



New York State  
DEPARTMENT OF STATE

DIVISION OF CEMETERIES  
41 State Street, Suite 1110  
Albany, NY 12231-0001

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No. 3

# CEMETERY BULLETIN

## Director's Notes —

This edition of the *Cemetery Bulletin*, our third, is a report on legislative and regulatory initiatives that passed this year. Although there were many proposed bills in the legislature that would impact cemeteries, only one has passed and been signed into law. This law relaxes the requirements for a cemetery to sell a parcel of land. We will continue to work with the cemetery industry to pass legislation that protects the future of your cemeteries.

Also described are modifications made to Cemetery Board rules and regulations. Additional regulatory reforms are being developed. If you have had an experience which could have been helped by a regulation or was hindered by an existing one, please let us know. We are always willing to listen to new ideas.

Our New York City office has been moved to more modern facilities. Our new office location is 123 William Street, 20<sup>th</sup> floor, New York, NY 10038-3804. Our telephone numbers are the same.

### **Cemetery Bulletin INDEX**

1 / July 1998 (*mutual funds; pricing graves; assessment vs. vandalism fees*)

2 / March 1999 (*legislation: prohibition of combinations and management agreements; exclusive right of cemetery corporation to provide annual care*)

3 / September 1999 (*cemetery classifications; new Annual Financial Report requirements for medium-sized cemeteries; legislation: sale of cemetery lands clarified*)

## Cemetery Board modifies rules

Effective June 2, 1999, the New York State Cemetery Board promulgated a number of changes to the Rules of Procedure of the State Cemetery Board (19 NYCRR Parts 200 and 201). Most of the changes involve the clarification, streamlining or deletion of language to make them more understandable. Cemetery operators should be aware of the following modifications to rules:

### **New cemetery classifications**

Section 200.1 (Administration) now classifies cemeteries as small, medium or large. Cemeteries with total funds under \$400,000 are categorized as small, those with \$400,000 to \$999,999 are medium, and those with total funds of \$1 million or more are considered to be large cemeteries. *Total funds* are defined as "all general funds, permanent maintenance funds, perpetual care funds, special trust funds and other funds under the control of the cemetery, including both restricted and unrestricted funds." This would not include land, buildings or equipment.

The categorization of cemeteries was implemented in recognition of the different types of problems and financial capabilities faced by the wide range of cemeteries in New York State. It is based on suggested legislation put forth by the New York State Association of Cemeteries several years ago.

### **Annual Financial Report requirements**

Changes to financial reporting are the first to use the new cemetery categories. Small cemeteries will continue to file Annual Financial Report forms using the Division of Cemeteries form or their own financial report if it contains all the information required on the Division's form. Large cemeteries will still be required to file an audited CPA report with an opinion. However, medium cemeteries that had been required to file an audited CPA report, will now only have to file a CPA *review*. This should be much less a financial burden on these cemeteries.

### **Procedure for approval for columbarium construction**

The final change that is noteworthy is a clarification to §201.11, the procedure for obtaining Cemetery Board approval for construction of a mausoleum or columbarium. Although it has been the Cemetery Board's position that this rule applies to the construction of a columbarium as well as a mausoleum, it was not clearly stated in the rule. It is now.

Continued on reverse, see **RULES . . .**

## RULES . . .

We hope that you find these changes to be an improvement over the previous versions. Any questions or comments should be directed to your regional Division of Cemeteries office.

### NEW LEGISLATION

## **Sale of cemetery lands**

Section §1506(i) of the Not-for-Profit Corporation Law — *Sale or disposition of cemetery lands* — has been revised to delete the requirement that the sale of cemetery property be contingent upon

the facts that the land is not suitable for cemetery purposes **and** is no longer needed by the community for such cemetery use. The word “*or*” has been substituted for the word “*and*,” allowing cemeteries greater latitude to sell or dispose of real property.

This change will permit cemeteries to sell or dispose of real property that is deemed suitable for cemetery use if they provide substantial proof to the state Cemetery Board that they have adequate, long-term land available for the sale of grave spaces.



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