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Rule Adoptions
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Issue Date: September 2, 2008
Law and Public Safety
Division of Consumer Affairs
NEW JERSEY CEMETERY BOARD

Adopted Amendments: N.J.A.C. 13:44J-3.1, 14.1 and 14.2

Adopted New Rule: N.J.A.C. 13:44J-14.4

Reclamation of Interment Spaces or Niches Owned by Membership or Religious Corporations, Societies or Unincorporated Associations

Proposed: November 5, 2007 at 39 N.J.R. 4548(a).

Adopted: March 13, 2008 by the New Jersey Cemetery Board, William C. Nichols, Vice-Chairman.

Filed: August 4, 2008 as R.2008 d.258, without change.

Authority: N.J.S.A. 45:27-4 and 45:27-32.

Effective Date: September 2, 2008.

Expiration Date: May 2, 2011.

Federal Standards Statement

A Federal standards analysis is not required because the adopted amendments and new rule do not involve any Federal standards or requirements.

Full text of the adoption follows:

13:44J-3.1 Charges and fees

(a) The following fees shall be charged by the Board:

1. Cemetery company fees:

i.-iii. (No change.)

iv. Application fees:

(1)-(9) (No change.)

(10) Reclamation of bulk sales.300.00

2.-3. (No change.)

(b) (No change.)

13:44J-14.1 Applications for bulk sales of interment spaces or niches

(a)-(c) (No change.)

(d) An application for approval of a bulk sale shall include the following:

1.-2. (No change.)

3. A certified statement by an officer of the membership or religious corporation or unincorporated association or society which provides interment spaces or niches solely for its members and their families that:

i.-iv. (No change.)

v. The purchaser is purchasing the interment spaces or niches in good faith and does not have any intent to resell which would violate N.J.S.A. 45:27-32;

vi. (No change.)

vii. The purchaser shall notify the cemetery company when it sells, gives or assigns interment spaces and niches; and

viii. The purchaser shall designate in writing to the cemetery company an agent who has authority to consent to burials in interment spaces or niches owned by it or a change in the agent.

4.-5. (No change.)

(e) (No change.)

13:44J-14.2 Sales to a membership or religious corporation or unincorporated association or society which provides interment spaces or niches solely for its members and their families

(a)-(b) (No change.)

(c) An application for sale of the interment spaces or niches shall include the following:

1.-2. (No change.)

3. A certified statement by the officer of the purchasing organization that:

i.-iv. (No change.)

v. The organization is purchasing the interment spaces or niches in good faith and does not have any intent to resell which would violate N.J.S.A. 45:27-32;

vi. (No change.)

vii. The purchaser shall notify the cemetery company when it sells, gives or assigns interment spaces and niches; and

viii. The purchaser shall designate in writing to the cemetery company an agent who has authority to consent to burials in interment spaces or niches owned by it or a change in the agent;

4.-5. (No change.)

(d) (No change.)

13:44J-14.4 Reclamation of interment spaces or niches owned by membership or religious corporations, societies or unincorporated associations

(a) A cemetery company may reclaim by repurchase any interment spaces or niches owned by a membership or religious corporation, society or unincorporated association, if no interment has been made in the interment spaces, or inurnment in niches, sought to be reclaimed, and if the corporation, society or association:

1. Sells, gives or assigns interment spaces or niches to individuals who are not its members, or the interment spaces or niches are not intended for the use of its members and their families;

2. Fails to provide the cemetery company notification when it sells, gives or assigns interment spaces or niches;
3. Does not designate in writing to the cemetery company an agent who has authority to consent to burials in interment spaces or niches owned by it or a change in the agent; or
4. Fails to make payments into the Maintenance and Preservation Fund required by N.J.S.A. 45:27-13.

(b) A cemetery company that intends to reclaim interment spaces or niches owned by a membership or religious corporation, society or unincorporated association pursuant to (a) above shall, prior to reclamation, send a letter by certified mail, return receipt requested, and by regular mail to the corporation, society or association at the address listed in the cemetery company's records which informs the corporation, society or association of the cemetery company's intention to reclaim, and of the actions or omissions listed in (a) above that the corporation, society or association is alleged to have committed. A copy of the cemetery company's letter shall be sent to the Board. In its letter, the cemetery company shall also inform the corporation, society or association that it has 90 days to respond to or correct the alleged acts or omissions and that it must copy the Board with its written response.

(c) The corporation, society or association shall have 90 days to correct the acts or omissions alleged by the cemetery company, or to contend that it has not committed the alleged acts or omissions.

(d) If the cemetery company and the corporation, society or association agree that an act or omission has been corrected, the cemetery company shall notify the Board.

(e) If the cemetery company and the corporation, society or association cannot agree that an act or omission has been corrected, or if the corporation, society or association does not respond to the cemetery company's letter, the cemetery company shall apply to the Board for approval before reclaiming the interment spaces or niches owned by the corporation, society or association. An applicant for approval shall submit to the Board:

1. A completed application for reclamation form;
2. A copy of all correspondence sent by the cemetery company to, and received from the corporation, society or association; and
3. The application fee set forth in N.J.A.C. 13:44J-3.1(a)1iv(10).

(f) A cemetery company that has been granted approval to reclaim interment spaces or niches pursuant to (e) above shall reimburse to the corporation, society or association the purchase price originally paid to the cemetery company for the interment spaces or niches, either upon reclamation or when the interment spaces or niches are resold by the cemetery company.

(g) The proceeds from the resale of a reclaimed interment space or niche shall be the resale price less the amount reimbursed to the corporation, society or association. The profits of the resale of a reclaimed interment space or niche shall be the proceeds less an administrative cost of up to 25 percent of the proceeds. The profits of the resale of a reclaimed interment space or niche shall be deposited in the Maintenance and Preservation Fund.

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