



New York State
DEPARTMENT OF STATE

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

March 1999
No. 2

CEMETERY BULLETIN

Director's Notes C

The premiere issue of the *Cemetery Bulletin* was a solid success. As we strive to maximize the value of this publication, we welcome your input. Your comments and suggestions will enable us to enhance future issues of the *Bulletin* and address those topics of greatest interest to you.

Richard D. Fishman
Director

1998 ECI RATE: 3.7 percent

The New York State Cemetery Board recognizes the U.S. Department of Labor's Employment Cost Index (ECI) as an acceptable standard for large cemeteries to use in rate applications.

The ECI measures the average increased cost of having employees (including payroll taxes, wages, benefits, etc. The 1998 rate of 3.7 percent was calculated by taking the average ECI for the 12 month period: October 1, 1997 through September 30, 1998.

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*)

Legislation

The 1998 legislative session saw the passage of two laws which impact regulated cemeteries in New York State. These include:

Prohibition of combinations and management agreements (Chapter 560, Laws of 1998)

This law declares that combinations of profit-making ventures with not-for-profit cemeteries raise conflicting business interests. Under this new legislation, all regulated not-for-profit New York cemeteries — as well as private and family, religious, village, municipal, town and county cemeteries — are prohibited from engaging in any of the following:

1. Selling or leasing any of its real property to a funeral entity;
2. Commingling of cemetery funds with a funeral entity;
3. Carrying on of cemetery-related business with a funeral entity;
4. Authorizing control of cemetery-related business by a funeral entity;
5. Engaging in any sale or cross-marketing of goods and services with a funeral entity;
6. Entering into or performing a management or service contract for cemetery operations with a funeral entity;
7. Entering into or performing a management contract with any entity other than a not-for-profit cemetery corporation.

It should be noted that prohibitions 3 through 7 do not apply to cemeteries with 30 acres or less of real property dedicated to cemetery purposes. No cemetery regardless of acreage may sell funeral home goods or services nor shall a majority of the board of directors or trustees be made up of representatives of a funeral entity. The acreage exemption recognizes the many small cemeteries in which the participation of a funeral director is vital and necessary to their continued operation. Also exempt are stand-alone crematories established prior to January 1, 1998, most of which are operated by funeral directors. No additional stand-alone crematories may be established by a funeral entity.

Finally, the new law prohibits the sale of monuments (not including flush bronze markers) by regulated, not-for-profit cemeteries. This was already prohibited by Cemetery Board regulation.

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LEGISLATION . . .

Exclusive right of a cemetery corporation to provide annual care (Chapter 548, Laws of 1998)

This law adds Not-for-Profit Corporation Law §1506(1) to provide every cemetery with the option to require that all “annual care” services be provided by the cemetery itself and not by outside contractors. All annual care service charges require New York State Cemetery Board approval. Each cemetery that chooses this option must provide a notice of the requirement of exclusive annual care in the sale of cemetery lots. The following statement must be included in any contract for a lot sale and state, in at least 10 point bold type:

The (*name of cemetery corporation*), pursuant to state law, provides annual care services on an exclusive basis. Therefore, the purchaser of the plot or lot being transferred by this agreement may not contract with any outside party for such annual services. For purposes of this paragraph, the term “annual care” shall mean the maintenance of a lot, plot or part thereof, and may include care of lawns, trees, shrubs, monuments and markers within the plot. The provisions of this para-graph shall not be construed to prohibit a lot owner from placing, or arranging to place, floral or similar arrangements on such cemetery lots or plots.



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