

CHAPTER 116
FORMERLY
SENATE BILL NO. 11

AN ACT TO AMEND TITLE 29 OF THE DELAWARE CODE RELATING TO CEMETERY REGISTRATION AND THE DISTRESS RELIEF FUND.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Amend Title 29, Chapter 79A, of the Delaware Code by making insertions as shown by underlining and deletions as shown by strikethrough as follows:

Section 7901A. Objectives.

The primary objective of this chapter is to provide for the registration of cemeteries in Delaware. The secondary objectives are to appropriately refer complaints from the public relating to cemeteries; and to create a fund that can be used to ameliorate the conditions in a distressed cemetery, ~~and provide for the recordation of the locations of interred human remains.~~

Section 7902A. Definitions.

As used in this chapter unless otherwise stated:

(1) “Abandoned Cemetery” shall mean a cemetery where there is no owner of record in the respective county’s recorder of deeds records.

~~(1)~~ (2) “Board” means the Cemetery Board established in this chapter.

~~(2)~~ (3) “Cemetery” shall mean land or structure used or intended to be used for the interment/entombment of human remains including facilities used for the final disposition of cremated remains.

~~(3)~~ (4) “Cemetery company” shall mean any person engaged in the business of:

a. Selling or offering for sale any grave or entombment right in a cemetery and representing to the public that the entire cemetery property, a single grave, or entombment right therein will be indefinitely cared for; or

b. Maintaining a facility used for the interment of humans remains, whether a full body or cremated human remains.

~~(4)~~ (5) “Department” means Department of Health and Social Services.

~~(5)~~ (6) “Distressed cemetery” means any land or structure used or intended to be used for the interment/entombment of human remains including facilities used for the final disposition of cremated remains whereby the owner lacks sufficient financial resources for the maintenance or preservation of said cemetery as determined by the Board. An abandoned cemetery may qualify as a distressed cemetery if registered with the State by a responsible party/volunteer.

~~(6)~~ (7) “Distressed Cemetery Fund” or “Fund” means the money collected as provided here in for maintenance or preservation of a distressed cemetery.

Section 7903A. Cemetery Board.

(a) There is established a Cemetery Board that shall consist of 5 members appointed by the Secretary of the Department of Health and Social Services including 3 who are owners or operators of cemeteries and 2 who are public members. Each member shall serve for a term of ~~2~~ 3 years, and may successively serve ~~for 1 additional term; provided, however, that where a member was initially appointed to fill a vacancy, such member shall successively serve for only 1 additional full term~~ additional terms. Any person appointed to fill a vacancy on the Board shall hold office for the remainder of the unexpired term of the former member.

(b) Members of the Board shall serve without compensation, except that they may be reimbursed for reasonable and necessary expenses incident to their duties ~~as members of the Board, to the extent that funds are available and the expenditures are in accordance with state laws.~~ A Chairperson of the Board shall be chosen by members of the Board from among its members, shall serve in that capacity for a term of ~~1 year~~ 3 years, and shall be eligible for reelection.

(c) The Board shall hold regularly scheduled meetings at least twice each year, and at such times as the Chairperson deems necessary; or at the request of a majority of the Board members.

Section 7904. Powers and duties.

The Cemetery Board shall have the authority to:

- (1) Promulgate rules and regulations necessary to implement this chapter;
- (2) Designate the registration form to be used by all registrants;
- (3) Administer the Distressed Cemetery Fund;
- (4) Designate the form to be submitted by applicants for ~~relief~~ assistance from the Fund;
- (5) Designate a cemetery as “distressed” based on standards set forth herein and the rules and regulations;
- (6) Authorize payment to a distressed cemetery from the Fund; Decisions can be conditional but the conditions must be related to the specific project in question;
- (7) Require ~~an audit of recipients of moneys from the Fund~~ a thorough accounting of each recipient’s use of money from the Fund;
- (8) Receive and forward to the appropriate agencies of the State, or other organizations, complaints from any person relating to a Delaware cemetery;
- (9) Address specific cemetery issues as requested by the Governor or the General Assembly.

Section 7905A. Records.

The Department shall keep a register of cemeteries in this State and records relating to meetings of the Board.

Section 7906A. Registration required.

All cemetery companies and cemetery owners in this State shall register ~~biennially~~ every five years or upon change of ownership with the Cemetery Board and pay the registration fee determined by Department of Health and Social Services in an amount that approximates and reasonably reflects the costs necessary to defray the expenses of the Board. A volunteer may register an abandoned cemetery.

Section 7907A, Distressed Cemetery Fund.

(a) The Distressed Cemetery Fund is funded by adding \$2.00 to the fee established in §3132 of Title 16 for each copy of a certificate of death. Individuals and organizations may also make contributions or bequests to the Fund.

(b) Administrative support shall be provided by the Division of Public Health of the Department of Health and Social Services.

(c) The Distressed Cemetery Fund must be audited annually by the State Auditor’s Office.

Approved July 16, 2013