners, the  
18 Acupuncture Examining Board, the State Board of Chiropractic  
19 Examiners, the State Board of Respiratory Care, the State Real Estate  
20 Appraiser Board, the New Jersey Cemetery Board and the State Board  
21 of Social Work Examiners.

22 (cf: P.L.1995, c.366, s.22)

23

24       40. N.J.S. 8A:1-1 et seq., section 2 of P.L.1979, c.255 (C.8A:3-  
25 14.1) and P.L.2001, c.439 (C.8A:3-14.2) are repealed.

26

27       41. This act shall take effect on the 90th day following enactment.

28

29

30

#### STATEMENT

31

32       This bill represents the revision of the current New Jersey Cemetery  
33 Act by the New Jersey Law Revision Commission. The commission  
34 reduced the number of sections of law and produced a clearer, simpler  
35 statement of law, while maintaining most of the current provisions of  
36 the law. The commission made small substantive changes, such as  
37 clarifying that if a person has decided on his own funeral or burial  
38 arrangements, the decisions are binding, but those decisions must be  
39 in writing. The commission also tightened the requirements for  
40 records of ownership of cemetery spaces and gave cemetery  
41 companies more discretion in management of maintenance and  
42 preservation funds.

ASSEMBLY REGULATED PROFESSIONS AND  
INDEPENDENT AUTHORITIES COMMITTEE

STATEMENT TO

[First Reprint]

**SENATE, No. 1992**

**STATE OF NEW JERSEY**

DATED: DECEMBER 11, 2003

The Assembly Regulated Professions and Independent Authorities Committee reports favorably Senate Bill No. 1992 (1R).

A large portion of this bill represents the revision of the current New Jersey Cemetery Act by the New Jersey Law Revision Commission. The commission reduced the number of sections of law and produced a clearer, simpler statement of law, while maintaining most of the current provisions of the law. The commission made small substantive changes, such as clarifying that if a person has decided on his own funeral or burial arrangements, the decisions are binding, but those decisions must be in writing. The commission also tightened the requirements for records of ownership of cemetery spaces and gave cemetery companies more discretion in management of maintenance and preservation funds.

Other portions of the bill have been developed to acknowledge changes in contemporary cemetery practices, and in such areas as family decision making, by permitting someone to be responsible for disposition of remains outside of the usual lines of next of kin.

In addition, this bill continues to require the establishment of a Maintenance and Preservation Fund by every cemetery company and a Building Maintenance Fund for a public mausoleum by every cemetery or cemetery company, continues to prohibit cemetery companies from entering the funeral director's business and continues to provide for the licensing of cemetery salespersons.

Under the bill the definition of cemetery company excludes a religious organization that owns a cemetery which restricts burials to members of that religion. The bill also provides that "cemetery company" includes persons who manage or operate a cemetery; that public notice of receipt of a cemetery application must be provided in the board agenda following receipt of the application; and that, if a decedent appoints a person in his will to control the funeral and disposition of the human remains, the funeral and disposition shall be in accord with the instructions of the person appointed. The bill further stipulates that monies required to be deposited into the Maintenance and Preservation Fund must be paid on a monthly basis, and provides that cemetery land that is sold cannot be used for activities currently prohibited for cemetery companies in perpetuity.

# SENATE COMMERCE COMMITTEE

## STATEMENT TO

### **SENATE, No. 1992**

with committee amendments

# **STATE OF NEW JERSEY**

DATED: JUNE 12, 2003

The Senate Commerce Committee reports favorably, and with committee amendments, Senate Bill No. 1992.

A large portion of this bill represents the revision of the current New Jersey Cemetery Act by the New Jersey Law Revision Commission. The commission reduced the number of sections of law and produced a clearer, simpler statement of law, while maintaining most of the current provisions of the law. The commission made small substantive changes, such as clarifying that if a person has decided on his own funeral or burial arrangements, the decisions are binding, but those decisions must be in writing. The commission also tightened the requirements for records of ownership of cemetery spaces and gave cemetery companies more discretion in management of maintenance and preservation funds.

Other portions of the bill have been developed to acknowledge changes in contemporary cemetery practices, and in such areas as family decision making, by permitting someone to be responsible for disposition of remains outside of the usual lines of next of kin.

Finally, this bill continues to require the establishment of a Maintenance and Preservation Fund by every cemetery company and a Building Maintenance Fund for a public mausoleum by every cemetery or cemetery company, continues to prohibit cemetery companies from entering the funeral director's business and continues to provide for the licensing of cemetery salespersons.

The committee amendments provide that under the bill the definition of cemetery company excludes a religious organization that owns a cemetery which restricts burials to members of that religion. The amendments make various technical and other changes to the bill, such as providing that "cemetery company" includes persons who manage or operate a cemetery; that public notice of receipt of a cemetery application must be provided in the board agenda following receipt of the application; and that, if a decedent appoints a person in his will to control the funeral and disposition of the human remains, the funeral and disposition shall be in accord with the instructions of the person appointed. Finally, the amendments put the Attorney

General on the New Jersey Cemetery Board, as he now is, provide the monies required to be deposited into the Maintenance and Preservation Fund must be paid on a monthly basis, and provide that cemetery land that is sold cannot be used for activities currently prohibited for cemetery companies in perpetuity, instead of the 25-year prohibition in the bill.