

CHAPTER 230

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

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

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

C.45:27-2 Definitions relative to cemeteries.

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

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

"Board" means the New Jersey Cemetery Board.

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

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

"Cemetery" means any land or place used or dedicated for use for burial of human remains, cremation of human remains, or disposition of cremated human remains.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

C.45:27-13 Capital required for issuance of certificate of authority; fees and charges.

13. a. As a condition for the issuance of its certificate of authority to operate a cemetery, a cemetery company established after December 1, 1971 shall make an initial deposit of \$75,000 to its Maintenance and Preservation Fund. A for-profit corporation, partnership, association or other private entity managing or operating a cemetery company pursuant to a certificate of authority granted under section 1 of P.L.2006, c.26 (C.45:27-7.1) shall not be required to make that initial deposit of \$75,000 to its Maintenance and Preservation Fund; however the cemetery company and the for-profit corporation, partnership, association or other private entity shall be jointly and severally liable for the maintenance and use of that Maintenance and Preservation Fund.

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

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

- (1) on the initial sale by a cemetery company of each grave, 15% of the gross sales price;
- (2) 10% of the initial sales price of a crypt or niche in a public mausoleum or columbarium;

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

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

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

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

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

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

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

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

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

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

C.45:27-19 Record of interment, placement of cremains.

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

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

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

d. A cemetery company that performs a cremation shall keep a record containing the following information:

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

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

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

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

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

C.45:27-39 Prior approval required for construction of crematory.

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

C.45:27-40 Permitted locations of crematory.

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

Repealer.

6. The following sections are repealed:

Sections 1 through 5 of P.L.1950, c.256 (C.26:7-11 through C.26:7-15); and

Sections 7 and 8 of P.L.1950, c.256 (C.26:7-17 and C.26:7-18).

7. This act shall take effect immediately.

Approved January 17, 2012.