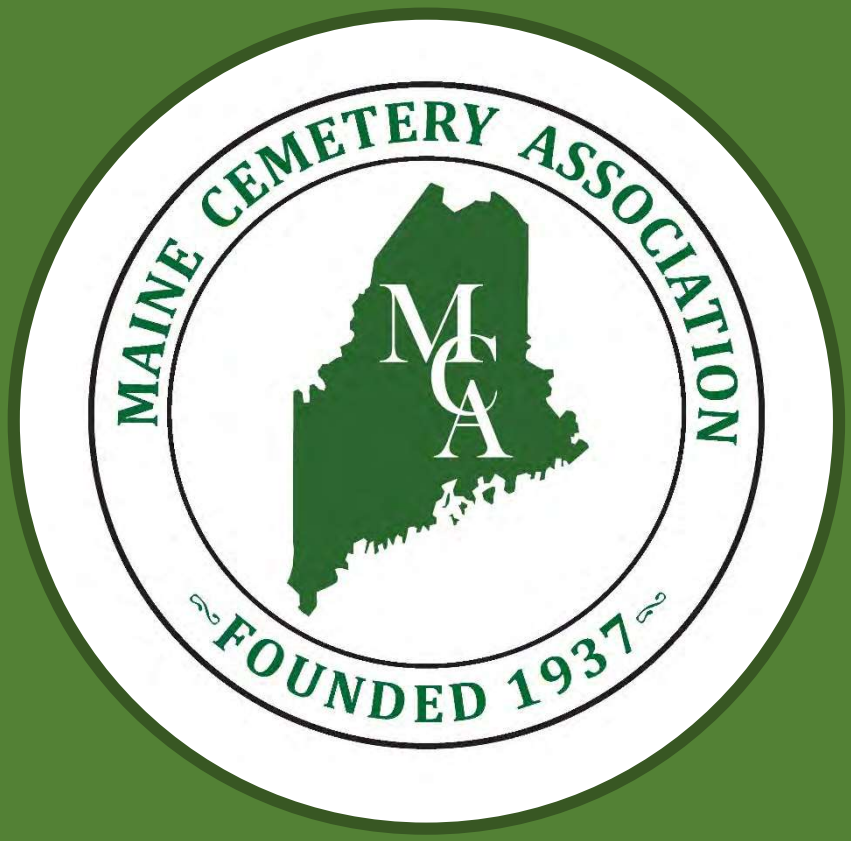
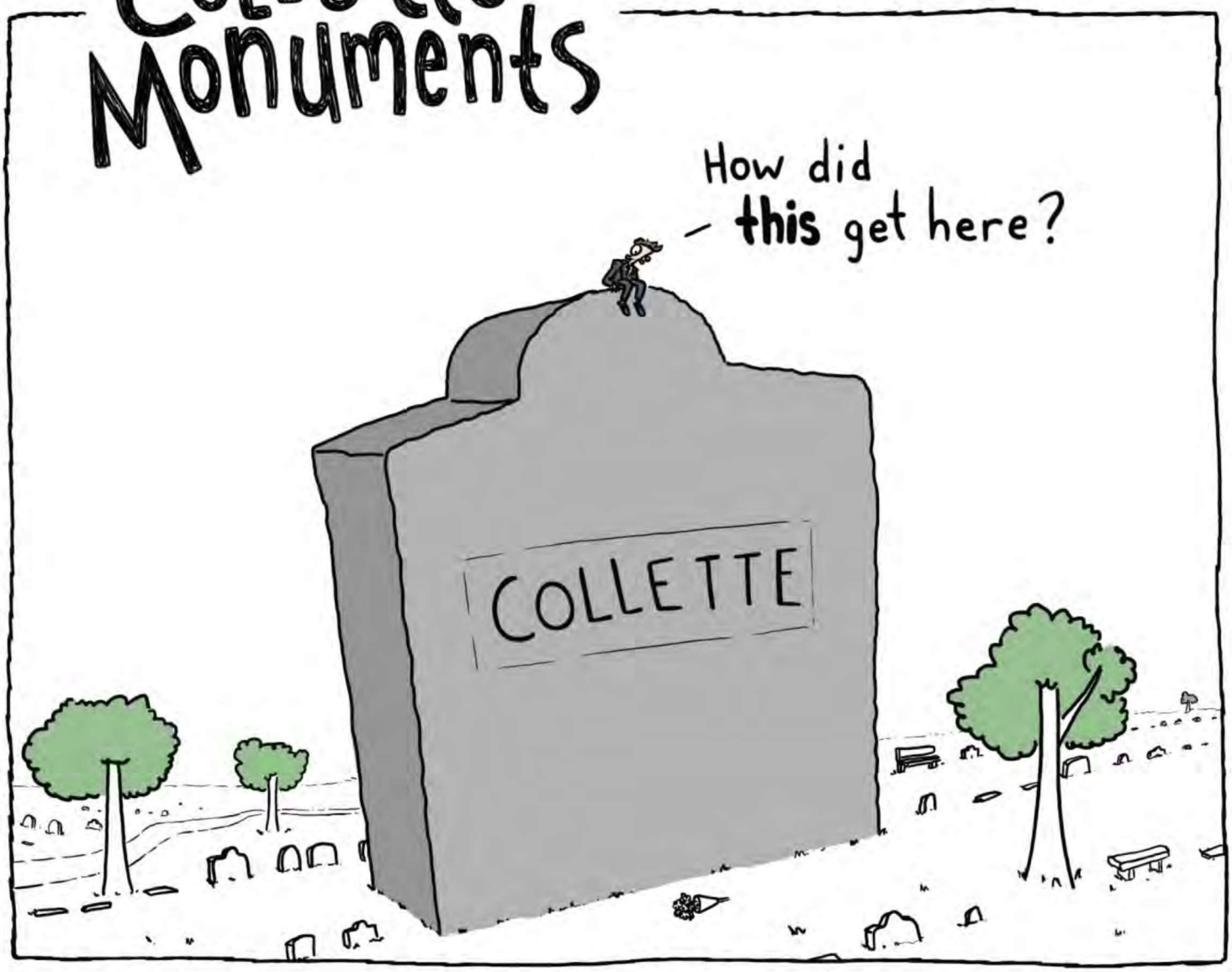
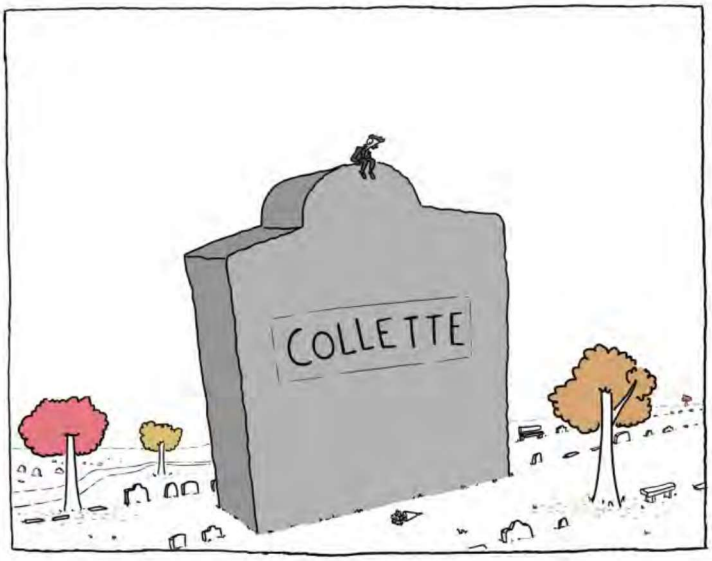


A Guide to Maine Cemetery Laws

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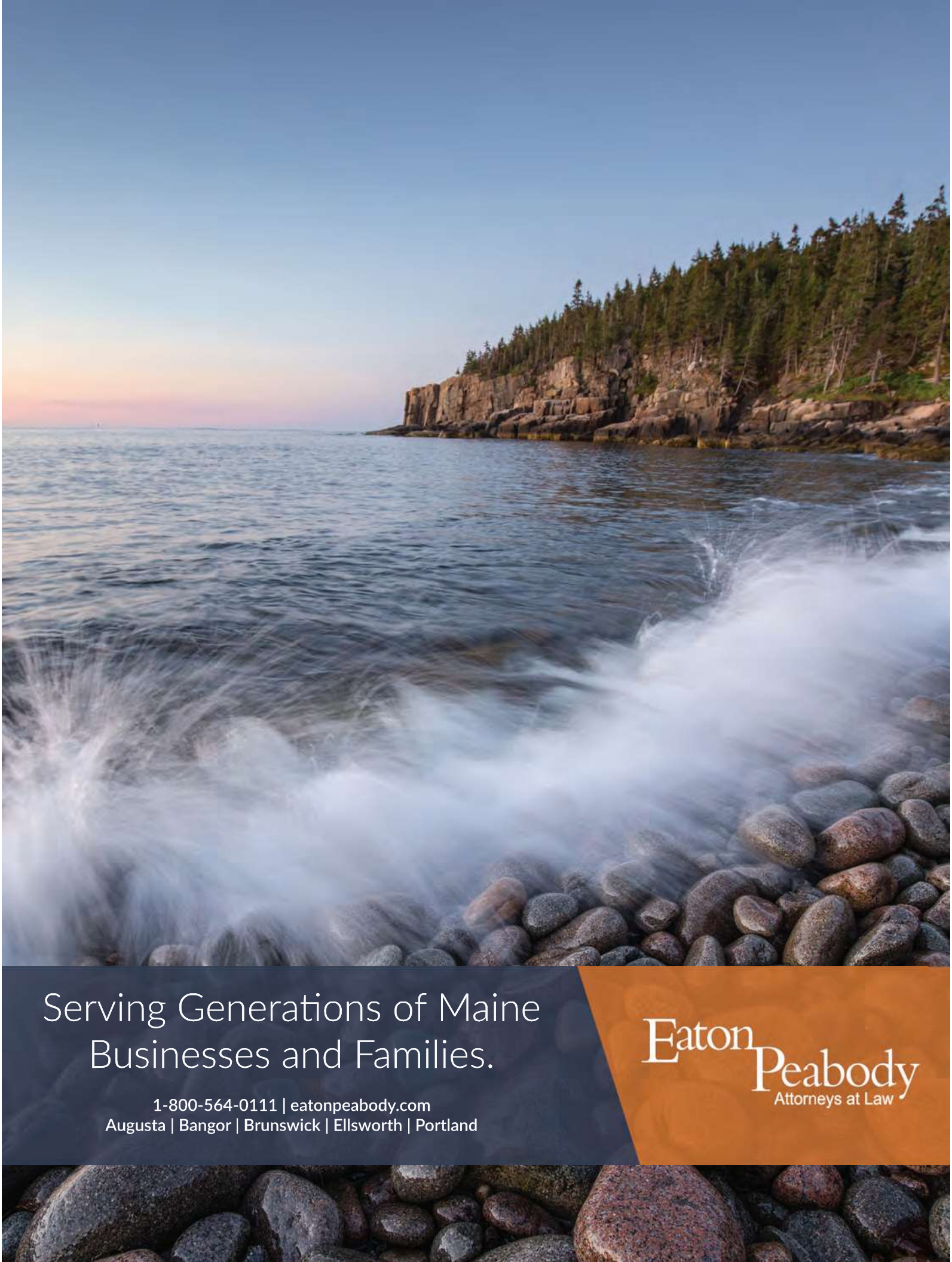
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MAINE CEMETERY LAW
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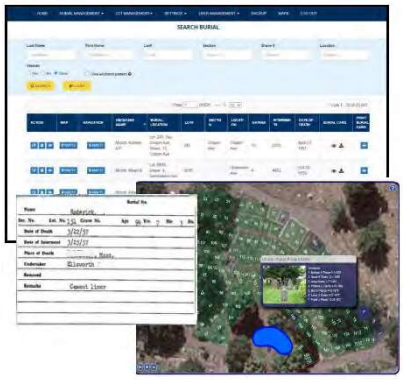
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TITLE 4: JUDICIARY

CHAPTER 7: PROBATE COURT
SUBCHAPTER III: JUDGES

§310. Perpetual care of cemetery lots by order

Judges of probate, in any case in which an estate is under their jurisdiction for probate, shall have the power to order that an appropriate amount out of the estate be set aside for perpetual care and suitable memorials for the cemetery lot in which the deceased is buried, and to order special care of such lots when the conditions and size of the estate seem to warrant such order.

TITLE 10. COMMERCE AND TRADE

PART 7. LIENS
CHAPTER 621. MONUMENTAL WORK

§ 3701. Contract price; attachment

Whoever, under express contract fixing the price to be paid by the other party thereto, sells, erects or furnishes any monument, tablet, headstone, vault, posts, curbing or other monumental work has a lien thereon to secure the payment of such contract price, which continues for 2 years after the completion, delivery or erection of such monument, tablet, headstone, vault, posts, curbing or other monumental work. Such lien may be enforced by an action for damages with an attachment, which shall be recorded within said 2 years by the clerk of the town in which the property subject to the lien is then situated; or such lien may be enforced by complaint setting forth the names and residences of the parties to the contract, the contract price, the sum due, the description and location of the property on which the lien is claimed and such other facts as are necessary to make it appear that such plaintiff is entitled to an enforcement of such lien, and praying for judgment for title and possession of the property therein described. Said complaint, before service thereof and within said 2 years, shall be recorded by the clerk of the town in which such property is situated and a certificate of such record indorsed thereon. The sum alleged to be due shall be deemed to be the damage and after the complaint has been recorded; an action may be commenced upon the complaint in any court of proper value for a transitory action between the parties. Service shall be made as in other actions. If the plaintiff prevails, he shall recover judgment for title and possession of the property on which the lien is claimed, and for his costs, and a possessory execution may issue. By virtue of such judgment the judgment creditor, if unopposed, may take possession and remove the property described in his execution, otherwise any officer qualified to serve civil process, having said execution, may take possession of said property and deliver the same to the judgment creditor, and shall make his return on said execution accordingly. Said lien may be discharged at any time before final judgment by tendering the plaintiff the amount of the debt and costs.

TITLE 12: CONSERVATION

Part 13: INLAND FISHERIES AND WILDLIFE
Chapter 937: SNOWMOBILES

§13106-A. Operation of snowmobile

18. Operating snowmobile in cemetery. A person may not operate a snowmobile in any cemetery, burial place or burying ground. [PL 2003, c. 655, Pt. B, §394 (NEW); §422 (AFF).]

A. A person who violates this subsection commits a civil violation for which a fine of not less than $100 nor more than $500 may be adjudged. [PL 2003, c. 655, Pt. B, §394 (NEW); §422 (AFF).]

B. A person who violates this subsection after having been adjudicated as having committed 3 or more civil violations under this Part within the previous 5-year period commits a Class E crime. [PL 2003, c. 655, Pt. B, §394 (NEW); §422 (AFF).]

SUBPART 6: RECREATIONAL VEHICLES
Chapter 939: ATVs

27. Operation of ATV in prohibited area. The following provisions establish areas where the operation of an ATV is prohibited.

A. A person may not operate an ATV:

(1) On a salt marsh, intertidal zone, marine sand beach or sand dune of any cemetery, burial place of burying ground; or

(2) When the ground is not frozen and sufficiently covered with snow to prevent direct damage to the vegetation:

(a) On alpine tundra;

(b) On freshwater marsh or bog, river, brook, stream, great pond, nonforested wetland or vernal pool; or

(c) In a source water protection area as defined in Title 30-A, section 2001, subsection 20-A.

The provisions of this subparagraph do not apply to trail designated for ATV use by the Department of Agriculture, Conservation and Forestry. The provisions of this subparagraph also do not apply to person accessing land for maintenance or inspection purposes with the landowner's permission or to local, state or federal government personnel in the performance of official duties, provided there is no significant ground disturbance or sedimentation of water bodies [PL 2005, c. 397, Pt. E, §26 (NEW). PL 2001, c. 657 Pt. W, §5 (REV).]

B. The following penalties apply to violations of this subsection.

(1) A person who violates this subsection commits a civil violation for which a fine or not less than $100 or more than $500 may be adjudged.

(2) A person who violates this subsection after having be adjudicated as having

committed 3 or more civil violations under this Part within the previous 5-year period commits a Class E Crime. [PL 2005, c. 397, Pt. E §26 (NEW).]

SECTION HISTORY
[PL 2005, c. 387, Pt. E §26 (NEW). PL 2011 c. 657, Pt. W, §5 (REV.).]

TITLE 13: CORPORATIONS

Part 2: CORPORATIONS WITHOUT CAPITAL
CHAPTER 82: CEMETERY CORPORATIONS
SUBCHAPTER 1: GENERAL PROVISIONS

§ 1031. Unauthorized establishment; injunction

Any cemetery, community mausoleum or columbarium established, maintained or operated in violation of or contrary to this chapter is declared to be a nuisance, which may be abated or enjoined as such by the civil action of any citizen of this State.

§ 1032. Disposal of bodies

Except as otherwise provided by law, or in case of a dead body being rightfully carried through or removed from the State for the purpose of burial or disposition elsewhere, every dead body of a human being dying within the State and the remains of any body after dissection therein shall be decently buried, entombed in a mausoleum, vault or tomb, or cremated within a reasonable time after death. The permanent disposition of such bodies or remains shall be by interment in the earth, or deposit in a chamber, vault or tomb of a cemetery owned, maintained and operated in accordance with the laws of this State, by deposit in a crypt of a mausoleum, or by cremation. The remains of a human body after cremation may be deposited in a niche of a columbarium or a crypt of a mausoleum, buried or disposed of in any manner not contrary to law. No deposit of the bodies or remains of the human dead shall be made in a single chamber, vault or tomb partly above and partly below the natural surface of the ground, unless the part thereof below such surface is of a permanent character, constructed of materials capable of withstanding extreme climatic conditions, waterproof and air tight, and capable of being sealed permanently to prevent all escape of effluvia, and unless the part thereof above the natural surface of the ground is constructed of natural stone of a standard not less than that required by the United States Government for monuments erected in national cemeteries, or durability sufficient to withstand all conditions of weather.

§ 1033. Vested rights

This chapter shall not be construed as affecting any vested rights of any cemetery association or other agency owning, maintaining and operating a cemetery or crematory immediately prior to July 24, 1937. Insofar as this chapter does not violate any such vested rights, it shall, except as otherwise provided, apply to all such cemetery associations or other agencies.

§ 1034. Jurisdiction

The Superior Court shall have original and concurrent jurisdiction in all cases under this

chapter. Judges of the District Court may cause the persons brought before them on complaint for violation of sections 1342 or 1343 to recognize with sufficient sureties to appear at the next term of the Superior Court and, in default thereof, shall commit them.

§ 1035. Penalties

Except as otherwise provided in this chapter, a person who fails to comply with or violates any of the provisions of this chapter in respect to the establishment, maintenance or operation of a cemetery, community mausoleum, crematory, or columbarium or to the disposal of dead human bodies commits a Class E crime except that, notwithstanding Title 17-A, sections 1704 and 1705, the fine may not be less than $100 or more than $500. [PL 2019, c. 113, Pt. C, §25 (AMD).]

§1036. Recovery of fines or penalties

All fines or penalties provided by section 1035 may be recovered or enforced by indictment, and the necessary processes for causing the crypts and catacombs to be sealed or the bodies to be removed and buried, and execution to recover the necessary expenses thereof, may be issued by the Superior Court.

SUBCHAPTER II: BURYING GROUNDS
ARTICLE 1: ORGANIZATION

§ 1071. Incorporation

Persons of lawful age may organize themselves into a nonprofit-sharing corporation for the purpose of purchasing land for a burying ground and for the purpose of owning, maintaining and operating a cemetery or cemeteries, as provided in sections 901 and 903 and may proceed in the manner and, except as restricted, with the powers provided in section 931. [PL 1975, c. 770, § 75 (AMD).]

SECTION HISTORY
[PL 1965, c. 66, § (AMD). PL 1975, c. 770, §75 (AMD)]

ARTICLE 2: DUTIES OF TOWN OR COUNTY

§1101. Maintenance and repairs; municipality

1. Grave sites of veterans in ancient burying grounds. In any ancient burying ground, as referenced in Title 30-A, section 5723, the municipality in which that burying ground is located, in collaboration with the veterans' organizations, civic and fraternal organizations and other interested persons, shall keep in good condition all graves, headstones, monuments and markers designating the burial place of Revolutionary soldiers and sailors and veterans of the Armed Forces of the United States. To the best of its ability given the location and accessibility of the ancient burying ground, the municipality, in collaboration with veterans' organizations, cemetery associations, civic and fraternal organizations and other interested persons, shall keep the grass, weeds and brush suitably cut and trimmed on those graves from May 1st to September 30th of each year. A municipality may

designate a caretaker to whom it delegates for a specified period of time the municipality's responsibilities regarding an ancient burying ground. [PL 2013, c. 524, §1 (AMD).]

1-A. Grave sites of persons who are not designated as veterans in ancient burying grounds. To the best of its ability given the location and accessibility of the ancient burying ground, the municipality in which an ancient burying ground is located may keep the grass, weeds and brush suitably cut and trimmed from May 1st to September 30th of each year on all graves, headstones, monuments and markers in the ancient burying ground not designating the burial place of Revolutionary soldiers and sailors and veterans of the Armed Forces of the United States. A municipality may designate a caretaker to whom it delegates for a specified period of time the municipality's functions regarding an ancient burying ground. [PL 2013, c. 524 §1 (NEW).]

2. Grave sites of veterans in public burying grounds. A municipality, cemetery corporation or cemetery association owning and operating a public burying ground shall, in collaboration with veterans' organizations, cemetery associations, civic and fraternal organizations and other interested persons, keep the grave, headstone, monument or marker designating the burial place of any veteran of the Armed Forces of the United States in that public burying ground in good condition and repair from May 1st to September 30th of each year.

A municipality in which a public burying ground is located may, in collaboration with veterans' organizations, cemetery associations, civic and fraternal organizations and other interested persons, adopt standards of good condition and repair to which grave sites of veterans of the Armed Forces of the United States must be kept. The standards at a minimum must detail how to maintain the grave, grass and headstones.

If a municipality does not adopt standards, the municipality, cemetery corporation or cemetery association shall apply the following standards of good condition and repair:

A. [PL 2013, c. 524, §1 (RP).]
B. [PL 2013, c. 524, §1 (RP).]
C. [PL 2013, c. 524, §1 (RP).]
D. Ensure that grass is suitably cut and trimmed. [PL 2013, c. 524, §1 (AMD).]
E. Keep a flat grave marker free of grass and debris. [PL 2013, c. 524, §1 (AMD).]
F. Keep the burial place free of fallen trees, branches, vines and weeds. [PL 2013, c. 524, §1 (AMD).]

SECTION HISTORY
PL 1977, c. 255, §1 (AMD). PL 1999, c. 700, §1 (AMD). PL 2013, c. 421, §1 (RPR). PL 2013, c. 524, §1 (AMD).

§1101-A. Definition

As used in this article, unless the context otherwise indicates, the following terms have the

following meanings. [PL 2003, c. 421, §1 (AMD).]

1. **Ancient burying ground.** "Ancient burying ground" means a private cemetery established before 1880. [PL 1999, c. 700, §2 (NEW).]
2. **Columbarium.** "Columbarium" means a structure or room or space in a mausoleum or other building containing niches or recesses for disposition of cremated human remains. [PL 2003, c. 421, §1 (NEW).]
3. **Community mausoleum.** "Community mausoleum" means an aboveground structure designed for entombment of human remains of the general public, as opposed to the entombment of the remains of family members in a privately owned, family mausoleum of no more than 6 crypts. [PL 2003, c. 421, §1 (NEW).]
4. **Public burying ground.** "Public burying ground" means a burying ground or cemetery in which any person may be buried without regard to religious or other affiliation and includes a cemetery owned and operated by a municipality, a cemetery corporation or a cemetery association. [PL 2013, c. 524 §2 (NEW).]

SECTION HISTORY
PL 1999, c. 700, §2 (NEW). PL 2003, c. 421 §1 (AMD). PL 2013, c. 524 §2 (AMD).

§1101-B. Ancient burying grounds

1. Access to ancient burying grounds on privately owned land. The owner of an ancient burying ground shall provide a municipality or its caretaker designated pursuant to section 1101 access necessary to perform the duties pursuant to section 1101 and Title 30-A, section 2901. Any unreasonable denial to provide access may result in the owner being held responsible for any fines, court costs and attorney's fees incurred by municipalities in legally obtaining access or for failing to meet the requirements of section 1101. [PL 2013, c. 421, §2 (AMD).]

2. Maintenance by landowner. A person who owns a parcel of land that contains an ancient burying ground and chooses to deny access to the municipality or its caretaker designated pursuant to section 1101 shall assume the duties as described in section 1101 and Title 30-A, section 2901, subsection 1. Maintenance of an ancient burying ground by the owner exempts the municipality from performing the duties as described in section 1101. [PL 2013, c. 421, §2 (AMD).]

A municipality or its caretaker designated pursuant to section 1101 to carry out the municipality's functions regarding an ancient burying ground must have access to any ancient burying ground within the municipality in order to determine if the ancient burying ground is being maintained in good condition and repair. If an ancient burying ground or a veteran's grave within an ancient burying ground is not maintained in good condition and repair, the municipality may take over the care or appoint a caretaker to whom it delegates the municipality's functions regarding an ancient burying ground. [PL 2013, c. 524, §3 (AMD).]

SECTION HISTORY
PL 1999, c. 700, §2 (NEW). PL 2013, c. 421, §2 (AMD). PL 2013, c. 524, §3 (AMD).

§1101-C. Notice of responsibility

When a municipality fails without good reason to maintain the good condition and repair of a grave, headstone, monument or marker or fails to keep the grass suitably cut and trimmed on any such grave pursuant to section 1101 and at least one of the municipal officers has had 14 days' actual notice or knowledge of the neglected condition, a penalty of not more than $100 may be assessed on the municipality. [PL 1999, c. 700, §2 (NEW).]

§1101-D. Unorganized townships

If an ancient burying ground or a public burying ground as described in section 1101 is located in an unorganized township, the county in which the township is located is subject to sections 1101, 1101-B and 1101-C. [PL 1999, c. 700, §2 (NEW).]

§1101-E. Graves on land owned by Federal Government

Veterans' graves as described in section 1101 that are located on a site that was owned by the Federal Government as of January 1, 2000 are not subject to the requirements of section 1101. [PL 1999, c. 700, §2 (NEW).]

§1102. -- Neglect

If such officers, treasurer or committee neglect so to apply such fines, they each forfeit the amount thereof, in a civil action, to any person suing therefore.

Article 3: EXEMPTION FROM ATTACHMENT

§1141. Grounds inalienable; description recorded

When any persons appropriate for a burying ground a piece of land containing not more than ½ of an acre, it shall be exempt from attachment and execution, and inalienable and indivisible by the owners without the consent of all; and be kept fenced or otherwise substantially marked and occupied as a burying ground. They shall cause a written description of it, under their hands, attested by 2 disinterested witnesses, to be recorded in the registry of deeds in the county or district where it lies or by the clerk of the town where it is situated.

§1142. Family burying grounds

When a person appropriates for a family burying ground a piece of land containing not more than ¼ of an acre, causes a description of it to be recorded in the registry of deeds of the same county or by the clerk of the town where it is situated and substantially marks the bounds of the burying ground or encloses it with a fence, it is exempt from attachment and execution. No subsequent conveyance of it is valid while any person is interred in the burying ground; but it must remain to the person who appropriated, recorded and marked that burying ground and to that person's heirs as a burial place forever. If property surrounding a burying ground appropriated pursuant to this section is conveyed, the property is conveyed by the person who appropriated the property or by an heir of that person and the conveyance causes the burying ground to be inaccessible from any public way, the conveyance is made subject to an easement for the benefit of the spouse, ancestors and descendants of any person interred in the burying ground. The easement may be used only by persons to walk in a direct route from the public way nearest the burying ground to the burying

ground at reasonable hours. [PL 1991, c. 412, §1 (AMD).]

§1143. Lots

Lots in public or private cemeteries are exempt from attachment and levy on execution and from liability to be sold by executors and administrators of insolvent estates for the payment of debts and charges of administration. Only one lot shall be so exempt for any one person.

ARTICLE 4: ENLARGEMENT OF GROUNDS

§1181. Restrictions and conditions

The municipal officers of any town may on petition of 10 voters enlarge any public cemetery or burying ground or incorporated cemetery or burying ground within their town by taking land of adjacent owners, to be paid for by the town or otherwise as the municipal officers may direct, when in their judgment public necessity requires it. The limits thereof shall not be extended nearer any improved land used for recreational purposes or dwelling house than 100 feet, or nearer any well, from which the water is used for domestic purposes, than 200 feet, against the written protest of the owner made to the officers at the time of the hearing on the petition. Nor shall any person, corporation or association establish, locate or enlarge any cemetery or burying ground by selling or otherwise disposing of land so that the limits thereof shall be extended nearer any improved land used for recreational purposes or dwelling house than 100 feet, or nearer any well, from which the water is used for domestic purposes, than 200 feet, against the written protest of the owner. Nothing in this section shall prohibit the sale or disposition of lots within the limits of any existing cemetery or burying ground, nor the extension thereof away from any improved land used for recreational purposes or dwelling house or well. This section shall not apply to land acquired under Title 37-A, section 15. [PL 1981, c. 33 (AMD).]

SECTION HISTORY

[PL 1967, c. 502, §1 (AMD). PL 1973, c. 537, §18 (AMD). PL 1981, c. 33, § (AMD)]

§1182. Notice

Notice of a time and place for a hearing held under section 1181 shall be given by posting written notices thereof, signed by said officers, at least 7 days prior thereto, in 2 public places in said town. A copy of such notice and of the petition shall be served on the owners of the land at least 10 days before the day of hearing.

§1183. Damages for land taken; town vote

If the municipal officers at the hearing held under section 1181 grant the prayer of the petitioners, they shall then determine what land shall be taken and assess the damages suffered by each person thereby, as if the land were taken for town ways, make a written return of their proceedings, specifying the land taken and the damages awarded each person and file the same with the town clerk. Such cemetery or burying ground shall not be enlarged, pursuant to such return, until so voted by the town at its next annual meeting. [PL 1975, c. 431, § 3 (AMD).]

§1184. Persons aggrieved; remedy

Any person aggrieved by the amount of damages awarded may have them determined by written complaint to the Superior Court in the manner provided respecting damages for the establishment of town ways.

ARTICLE 5: CONVEYANCE TO TOWN

§1221. Proceedings

Any private cemetery or burying ground, by written agreement of all the owners thereof, recorded by the clerk of the town in which it is situated may, by vote of such town within one month after the recording of such agreement by the town clerk, become public and subject to the law relating to public cemeteries or burying grounds, provided such agreement is not in conflict with the terms of any conveyance or devise of land for the purposes of a burying ground.

§1222. Acceptance; exemption from liability; trust funds for repairs

Any city, town, cemetery corporation, trust company or trustee may accept any conveyance of land not exceeding ½ acre, to be forever held, kept and used for a private or family burying ground for the grantors and such of their heirs and relatives by blood or marriage as the conveyance shall designate. Such lot and all erections thereon, including the erection and maintenance of the same, and fixtures thereto suitable for its use or adornment as a burying ground, are forever inalienable and indivisible and exempt from liability for debt. Such city, town, corporation, company or trustee may accept and forever hold any donation or legacy for insuring proper care and attention to any burial lot or ground and the avenues thereof and the monuments thereon. Having accepted such donation or legacy, said trustee becomes bound to perform the duties appertaining to the trust as specified in the writing creating the same or, in default of such specification, as required by law, and as in cases of public charity. Any city or town without giving bond therefore may be appointed by the probate court testamentary trustee for the purpose of holding forever, in accordance with this section and the terms of the devise, any fund devised for the purposes aforesaid. Any such city, town, cemetery corporation, trust company, or trustee failing to furnish proper care and attention to any burial lot, the perpetual care whereof has been provided for as above, shall be punished by a fine of not less than $50 nor more than $100, to be recovered by complaint or indictment. The District Court and the Superior Court shall have concurrent jurisdiction. Of all fines provided for under this section and recovered on complaint, ½ shall go to the prosecutor and ½ to the county where the city, town, cemetery corporation, trust company or trustee committing the offense is situated. Nothing herein contained shall be construed to compel any such city, town, cemetery corporation, trust company or trustee to expend in any one year upon any such lot more than the income from any such fund.

§1223. Investment of funds

Cemetery trust funds of any cemetery corporation or association, trust company, church, religious or charitable society, or other trustee, shall be invested in the manner provided in Title 30-A, chapter 223, subchapter III-A, and, unless the instrument or order creating the trusts prohibits, may be combined with other similar trust funds in the manner provided in Title 30-A, section 5654,

and the annual income only shall be expended in performance of the requirements of the trust. [PL 1987 c. 737, Pt. C, §§24, 106 (AMD). PL 1989 c. 6 (AMD); c. 9, §2 (AMD); c. 104, Pt. C, §8, 10 (AMD).]

SECTION HISTORY
[PL 1987, c. 737, §§C24, C106 (AMD). PL 1989, c. 6, § (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8, C10 (AMD)]

§1224. Recording of acceptance

A copy of the record of the vote of the trustee so accepting a conveyance of lands shall be indorsed on the conveyance and certified thereon by the clerk of the grantee and recorded in the registry of deeds with the conveyance.

ARTICLE 6: TRUST FUNDS

§1261. Authority to hold

Any person owning or interested in a lot or lots in a public burying ground of a city or town may deposit with the treasurer of such city or town a sum of money for the purpose of providing for the preservation and care of such lot or lots, or their appurtenances, which sum shall be entered upon the books of the treasurer and invested and held in accordance with Title 30-A, chapter 223, subchapter III-A. [PL 1987 c. 737, Pt. C, §§25, 106 (AMD). PL 1989 c. 6 (AMD); c. 9, §2 (AMD); c. 104, Pt. C, §8, 10 (AMD).]

SECTION HISTORY
[PL 1987, c. 737, §§C25, C106 (AMD); PL 1989, c. 6, § (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8, C10 (AMD)]

§1262. Bylaws and ordinances

A city or town may pass such ordinances or bylaws as may be necessary for the purposes of section 1261 and not repugnant to law, and may receive such money for said purposes, and may invest and hold the same as provided in section 1261.

§1263. Acceptance of deposits

When any person owning or interested in a lot in a public burying ground in a city or town deposits with the treasurer of such city or town a sum of money for the preservation or care of such lot as provided by section 1262, said city or town may accept a conveyance of such lot for the uses and upon the trusts which may be set forth in said conveyance, and may bind itself to keep and perform the agreements, uses and trusts contained in the deed of conveyance of such lot.

§1264. Trust funds for services or property

1. Trust accounts. Pre-need funds received for cemetery or crematory services or property to be delivered at or after the date of death must be placed in a cemetery or crematory trust account in a

bank, trust company, credit union or savings institution. For purposes of this subsection, "pre-need funds" means all money paid during a person's lifetime to a cemetery or crematory by that person or by another person on that person's behalf under an agreement that services will be performed or property will be delivered in connection with the disposition of that person's body after that person's death. [PL 1995, c. 474, §1 (NEW).]

2. Trust agreement. A trust agreement setting forth the following information must be signed by the payor and the payee and the original agreement must be given to the payor and a copy of that agreement must be given to the payee. [PL 1995, c. 474, §1 (NEW).]

A. The name and address of the individual for whose benefit services or property will be delivered. [PL 1995, c. 474, §1 (NEW).]
B. The name of the entity acting as trustee. [PL 1995, c. 474, §1 (NEW).]
C. The name and address of the payor. [PL 1995, c. 474, §1 (NEW).]
D. The services or property that will be provided by the payee. [PL 1995, c. 474, §1 (NEW).]
E. Statements that a full refund of the principal of the funds placed in trust must be made by the payee upon written request of the payor, the payor's attorney-in-fact or the payor's personal representative and that, in the absence of such a request, the payee may withdraw the funds only upon the death of the person for whose benefit the funds were paid and shall use the funds in accordance with the purposes identified in the trust agreement. [PL 1995, c. 474, §1 (NEW).]
F. A statement that interest on funds placed in trust will not be paid to the payor in the event of a refund of principal of trust funds and any interest that may accrue remains with the payee. [PL 1995, c. 474, §1 (NEW).]

3. Services and property covered. This section applies to cemetery or crematory services such as cremation fees, grave opening and closing charges and inscription of death dates. This section does not apply to the sale of cemetery lots or plots, monuments and memorials, garden crypts, lawn crypts, mausoleum crypts, cremation urns and niches, vaults, liners and similar tangible personal property if title to and physical possession of the specific property has passed to the buyer. Any funds expended to purchase tangible personal property when that personal property is held by the payee until the time of need are not considered funds that must be placed in the trust account. [PL 1995, c. 474, §1 (NEW).]

4. Refund provisions. A full refund of the principal of the funds placed in trust must be made by the payee upon written request of the payor, the payor's attorney-in-fact or the payor's personal representative. In the absence of such a request, the payee may withdraw the funds only upon the death of the person for whose benefit the funds were paid and shall use the funds in accordance with the purposes identified on the trust agreement. [PL 1995, c. 474, §1 (NEW).]

5. Administrative fees. The payee may not charge the payor, the payor's attorney-in-fact or the payor's personal representative an administrative fee for funds or tangible personal property held in trust. [PL 1995, c. 474, §1 (NEW).]

6. Application. The provisions of this section apply only to funds received by a payee of a trust account after the effective date of this section. [PL 1995, c. 474, §1 (NEW).]

§1265. Tangible personal property

Upon written request and payment of any reasonable out-of-pocket expenses, a cemetery or crematory shall deliver to a person, the person's attorney-in-fact or the person's personal representative any item of tangible personal property purchased by that person but remaining in the possession of the cemetery or crematory. [PL 1995, c. 474, §1 (NEW).]

§1266. Solicitation of cemetery or crematory services or property

Uninvited telephone or door-to-door solicitations for crematory or cemetery services or property are prohibited. This section may not be construed to limit the raising of funds for capital improvements as long as those funds are not raised through the purchase of cemetery or crematory services or property. Uninvited solicitations may not be construed to include solicitations resulting from uninvited good-faith personal referrals from individuals purchasing services or property from a cemetery or crematory. [PL 1995, c. 474, §1 (NEW).]

§1267. Penalties

A person is subject to criminal prosecution under Title 17-A, chapter 15 if the person violates section 1264 or 1265. A person who violates section 1266 commits a civil violation for which a fine of not less than $100 and not more than $500 may be adjudged. [PL 2003, c. 688, Pt. B, §1 (AMD).]

SECTION HISTORY
[PL 1995, c. 474, §1 (NEW). PL 2003, c. 688, §B1 (AMD)]

SUBCHAPTER 3: PUBLIC CEMETERIES

§1301. Incorporation; exemption from attachment and taxation

Any 7 or more persons may be incorporated, not for profit, in the manner provided in section 901 for the purpose of owning, managing and protecting lands and their appurtenances appropriated for public cemeteries. The property of such corporations and the shares of stock therein are exempt from attachment and taxation. Any cemetery corporation may accept and receive donations of money, general legacies and devises of real estate or legacies in trust, for the purpose of landscaping, general beautification and care of lots, memorials, avenues and plots in said cemetery, without being appointed or confirmed by any court as such trustee. [PL 1975, c. 770, § 76 (AMD).]

§1302. Recording of deeds

Deeds of burial lots in any public cemetery may be recorded in the Registry of Deeds for the county or district where such cemetery is situated.

§1303. Ownership and operation

Every cemetery, except Veterans' Memorial Cemetery established under Title 37-A, chapter 2, hereafter established shall be owned, maintained or operated by a municipality or other political subdivision of the State, a church, a religious or charitable society, or by a cemetery association

incorporated as provided in section 1071 or 1301. [PL 1973, c. 537, § 19.]

Every such cemetery shall be located in accordance with statutes already in force and effect, and only after consent for such location has been obtained from the municipality or other political subdivision where the same is proposed to be located, as well as from the Bureau of Health. No cemetery, community mausoleum, crematory or columbarium hereafter established shall be maintained or operated for the purpose of private profit or gain, either directly or indirectly, to any director, officer or member of the cemetery association or other agency owning, maintaining or operating the same, or of any holding company or development company employed to develop, build and dispose of the same. A cemetery lawfully established prior to July 24, 1937 may continue to be owned, maintained and operated under the form of organization adopted therefore. Any corporation organized prior to July 24, 1937 which is authorized or empowered to own, construct, maintain or operate cemeteries or burial grounds may lawfully own, construct, maintain or operate mausoleums, crematories or columbaria in connection therewith, in accordance with the laws existing and effective up to the time of July 24, 1937. [PL 1967, c. 502, §2 (AMD). PL 1973, c. 537, §19 (AMD)]

§1304. Sales for speculation or investment

The sale of cemetery lots and plots, or the sale of crypts in a community mausoleum or niches in a columbarium for speculative or financial investment purposes, or the conveyance of any portion of a cemetery already dedicated to burial purposes as security for debt, is prohibited. Every such conveyance, whether made by a person or by a cemetery association, or by a company or association owning and operating a community mausoleum, crematory or columbarium, or by any holding, development or subsidiary company, shall be void and of no effect. Whoever makes or attempts to make a sale or conveyance contrary to this section shall be guilty of a misdemeanor and punished as provided in section 1035.

§1305. Care and maintenance

The proceeds of the sales of lots and plots in a cemetery shall be applied solely to the management, superintendence, improvement and maintenance of the cemetery and the avenues, paths and structures situated therein, for the purchase of additional cemetery land and for the accumulation of a permanent care and improvement fund. If any indebtedness of a fixed amount is incurred in the purchase of lands for such cemetery, or in making any improvement therein, a sum not exceeding 50% of the gross receipts from the sale of burial lots and plots may be applied to the liquidation of such indebtedness. All moneys received from the sale of personal property and surplus real estate of a cemetery shall be applied first to the liquidation of any fixed indebtedness incurred by it on account of the purchase or improvement of the lands dedicated to cemetery purposes, and any residue remaining after the liquidation of such indebtedness shall be deposited in the permanent care and improvement fund of the cemetery. This section shall not apply to any cemetery now organized and operating.

§1306. Cemetery perpetual care fund

A person, corporation or any other private entity that controls a cemetery shall establish a cemetery perpetual care fund. This fund is separate from any permanent care and improvement fund for a community mausoleum on a cemetery's premises established under section 1348. The income

from the cemetery perpetual care fund must be devoted to maintenance of the cemetery. This cemetery perpetual care fund must be created by depositing in the fund at least 30% of the proceeds received, in full and in installments, from the sale of lots and plots in the cemetery. This section does not apply to a family burying ground as described in section 1142. The sale of a cemetery lot or plot that is subject to a contract for the perpetual care of the lot or plot or for general cemetery maintenance is exempt from this section, as long as the contract requires that at least 30% of the proceeds from the sale of the lot or plot be set aside with the income from those funds to be used for cemetery maintenance. [PL 1997, c. 140, §1 (NEW).]

SUBCHAPTER 4: MAUSOLEUMS AND VAULTS

§1341. Location

1. Mausoleum, crematory or other structure. A community mausoleum, community crematory or other community structure that holds or contains dead human bodies may only be erected in a cemetery that is at least 20 acres in size and has been in existence and used for burial for at least 2 years preceding the erection of the structure. [PL 2003, c. 421, §2 (AMD).]

2. Columbarium. A columbarium that holds or contains the cremated remains of dead human bodies may only be erected in a cemetery that is at least 5 acres in size and has been in existence and used for burial for at least 2 years preceding the erection of the structure. [PL 1999, c. 620, §1 (NEW).]

3. Exception. This section does not apply to a structure containing crypts erected or controlled by a church or religious society used for the remains of the clergy or dignitaries of the church or religious society. [PL 1999, c. 620, §1 (NEW).]

SECTION HISTORY
[PL 1999, c. 620, §1 (RPR). PL 2003, c. 421, §2 (AMD)]

§1342. Approval of health authority

Before any person, firm or corporation shall build, construct or erect any such community mausoleum, vault or other burial structure entirely above ground or partly above and partly by excavation, with the intention and purpose that when so built, constructed and erected the same may contain 20 or more deceased human bodies for permanent interment, such person, firm or corporation shall present all plans for such construction to the Bureau of Health and shall obtain the written approval of such plans by said bureau before proceeding with the construction and erection of said mausoleum, vault or other burial structure.

§1343. Type of construction; examinations

Any such community mausoleum or other burial structure shall be constructed of such materials and workmanship as will insure its durability and permanency as well as the safety, convenience, comfort and health of the community in which it is located, as dictated and determined at the time by modern mausoleum construction and engineering science, and all crypts or catacombs placed in a

mausoleum, vault or other burial structure as described in section 1342 shall be so constructed that all parts thereof may be readily examined by the Bureau of Health or any other health officer. Such crypts or catacombs, when used for the permanent interment of a deceased body or bodies, shall be so hermetically sealed that no offensive odor or effluvia may escape there from.

§1344. Supervisory control of health authorities

The Bureau of Health shall have supervisory control over the erection of any such community mausoleum and shall enforce compliance with the approved plans and specifications therefore. Such bureau shall determine the reasonable amount of compensation for such supervision, which compensation shall be paid by the cemetery association or other agency erecting such community mausoleum. No departure from the original plans and specifications shall be permitted, except upon approval of the said Bureau of Health evidenced in like manner and form as the approval of the original plans and specifications.

§1345. No use before completion

No community mausoleum, crypt or structure so erected shall be used for the purpose of depositing therein the remains of any dead body until the same, or a component section thereof, is fully completed and the permanent care and improvement fund required by section 1348 has been provided.

§1346. No sale before completion

No crypt in a community mausoleum shall be sold or offered for sale before said structure, or a component section thereof, is fully completed.

§1347. Improper conditions; removal of bodies

Whenever any mausoleum, vault, crypt or other structure containing one or more dead human bodies shall, in the opinion of the Bureau of Health, become a menace to public health and the owner thereof fails to remedy or remove the same to the satisfaction of the said bureau, any court of competent jurisdiction may order the owner of said structure to remove the dead body or bodies for interment in some suitable cemetery at the expense of such owner. If such owner cannot be found, such removal and interment shall be at the expense of the cemetery association in the cemetery in which such mausoleum, vault, crypt or other structure is situated.

§1348. Permanent care and improvement fund

Every cemetery association or other agency establishing, maintaining and operating a community mausoleum shall create and establish a permanent care and improvement fund, distinct and separate from the permanent care and improvement fund of its cemetery, the income whereof shall be devoted to the care, maintenance and improvement of such community mausoleum. Such permanent care and improvement fund shall be created by applying to such fund at least 30% of the proceeds received, in full and installments, from the sales of crypts in such mausoleum.

§1349.-- custodian

The treasurer of the cemetery in which such community mausoleum is situated shall be the custodian of the permanent care and improvement fund established therefor in section 1348 and

every such fund shall be held, administered and invested in the manner provided by law for funds in savings banks of this State.

SUBCHAPTER V: PROTECTION AND PRESERVATION

§1371. Approval for repair, maintenance and removal

1. Prior authorization or approval for repair, maintenance or removal. Any person may repair, maintain or remove, subject to the restrictions of subsection 2 or 3, any tomb, monument, gravestone, marker or other structure placed or designed as a memorial to the dead, or any portion or fragment of any such memorial, or any fence, railing, curb or other enclosure for the burial of the dead, after obtaining: written approval of the owner or operator of the cemetery or burial ground, if an owner or operator exists, and one of the following, in the following order of priority.

A. The person must first seek the authorization of the owner of the burial lot or a lineal descendent descendant of the deceased buried there, if the owner or a lineal descendant is reasonable to locate and notify. [PL 2015, c. 294, §1 (AMD).]

A-1. If an owner or lineal descendant listed in paragraph A cannot reasonably be located and notified, the person shall seek the authorization of a next of kin, if reasonable to locate and notify, of the deceased buried there. [PL 2015, c. 294, §1 (NEW).]

B. The If none of the persons listed in paragraph A or A-1 can reasonably be located and notified, the person shall obtain the written approval of the municipality or, in the case of unorganized territory, the county in which the cemetery or burial ground is located. [PL 2015, c. 294, §1 (AMD).]

2. Conditions on removal for repair, restoration or preservation. Removal of a tomb, monument, gravestone, marker or other structure placed or designed as a memorial to the dead, or a portion or fragment of a memorial, is permitted only for the purpose of preservation. A tomb, monument, gravestone, marker or other structure placed or designed as a memorial to the dead, or a portion or fragment of a memorial, may not be removed from the confines of the cemetery or burial ground, except that a person who has obtained authorization or approval described in subsection 1, paragraph A or B, may remove all or a portion of a memorial for a period of no longer than 6 months for the purpose of repair, restoration or preservation, but only when repair, restoration or preservation cannot reasonably be accomplished on the site of the cemetery or burial ground. Prior to removal of the memorial, a notice must be submitted to the municipality, or to the county in the case of an unorganized territory, stating the location of the burial ground, the identification of the memorial, the authority requesting the removal, the site to which the memorial will be temporarily removed, the proposed date of removal and the proposed date of replacement in the burial ground. [PL 2015, c. 294, §1 (AMD).]

3. Permanent removal of memorial. If a tomb, monument, gravestone, marker or other structure placed or designed as a memorial to the dead is in such poor condition that it cannot be preserved in its original location, that memorial may be removed by a person who has obtained authorization or approval described in subsection 1 to another location accessible to the public. Prior to removal of the memorial, a notice must be submitted to the municipality, or to the

county in the case of a memorial in unorganized territory, stating the location and identification of the memorial, the authority requesting the removal and the site to which the memorial will be moved and providing documentation of the reason the memorial cannot be preserved in its original location.

When possible, a replacement or replica of the removed memorial must be placed in the original location along with information as to the location of the original memorial. If such placement is not possible, a sign must be placed recording the new location of the memorial. [PL 2015, c. 294, §1 (NEW).]

All costs associated with actions taken pursuant to this section must be paid by the person or entity that requests the repair, maintenance or removal of a tomb, monument, gravestone, marker or other structure placed or designed as a memorial to the dead, or any portion or fragment of any such memorial, or any fence, railing, curb or other enclosure in the burial lot or cemetery. [PL 2015, c. 294, §1 (NEW).]

The owner, operator or caretaker of a burial lot or a cemetery association that authorizes removal of a memorial pursuant to this section is not responsible or liable for the location or care of the memorial. [PL 2015, c. 294, §1 (NEW).]

SECTION HISTORY
PL 1987, c. 326, §1 (NEW). PL 1997, c. 193, §1 (AMD). PL 2015, c. 294, §1 (AMD).

§ 1371-A. Limitations on construction and excavation near burial sites

1. Known burial sites. Construction or excavation near a known burial site or within the boundaries of an established cemetery must comply with any applicable land use ordinance concerning burial sites or established cemeteries, whether or not the burial site or established cemetery is properly recorded in the deed to the property. In the absence of local ordinances, construction or excavation may not be conducted within 25 feet of a known burial site or within 25 feet of the boundaries of an established cemetery, whichever is the greater, whether or not the burial site or established cemetery is properly recorded in the deed to the property, except:

A. When the construction or excavation is performed pursuant to a lawful order or permit allowing the relocation of bodies; or [RR 2009, c. 2, §27 (COR).]

B. When necessary for the construction of a public improvement, as approved by the governing body of a municipality or, in the case of a state highway, by the Commissioner of Transportation. [RR 2009, c. 2, §28 (COR).]

C. [PL 2009, c. 310, §1 (NEW); MRSA T. 13 §1371-A, sub-§1, ¶C (RP).]

A municipality may enforce this subsection or any local ordinance concerning burial sites or established cemeteries pursuant to Title 30-A, section 4452, including the assessment of civil penalties.

In the event of any violation of this subsection, the Attorney General may seek to enjoin a further violation, in addition to any other remedy. [RR 2009, c. 2, §§27, 28 (COR).]

2. Undocumented burial site. The following procedures apply to construction or excavation that threatens an undocumented or unmarked burial site.

A. Whenever any person has knowledge that excavation or other construction activity may disturb or is disturbing a burial site, that person shall notify the local code enforcement officer by providing an Affidavit and any other evidence of the location of the burial site. [PL 1991, c. 412, §2 (NEW).]

B. Upon receipt of proper notification, the code enforcement officer shall issue a stop-work order to the person or entity responsible for the activity that threatens to disturb the burial site. [PL 1991, c. 412, §2 (NEW).]

C. Before the construction activity may continue, the excavator or person who owns the land shall notify the Director of the Maine Historic Preservation Commission and the president of any local historical society of the probable location of the burial site. The excavator or the person who owns the land shall also arrange, at that person's own expense, for appropriate investigation to determine the existence and location of graves. [PL 1991, c. 412, §2 (NEW).]

D. When the investigation is complete, if no human remains are discovered, the person responsible for the investigation shall notify the code enforcement officer of the results and the code enforcement officer shall revoke the stop-work order if satisfied that the investigation is complete and accurate. [PL 1991, c. 412, §2 (NEW).]

E. If a burial site is discovered, excavation or construction may not continue except in accordance with subsection 1 and other applicable provisions of state law. [PL 1991, c. 412, §2 (NEW).]

3. Application. This section applies only to burial sites and established cemeteries containing the bodies of humans. [PL 2007, c. 112, §3 (AMD).]

SECTION HISTORY

PL 1991, c. 412, §2 (NEW). PL 2007, c. 112, §§2, 3 (AMD). RR 2009, c. 2, §§27, 28 (COR).PL 2009, c. 310, §1 (AMD). MRSA T. 13, §1371A, sub1, ¶C (AMD).

§1372. Inventories of cemeteries or burial grounds

A municipality or, in the case of unorganized territory, a county may contract with a cemetery association or historical society to undertake, complete and keep current an inventory of cemeteries and burial grounds located in that municipality or county.

§ 1373. Authority to maintain

A municipality may authorize any cemetery association or historical society to maintain any cemetery or burial ground owned, maintained or operated by the municipality.

SUBCHAPTER VI: USE OF UNOPENED INTERMENT

§ 1381. Use of unoccupied interment spaces

If a cemetery lot, or portion of a cemetery lot, has not been used for interment purposes for

75 consecutive years and if the record owner of the lot has failed to provide for the care and maintenance of the lot for 75 consecutive years, then up to ½ of these unoccupied interment spaces within the lot may be used by the person, association, corporation or municipality which owns, maintains and operates the cemetery. If a portion of the interment spaces is occupied, the spaces on either side may not be used under this section.

§ 1382. Notice of use

Unoccupied interment spaces may not be used under section 1381 unless after the 75-year period the person, association, corporation or municipality which owns, maintains and operates the cemetery gives notice declaring that the unoccupied interment spaces within the lot may be used.

§ 1383. Form of notice

1. Contents. The notice of use shall state that the cemetery lot, or portion of the lot, containing the unoccupied interment spaces has not been used for interment purposes for 75 consecutive years and that the record owner has failed to provide for the care and maintenance of the lot for 75 consecutive years.

2. Time limit. The notice of use shall also state that use of the unoccupied spaces may begin one year from the time of serving the notice, unless the record owner or the record owner's heirs:

A. Deliver to the person, association, corporation or municipality having ownership or management of the cemetery written notice claiming ownership of or right to sepulture in the unoccupied interment spaces; and

B. Pay for the permanent care and maintenance of the cemetery lot, or portion of the lot, containing the unoccupied interment spaces.

§ 1384. Service of notice

The person, association, corporation or municipality having ownership or management of a cemetery shall choose that method of notice most reasonably anticipated to be effective. Personal service on the record owner in the same way service of process is made in accordance with Maine Rules of Civil Procedure shall be the preferred method. If that is not reasonably possible, personal service in the same manner shall be considered on the heirs or devisees. If that is not reasonably possible, the notice shall be served by delivery by certified mail, return receipt requested, to the record owner at the owner's last known address. If the record owner is deceased or his whereabouts are unknown, the notice shall be served by delivery by certified mail, return receipt requested, to the heirs or devisees of the record owner, to their last known address. If the address of the record owner or heirs or devisees of the record owner cannot be ascertained, then notice of the forfeiture shall be given by one publication in the official newspaper of the county in which the cemetery is located. In addition, the notice shall be recorded in the registry of deeds in the county where the cemetery lot is located.

§ 1385. Resale of unoccupied interment spaces

A person, association, corporation or municipality having ownership or management of a cemetery, and which has acquired the right to use unoccupied interment spaces under section 1381, may sell the unoccupied interment spaces and convey the rights to those spaces. The proceeds from

the sale of the unoccupied interment spaces shall be applied solely to the cemetery permanent care and improvement fund for the permanent care and maintenance of the cemetery lot containing the unoccupied interment spaces sold.

§ 1386. Applicability

This subchapter does not apply to any cemetery lot containing interment spaces for which permanent care and maintenance has been provided.

This subchapter does not apply to any cemetery of less than ½ of an acre.

TITLE 13-B: MAINE NONPROFIT CORPORATION ACT

CHAPTER 2: CORPORATE PURPOSES AND POWERS

§ 201. Purposes

3. Corporations which may elect to be organized under this chapter. The following types of corporations may elect to be organized under and governed by applicable provisions of this chapter or under any other applicable statutory provisions:

D. Cemetery corporations which do not issue shares, as that term is used in Title 13, chapter 83; [PL 1985, c. 737, Pt. A, §35 (AMD).]

If any of the foregoing corporations are organized under applicable provisions of this Act, they are governed by the provisions of this chapter unless clearly inapplicable; provided further that if any of the foregoing corporations files an annual report pursuant to section 1301 of this Act, the filing of the report is deemed an election by that corporation to be governed by all of the provisions of this chapter unless clearly inapplicable. [PL 2005, c. 563, §11 (AMD).]

SECTION HISTORY

[PL 1977, c. 525, §13 (NEW). PL 1979, c. 127, §94 (AMD). PL 1979, c. 541, §§B16-B20 (AMD). PL 1981, c. 698, §85 (AMD). PL 1985, c. 714, §40 (AMD). PL 1985, c. 737, §A35 (AMD). PL 1987, c. 141, §B13 (AMD). PL 1987, c. 402, §A102 (AMD). PL 1989, c. 502, §A38 (AMD). RR 1991, c. 2, §44 (COR). PL 1993, c. 316, §§29, 30 (AMD). PL 1993, c. 680, §A22 (AMD). PL 1995, c. 462, §A36 (AMD). PL 2001, c. 703, §7 (AMD). PL 2005, c. 563, §11 (AMD).]

TITLE 17-A MAINE CRIMINAL CODE

PART 2: SUBSTANTIVE OFFENSES
CHAPTER 21: OFFENSES AGAINST PUBLIC ORDER

§ 402. Criminal trespass

1. A person is guilty of criminal trespass if, knowing that that person is not licensed or

privileged to do so, that person: [PL 2001, c. 383, §56 (AMD); §156 (AFF).]

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F. Enters or remains in a cemetery or burial ground at any time between ½ hour after sunset and ½ hour before sunrise the following day, unless that person enters or remains during hours in which visitors are permitted to enter or remain by municipal ordinance or, in the case of a privately owned and operated cemetery, by posting. Violation of this paragraph is a Class E crime. [PL 2001, c. 383, §56 (AMD); §156 (AFF).]

Nothing in this subsection limits any manner of posting reasonably likely to come to the attention of intruders. [PL 2001, c. 383, §58 (AMD); §156 (AFF).]

§ 507. Desecration and defacement

1. A person is guilty of desecration and defacement if he intentionally desecrates any public monument or structure, any place of worship or burial, or any private structure not owned by him. [PL 1975, c. 499, §1 (NEW).]

2. As used in this section, "desecrate" means marring, defacing, damaging or otherwise physically mistreating, in a way that will outrage the sensibilities of an ordinary person likely to observe or discover the actions. [PL 1975, c. 499, §1 (NEW).]

3. Desecration is a Class D crime. [PL 1983, c. 710 (AMD).]

SECTION HISTORY
[PL 1975, c. 499, §1 (NEW). PL 1983, c. 710, § (AMD).]

§ 507-A. Interference with cemetery or burial ground

1. No person may intentionally or knowingly destroy, mutilate, deface, injure or remove any tomb, monument, gravestone, marker or other structure placed or designed as a memorial for the dead, or any portion or fragment of any such memorial, or any fence, railing, curb or other enclosure for the burial of the dead. [PL 1987, c. 326, §2 (NEW).]

2. Subsection 1 does not apply to any person:

A. Who performs an act as authorized under Title 13, section 1371. [PL 1987, c. 326, §2 (NEW).]

B. Who meets the requirements governing eminent domain as established by state or federal law. [PL 1987, c. 326, §2 (NEW).]

3. Any person who violates subsection 1 commits a Class D crime. [PL 1987, c. 326, §2 (NEW).]

§ 507-B. Illegal possession or sale of gravestones

1. No person may possess, sell, attempt to sell, offer for sale, transfer or dispose of any tomb, monument, gravestone, marker or other structure placed or designed as a memorial for the dead, or any portion or fragment of any such memorial, knowing or having reasonable cause to know that it has been illegally removed from a cemetery or burial ground. [PL 1987, c. 326, § 2 (NEW).]

2. Any person who violates subsection 1 commits a Class C crime. [PL 1987 c. 326, § 2 (NEW).]

3. Any person who violates subsection 1 is liable to the following for triple damages to be

recovered in a civil action: [PL 1987, c. 326, § 2 (NEW).]

A. The municipality or, in the case of unorganized territory, the county in which the cemetery or burial ground is located. [PL 1987, c. 326, §2 (NEW).]

B. A cemetery association authorized to bring suit and recover damages by the municipality or, in the case of unorganized territory, the county in which the cemetery or burial ground is located. [PL 1987, c. 326, §2 (NEW).]

C. A historical society authorized to bring suit and recover damages by the municipality or, in the case of unorganized territory, the county in which the cemetery or burial ground is located. [PL 1987, c. 326, §2 (NEW).]

§ 508. Abuse of corpse

1. A person is guilty of abuse of corpse if he intentionally and unlawfully disinters, digs up, removes, conceals, mutilates or destroys a human corpse, or any part or the ashes thereof. [PL 1975, c. 499, § 1 (NEW).]

2. It is a defense to prosecution under this section that the actor was a physician, scientist or student who had in his possession, or used human bodies or parts thereof lawfully obtained, for anatomical, physiological or other scientific investigation or instruction. [PL 1975, c. 499, §1 (NEW).]

3. Abuse of corpse is a Class D crime. [PL 1975, c. 499, § 1 (NEW).]

TITLE 22 HEALTH AND WELFARE

SUBTITLE 2: HEALTH
PART 6: BIRTHS, MARRIAGES AND DEATHS
CHAPTER 701

§ 2708. Penalties

1. Intentional or knowing falsification. A person who intentionally or knowingly falsifies, provides false information, makes or alters any certificate or certified copy except as provided for in this Title commits a Class E crime. [PL 2003, c. 452, Pt. K, §21 (AMD); Pt. X, §2 (AFF).]

1-A. Knowing possession, use. A person who knowingly possesses and uses a false or altered certificate or certified copy or knowingly possesses and uses as that person's own a certificate or certified copy pertaining to another person commits a Class E crime. [PL 2003, c. 452, Pt. K, §22 (NEW); Pt. X, §2 (AFF).]

1-B. Hindering state registrar investigation. A person who knowingly refuses to permit the state registrar to inspect vital records or hinders an investigation conducted by the state registrar pursuant to section 2709 commits a Class E crime. [PL 2009, c. 601, §13 (NEW).]

2. General. A person may not: [PL 2003, c. 452, Pt. K, §23 (RPR); Pt. X, §2 (AFF).]

A. Refuse to provide information required by this Title, violate a provision of this Title having to do with the registration of vital statistics or neglect or refuse to perform a duty imposed upon that person by this Title having to do with the registration of vital statistics. Violation of this paragraph is a Class E crime. [PL 2003, c. 452, Pt. K, §23 (NEW); Pt. X, §2 (AFF).]

B. Violate paragraph A after having been previously convicted of violating this subsection. Violation of this paragraph is a Class D crime. Title 17-A, section 9-A governs the use of prior convictions when determining a sentence. [PL 2003, c. 452, Pt. K, §23 (NEW); Pt. X, §2 (AFF).]

Violation of this subsection is a strict liability crime as defined in Title 17-A, section 34, subsection 4-A. [PL 2003, c. 452, Pt. K, §23 (RPR); Pt. X, §2 (AFF).]

3. Disposition of dead body without permit. A person may not: [PL 2003, c. 452, Pt. K, §24 (NEW); Pt. X, §2 (AFF).]

A. Knowingly transport or accept for transportation, interment or other disposition a dead body without an accompanying permit issued in accordance with this Title. Violation of this paragraph is a Class E crime. [PL 2003, c. 452, Pt. K, §24 (NEW); Pt. X, §2 (AFF).]

B. Violate paragraph A after having been previously convicted of violating this subsection. Violation of this paragraph is a Class D crime. Title 17-A, section 9-A governs the use of prior convictions when determining a sentence. [PL 2003, c. 452, Pt. K, §24 (NEW); Pt. X, §2 (AFF).]

CHAPTER 707: DEATH AND BURIALS

§2841. Registration of fetal deaths

Except as authorized by the department or as required under section 1596, a certificate of each death of a fetus of 20 or more weeks of gestation that occurs in this State must be filed with the State Registrar of Vital Statistics or the clerk of the municipality where the delivery occurred within 14 days after delivery and prior to removal of the fetus from the State. [PL 2013, c. 14, §1 (AMD).]

1. Certificate filed by funeral director. The funeral director or other authorized person in charge of the disposition of the dead fetus or its removal from the State is responsible for filing the certificate. In the absence of such a person, the physician or other person in attendance at or after the delivery is responsible for filing the certificate. The funeral director or authorized person or physician or other person in attendance at or after delivery shall obtain the personal data from the best qualified person or source available and shall present the certificate to the person responsible for completing the medical certification of the cause of death. [PL 2009, c. 601, §24 (AMD).]

2. Medical certificate by physician. The medical certification shall be completed and signed within 5 days after delivery by the physician in attendance at or after the delivery, except when an inquiry as to the cause of fetal death is required by law. [PL 1989, c. 274, §3 (AMD).]

3. Medical certificate by medical examiner. When the fetal death occurs without medical attendance upon the mother at or after delivery, or when inquiry as to the cause of fetal death is required by law, the medical examiner shall complete and sign the medical certification within 5 days after delivery. A certification need not be completed before the remains are ready for release. [PL 1989, c. 274, §3 (AMD).]

4. Certificate from hospital or institution. When the fetal death occurs in a hospital or an institution, the person in charge of the hospital or institution or the person authorized to obtain the medical data shall prepare the certificate, certify by signature or by electronic process that the fetal death occurred at the place and time and on the date stated and file the certificate as directed in this section. The physician or other person in attendance shall provide the medical information required on the certificate in a timely fashion, as specified by department rule. [PL 2013, c. 14, §2 (NEW).]

SECTION HISTORY
PL 1977, c. 232, §1 (AMD). PL 1979, c. 363, §5 (AMD). PL 1989, c. 274, §§2, 3 (AMD). RR 2009, c. 2, §54 (COR). PL 2009, c. 601, §24 (AMD). PL 2013, c. 14, §§1, 2 (AMD).

§2842. Registration of deaths

Except as authorized by the department, a certificate of each death that occurs in this State must be filed with the State Registrar of Vital Statistics or clerk of the municipality where death occurred within a reasonable period of time, as specified by department rule, after the day on which death occurred and prior to the removal of the body from the State. [PL 2009, c. 601, §25 (AMD).]

1. Certificate filed by funeral director. The funeral director or other authorized person in charge of the disposition of the dead human body or its removal from the State is responsible for filing the certificate. The funeral director or authorized person shall obtain the personal data from the best qualified person or source available. [PL 2009, c. 601, §25 (AMD).]

2. Medical certificate by physician, nurse practitioner or physician assistant. The medical certification of the cause of death must be completed and signed in a timely manner, as specified by department rule, by a physician, nurse practitioner or physician assistant authorized to practice in the State who has knowledge of the patient's recent medical condition, in accordance with department rules and other laws detailing who can certify and in what time frame, except when the death falls under the jurisdiction of the medical examiner as provided in section 3025. If the patient was a resident of a nursing home licensed under section 1817 at the time of death and if the health care provider in charge of the patient's care or another health care provider designated by the health care provider in charge had not examined the patient within 48 hours prior to death, or within 2 weeks prior to death in the case of a terminally ill patient, the health care provider in charge or another health care provider designated by the health care provider in charge shall examine the body prior to completing the certification of death process. Any health care provider who fails to complete the medical certification of the cause of death fully, in a timely manner, or who fails to examine the body of a nursing home resident prior to certifying cause of death as required by this section must be reported to the Board of Licensure in Medicine, the Board of Osteopathic Licensure or the State Board of Nursing, whichever is appropriate, by the State Registrar of Vital Statistics of the Department of Health and Human Services.

For the purposes of this subsection, the following terms have the following meanings.

A. "Life-sustaining procedure" means any medical procedure or intervention that, when

administered to a qualified patient, will serve only to prolong the dying process and does not include nutrition and hydration. [PL 2001, c. 574, §26 (AMD).]

B. "Terminally ill patient" means a patient who has been diagnosed as having an incurable or irreversible condition that, without the administration of life-sustaining procedures, will, in the opinion of the attending health care provider, result in death within a short time. [PL 2005, c. 359, §1 (AMD).]

C. "Health care provider" means a physician authorized to practice in this State, nurse practitioner or physician assistant. [PL 2007, c. 56, §1 (AMD).]

D. "Nurse practitioner" means an advanced practice registered nurse who is a certified nurse practitioner authorized to practice without the supervision of a physician pursuant to Title 32, chapter 31. [PL 2005, c. 359, §1 (NEW).]

E. "Physician assistant" means a person who has graduated from a physician assistant or surgeon assistant program accredited by the American Medical Association Committee on Allied Health Education and Accreditation or the Commission on Accreditation of Allied Health Education Programs or its successor and who has passed the certifying examination administered by the National Commission on Certification of Physician Assistants or its successor. [PL 2007, c. 56, §1 (NEW).] [PL 2009, c. 601, §25 (AMD).]

2-A. Medical certification. Notwithstanding subsection 2, with respect to a person who dies within the State naturally and for whom the physician, nurse practitioner or physician assistant was the attending health care provider, the medical certification of the cause of death may be completed and signed by a physician, nurse practitioner or physician assistant authorized to practice at the United States Department of Veterans Affairs at Togus or at another federal medical facility within the State or by a physician, an advanced practice registered nurse or physician assistant licensed to practice in New Hampshire, Vermont or Massachusetts who, at the request of the Chief Medical Examiner, is willing to do so. [PL 2009,c. 601, §25 (AMD).]

3. Medical certificate by medical examiner of the Office of the Chief Medical Examiner. When a death occurs under circumstances that make it a medical examiner as defined in section 3025, or when inquiry as to the cause of death is required by law, the medical examiner or the Office of Chief Medical Examiner shall complete the medical certification of the cause of death as specified by department rule and sign the death certificate. A certification need not be completed before the remains are ready for release. The medical examiner of the Office of Chief Medical Examiner is responsible for the identity of the deceased and the time, date, place, cause, manner and circumstances of death on the death certificate. Entries may be left "pending" if further study is needed; or, at the specific direction of the Attorney General relative to cases under investigation by the Attorney General's office, entries must be left "withheld" until such time as the Attorney General, in the Attorney General's sole discretion, determines that any criminal investigation and prosecution will not be hard by public disclosure of such information. Notwithstanding section 2706, subsection 4, unless directed otherwise by the Attorney General as specified in this subsection, this information for which the medical examiner is responsible may be made available to the general public by the Office of Chief Medical Examiner. [PL 2017, c. 475, Pt. A, §30 (AMD).]

4. Correction of errors on death statistic records filed under chapter 711. Certificates of

death in medical examiner cases, as defined in section 3025, may be completed or amended at any time by means described in rule by the department to the Office of Chief Medical Examiner. Either the Chief Medical Examiner or the medical examiner assigned to the case may sign the forms or submit an electronic amendment or file a certificate using the electronic death registration system in accordance with section 2847. A person authorized by the Chief Medical Examiner may amend a certificate of death with respect to the time, date, place and circumstances of death. The medical examiner assigned shall submit the form or electronic amendment to the Office of Chief Medical Examiner for filing with the State Registrar of Vital Statistics. These forms or electronic amendments may be filed at any time after death and need not include a summary description of the evidence in support of the completion or amendment. [PL 2017, c. 475, Pt. A, §20 (AMD).]

5. Correction of certificate of death. A certificate of death filed in accordance with this section may be completed or amended at any time by means described in rules adopted by the department. The health care provider who certified the death in accordance with subsection 2-A may sign the forms, submit an electronic amendment or file a certificate using the electronic death registration system in accordance with section 2847. A health care provider may amend a certificate of death with respect to the time, date, place and circumstances of death. Forms or electronic amendments may be filed at any time after death. [PL 2019, c. 340 §16 (NEW).]

SECTION HISTORY
PL 1977,c. 232, §2 (AMD). PL 1977, c. 382, (AMD). PL 1979, c. 538, §1 (AMD). PL 1985, c. 611, §§2, 3 (AMD). PL 1987, c. 72, (AMD). PL 1987, c. 296, §§1, 2 (AMD). PL 1987, c. 329, §1 (AMD). PL 1987, c. 769, §A75 (AMD). PL 1993, c. 600, §§B21, 22 (AMD). PL 2001, c. 574, §§26, 27(AMD). PL 2003, c. 74, §§1, 2 (AMD). PL 2003, c. 433, §2 (AMD). PL 2003, c. 689, §B6 (REV). PL 2005, c. 359, §§1, 2 (AMD). PL 2007, c. 56, §§1, 2 (AMD). PL 2009, c. 601, §25 (AMD). PL 2013, c. 31, §1 (AMD). PL 2017, c. 475 Pt. A, §30 (AMD). PL 2019, c. 340 §16 (AMD).

§ 2843. Permits for final disposition of dead human bodies

Except as authorized by the department, a dead human body may not be buried, cremated or otherwise disposed of or removed from the State until a funeral director or other authorized person in charge of the disposition of the dead human body or its removal from the State has obtained a permit from the State Registrar of Vital Statistics or the clerk of the municipality where death occurred or where the establishment of a funeral director having custody of the dead human body is located as specified by department rule. The permit is sufficient authority for final disposition in any place where dead human bodies are disposed of in this State, as long as the requirements of Title 32, section 1405 are met in appropriate cases. The permit may not be issued to anyone other than a funeral director until the state registrar or the clerk of the municipality receives a medical certificate that has been signed by a physician or a medical examiner that indicates that the physician or medical examiner has personally examined the body after death. A permit must also be issued if a nurse practitioner or physician assistant has signed the medical certificate indicating that the nurse practitioner or physician assistant has knowledge of the deceased's recent medical condition or was in charge of the deceased's care and that the nurse practitioner or physician assistant has personally examined the body after death. The authorized person may transport a dead human body only upon

receipt of this permit. [PL 2009, c. 601, §27 (AMD).]

The State Registrar of Vital Statistics or a municipal clerk may issue a permit for final disposition by cremation, burial at sea, use by medical science or removal from the State only upon receipt of a certificate of release by a duly appointed medical examiner as specified in Title 32, section 1405. [PL 2009, c. 601, §27 (AMD).]

The State Registrar of Vital Statistics or a municipal clerk may issue a disposition of human remains permit to a funeral director who presents a report of death and states that the funeral director has been unable to obtain a medical certification of the cause of death. The funeral director shall name the attending physician, attending nurse practitioner, attending physician assistant or medical examiner who will certify to the cause of death and present assurances that the attending physician, attending nurse practitioner, attending physician assistant or medical examiner has agreed to do so. The funeral director shall exercise due diligence to secure the medical certification and file the death certificate as soon as possible. [PL 2009, c. 601, §27 (AMD).]

1. Permit for transportation. Each dead human body transported into this State for final disposition must be accompanied by a permit issued by the duly constituted authority at the place of death. Such permit is sufficient authority for final disposition in any place where dead human bodies are disposed of in this State. [PL 2009, c. 601, §27 (AMD).]

2. Permit for disinterment or removal. A dead human body may not be disinterred or removed from any vault or tomb until the person in charge of the disinterment or removal has obtained a permit from the State Registrar of Vital Statistics or from the clerk of the municipality where the dead human body is buried or entombed. The permit must be issued upon receipt of a notarized application signed by the next of kin of the deceased who verifies that the signer is the closest surviving known relative and, when any other family member of equal or greater legal or blood relationship or a domestic partner of the decedent also survives, that all such persons are aware of, and do not object to, the disinterment or removal. This subsection does not preclude a court of competent jurisdiction from ordering or enjoining disinterment or removal pursuant to section 3029 or in other appropriate circumstances. For purposes of this subsection, "domestic partner" means one of 2 unmarried adults who are domiciled together under long-term arrangements that evidence a commitment to remain responsible indefinitely for each other's welfare. [PL 2013, c. 20, §1 (AMD).]

3. Permit for burial. The person in charge of each burying ground or crematory in this State shall endorse, and provide the date the body was disposed of on, each such permit with which that person is presented, and return it to the State Registrar of Vital Statistics or to the clerk of the municipality in which such burying ground or crematory is located within 7 days after the date of disposition. If there is no person in charge of the burying ground, an official of the municipality in which the burying ground is located shall endorse, and provide the date the body was disposed of on, each such permit, and present it to the State Registrar of Vital Statistics or the clerk of the municipality. The funeral director or authorized person shall present a copy of each permit, after endorsement, to the State Registrar of Vital Statistics or the clerk of the municipality where death

occurred and to the clerk who issued the permit. [PL 2013, c. 20, §1 (AMD).]

3-A. Authorization for burial of cremated remains in public burying ground. The State Registrar of Vital Statistics shall provide an authorization to be used for the purposes of this subsection. If cremated remains are buried in a public burying ground in the State, the person in charge of the public burying ground shall endorse and record the date the cremated remains were buried on an authorization for the remains and return the authorization to the State Registrar of Vital Statistics or the clerk of the municipality in which the public burying ground is located within 7 days after the cremated remains were buried. If there is no person in charge of the public burying ground, an official of the municipality in which the public burying ground is located shall endorse and record the date the cremated remains were buried on the authorization and present the authorization to the State Registrar of Vital Statistics or the clerk of the municipality. If an authorization is not returned to the State Registrar of Vital Statistics within 7 days after the cremated remains were buried, the funeral director or authorized person may present a copy of the authorization, if the authorization has been endorsed, to the State Registrar of Vital Statistics or the clerk of the municipality where the death occurred and to the clerk who issued the authorization.

For purposes of this subsection, unless the context otherwise indicates, the following terms have the following meanings.

A. "Authorization" means the form or electronic process prescribed and furnished by the State Registrar of Vital Statistics for the purpose of recording the consent of an authorized person for the burial or removal of cremated remains in a public burying ground as specified by department rule. [PL 2019, c. 257, §1 (NEW).]

B. "Burial" means all manner of dispersal or deposit in or on the ground or in a structure. [PL 2019, c. 257 §1 (NEW).]

C. "Public burying ground" has the same meaning as in Title 13, section 1101-A, subsection 4. [PL 2019, c. 257 §1 (NEW).]

4. Records. Each municipality shall maintain a record of any endorsed permit received pursuant to subsection 3 or 3-A. These records must be open to public inspection. [PL 2017, c. 101, §2 (AMD).]

SECTION HISTORY

PL 1977, c. 232, §3 (AMD). PL 1985, c. 44, (AMD). PL 1985, c. 231, §§1-3 (AMD). PL 1985, c. 602, (AMD). PL 2001, c. 574, §28 (AMD). PL 2003, c. 672, §18 (AMD).PL 2005, c. 359, §§3, 4 (AMD). PL 2007, c. 56, §§3, 4 (AMD). PL 2009, c. 601, §27 (AMD).PL 2013, c. 20, §1 (AMD). PL 2017, c. 101, §§1, 2 (AMD). PL 2017, c. 363, §1 (AMD). PL 2019, c. 257 §1 (AMD).

§ 2843-A. Custody of remains of deceased persons

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "At-need funeral arrangements" means funeral arrangements made after death. [PL 1993, c. 609, §1 (NEW).]

B. "Custody and control" means the right to make all decisions, consistent with

applicable laws, regarding the handling of a dead body, including, but not limited to, possession, at-need funeral arrangements, final disposition and disinterment. [PL 1993, c. 609, §1 (NEW).]

B-1. "Dead body" or "dead human body" means a body or fetus for which it reasonably can be determined that death occurred. [PL 2009, c. 601, §28 (NEW).]

C. "Estranged" means living in separate residences and having a relationship characterized by hostility or indifference. [PL 1993, c. 609, §1 (NEW).]

D. "Next of kin" means a person having the following relationship to the subject, in the following order of priority:

(1) The spouse;

(1-A) A domestic partner. For purposes of this section, "domestic partner" means the partner of the subject who:

(a) Is a mentally competent adult;

(b) Had been legally domiciled with the subject for at least 12 months immediately preceding the death of the subject;

(c) Is not legally married to or legally separated from another individual;

(d) Was the sole partner of the subject; and

(e) Was jointly responsible with the subject for each other's common welfare as evidenced by joint living arrangements, joint financial arrangements or joint ownership of real or personal property;

(2) An adult son or daughter;

(3) A parent;

(4) An adult brother or sister;

(5) An adult grandchild;

(6) An adult niece or nephew who is the child of a brother or sister;

(7) A maternal grandparent;

(8) A paternal grandparent;

(9) An adult aunt or uncle;

(10) An adult first cousin;

(11) Any other adult relative in descending order of blood relationship; or

(12) If the subject is a veteran and has no known living spouse or adult relative, the Adjutant General or the Adjutant General's designee. For purposes of this paragraph, "veteran" has the same meaning as in section 2900, subsection 1, paragraph B. [PL 2015, c. 208, §1, (AMD).]

E. "Subject" means the person whose remains are placed in the custody and control of another person pursuant to this section. [PL 1993, c. 609, §1 (NEW).] [PL 2009, c. 601, §28 (AMD).]

2. Custody and control generally. The custody and control of the remains of deceased resident of this State, dead bodies or dead human bodies are governed by the following provisions in the following order of priority:

A. If the subject has designated another person to have custody and control in a written and signed document, custody and control belong to that designated person [2017, c. 475, Pt. A, §31 (RPR.]

B. If the subject has not left a written and signed document designating a person to have custody and control, or if the person designated by the subject refuses custody and control, custody and control belong to the next of kin; and [PL 2017, c. 475 Pt. A, §31 (RPR).]

C. If the next of kin is 2 or more persons with the same relationship to the subject, the majority of the next of kin have custody and control. If the next of kin cannot, by majority vote, make a decision regarding the subject's remains, the court shall make the decision upon petition under subsection 4, paragraph D. [PL 2017, c. 475, Pt. A, §31 (RPR).]

If a person who has the right of custody and control under this subsection does not exercise the rights and responsibilities of custody and control within 4 days after the death of the subject, custody and control belong to a person from the next lower level of priority as established in paragraphs A to C. If a person who has custody and control under this subsection does not complete decision making regarding final disposition within 30 days after taking custody and control, a funeral director or practitioner of funeral service who has physical possession of the remains or dead body may bury the remains or dead body at the expense of the funeral director or practitioner.

A person who has been charged with murder, as described in Title 17-A, section 201, or manslaughter as described in Title 17-A, section 203, subsection 1, paragraph B, forfeits the right of custody and control provided under this subsection, and a funeral director or practitioner of a funeral service who is aware of the charges may not release the remains or a dead body to that person who has been charged with murder or manslaughter. If the charges against the person are dismissed or the person is acquitted of the charges before the final disposition takes place, the person regains the right of custody and control in the same position of priority established in this subsection.

The remains or a dead body is considered abandoned if no one take custody and control of the remains or dead body for a period of 15 days. A funeral director or practitioner of funeral service who has physical possession of abandoned remains or an abandoned dead body may bury or cremate the remains or dead body. The funeral director or practitioner of funeral service may embalm or refrigerate abandoned remains or an abandoned dead body without authorization. A certificate of abandonment that indicates the means of disposition must be filed in the municipality where the death occurred. [PL 2017, c. 475, Pt. A, §31 (RPR).]

3. Estranged spouse or domestic partner. Notwithstanding subsection 2, if the surviving spouse or surviving domestic partner and the subject were estranged at the time of death, the spouse or domestic partner may not have custody and control of the subject's remains. In these cases, custody and control belong to the next of kin following the spouse or domestic partner.
[PL 2003, c. 672, §20 (AMD).]

4. Court determination. Notwithstanding other provisions of this section, the court of probate for the residence of the deceased may award custody and control to the person determined by the court most fit and appropriate to carry out the responsibilities of custody and control, and may make decisions regarding the subject's remains if those having custody and control cannot agree. The following provisions apply to court determinations under this subsection.

A. Before the subject's death, the subject or the subject's legal representative may file a

petition regarding custody and control of the subject's remains. [PL 1993, c. 609, §1 (NEW).]

B. A relative of the subject may file a petition. [PL 1993, c. 609, §1 (NEW).]

C. A person who claims and establishes through evidence that that person has or had a closer personal relationship to the subject than the next of kin may file a petition, if that person lived with the subject and was not in the employ of the subject or the subject's family. [PL 1993, c. 609, §1 (NEW).]

D. If the next of kin is 2 or more persons with the same relationship to the subject, and the next of kin cannot, by majority vote, make a decision regarding the subject's remains, 2 or more persons who have custody or control or a funeral director may file a petition asking the court to make a determination in the matter. The court shall consider the following in making its determination:

(1) The reasonableness and practicality of the proposed arrangements;

(2) The degree of the personal relationship between the subject and each of the 2 or more persons with custody and control;

(3) The desires of the person or persons who are ready, able and willing to pay the costs of the arrangements;

(4) The convenience and needs of other family and friends wishing to pay respect;

(5) The expressed written desires of the subject; and

(6) The degree to which the arrangements will allow maximum participation by all wishing to pay respect. [PL 1993, c. 609, §1 (NEW).]

5. Wishes of subject. If the subject has left written and signed instructions regarding funeral arrangements and disposal of the subject's remains, the person having custody and control shall abide by those wishes to the extent that the subject paid for those arrangements in advance or left resources for the purpose of carrying out those wishes. [PL 1993, c. 609, §1 (NEW).]

6. Effect of payment by others. Except to the degree it must be considered by the court under subsection 4, paragraph D, the fact that a person other than the subject has paid or agreed to pay for all or part of arrangements does not give that person a greater right to custody and control than that person would otherwise have. [PL 1993, c. 609, §1 (NEW).]

7. Authority of personal representative. The personal representative of the estate of the subject does not, by virtue of being the personal representative, have a greater right to custody and control than the person would otherwise have. [PL 1993, c. 609, §1 (NEW).]

8. Immunity. A party, including but not limited to a funeral director or practitioner of funeral service, who, in good faith, acts upon the instructions of the party having custody and control is not liable for having carried out those instructions, may not be held civilly or criminally liable and is not subject to disciplinary action for acting in accordance with those instructions. [PL 2015, c. 188, §1 (AMD).]

9. Application. This section does not apply to the disposition of the remains of a deceased person under chapter 709. This section does not diminish or otherwise alter the authority of a

medical examiner or other official authorized under chapter 711. This section does not alter the rights and obligations of the decedent's next of kin under Title 18-C [PL 2017, c. 402, Pt. C, §49 (AMD); PL 2019, c. 417, Pt. B, §14 (AFF.]

10. Funeral director or practitioner of funeral service. The following provisions apply to the actions and liability of a funeral director or practitioner of funeral service, cemeteries and crematories and their employees:

A If there is a dispute regarding custody and control, a funeral director or practitioner of funeral service may refuse to accept the remains or dead body, inter or otherwise dispose of the remains or dead body or complete funeral arrangements until the funeral director or practitioner of funeral service is provided with a court order under subsection 4 or a written agreement of the person who has custody and control. [PL 2011, c. 387, §3 (NEW).]

B. If there is a dispute regarding custody and control, pending a court determination under subsection 4 a funeral director or practitioner of funeral service who has physical possession of the remains or a dead body may embalm or refrigerate and shelter the remains or a dead body and may bill the estate of the subject for those costs, plus attorney's fees and court costs. [PL 2011, c. 387, §3 (NEW).]

C. A person who signs a statement of funeral goods and services, cremation authorization form or other authorization for disposition of the remains or a dead body is deemed to warrant the truthfulness of the facts set forth in the document, including but not limited to the existence of custody and control and the identity of the subject. [PL 2011, c. 387, §3 (NEW).]

D. A funeral director or practitioner of funeral service, cemetery or crematory may rely on a statement of funeral goods and services, cremation authorization form or other authorization signed by a person who has custody and control of the remains or a dead body and may carry out the instructions provided for in the statement of funeral goods and services or on the form or authorization unless the funeral director or practitioner of funeral service, cemetery or crematory knows of objections from another person. [PL 2011, c. 387, §3 (NEW).]

E. A funeral director or practitioner of funeral service, cemetery or crematory is not required to independently investigate custody and control of the remains or a dead body or who is next of kin. [PL 2011, c. 387, §3 (NEW).]

F. Upon cremation of the remains or dead body, the crematory shall prepare a certificate of cremation signed and dated by the person in charge of the cremation indicating the date of cremation and the identity of the cremated remains or dead body as identified by the funeral director or practitioner of funeral service of the cremation authorization form, including the deceased person's full name, date and place of death, gender and veteran status. The crematory shall provide the certificate of cremation to the funeral director of practitioner of funeral service of the person who has custody and control of the remains or dead body. [PL 2017, c. 101 §3 (NEW).]

SECTION HISTORY

PL 1993, c. 609, §1 (NEW). PL 2003, c. 672, §§19, 20 (AMD). PL 2009, c. 159, §1 (AMD). PL 2009, c. 601, §§28, 29 (AMD). PL 2011, c. 387, §§1-3 (AMD). PL 2015, c. 188, §1 (AMD). PL

2015, c. 208, §1 (AMD). PL 2017, c. 38, §1 (AMD). PL 2017, c. 70, §1 (AMD). PL 2017, c. 101, §3 (AMD). PL 2017, c. 402, Pt. C, §49 (AMD). PL 2017, c. 402, Pt. F, §1 (AFF). PL 2017, c. 475, Pt. A, §31 (AMD). PL 2019, c. 417, Pt. B, §14 (AFF).

§ 2844. Subregistrars

The State Registrar of Vital Statistics or municipal clerk may appoint one or more suitable and proper persons in a municipality as subregistrars, who are authorized to issue permits for transportation and final disposition of dead human bodies in the same manner as is required of the state registrar or municipal clerk, as specified by department rule. The completed death certificate or report of death, upon which the permit is issued, together with a copy of the disposition of human remains permit must be forwarded to the municipal clerk at the earliest opening of the municipal office after the date of issue, and all permits by whomsoever issued must be returned to the municipal clerk as required by section 2843. The appointment of subregistrars must be made with reference to locality, so as to best suit the convenience of the inhabitants of the municipality, and such annual appointment must be in writing and recorded in the office of the state registrar or municipal clerk. The subregistrars in any municipality hold office at the pleasure of the state registrar or municipal clerk. [PL 2009, c. 601, §30 (AMD).]

SECTION HISTORY

PL 1985, c. 231, §4 (AMD). PL 1989, c. 54, (AMD). PL 2001, c. 574, §29 (AMD). PL 2009, c. 601, §30 (AMD).

CHAPTER 711: MEDICAL EXAMINER ACT

§ 3025. Medical examiner case.

1. Circumstances of death that must be reported. A medical examiner case may exist and must be reported as provided in section 3026 when remains are found that may be human and raise suspicion that death has occurred under any of the following circumstances: [PL 2003, c. 433, §3 (AMD); c. 689, Pt. B, §6 (REV).]

A. Death is suspected of having been caused by any type of physical injury, including poisoning, regardless of whether the suspected manner of death is homicide, suicide or accident. This circumstance must be reported irrespective of whether the deceased had been attended by a physician, was a patient in a hospital, survived for a considerable time following the physical injury or died from terminal natural causes consequent to and following the physical injury. [PL 2003, c. 433, §1 (AMD).]

B. Suddenly when the person is in apparent good health and has no specific natural disease sufficient to explain death. [PL 1985, c. 611, §6 (RPR).]

C. During diagnostic or therapeutic procedures under circumstances indicating gross negligence or when clearly due to trauma or poisoning unrelated to the ordinary risks of those procedures. [PL 1985, c. 611, §6 (RPR).]

D. Death when the person is in custody pursuant to an arrest, confined in a state correctional or detention facility, county jail, other county correctional or detention facility or local lockup or is on the way to or from a courthouse or any of these places while in the custody of a law enforcement officer or county or state corrections official. [PL 2011, c. 420, Pt. D, §2

(AMD). PL 2011, c. 420, Pt. D, §6 (AFF).]

E. Death while the person is a patient or resident of a facility of the Department of Health and Human Services or residential care facility maintained or licensed by the Department of Health and Human Services, unless clearly certifiable by an attending physician as due to specific natural causes. [PL 1985, c. 611, §6 (RPR). PL 1995, c. 560, Pt. K, §82 (AMD); §83 (AFF). PL 2001, c. 354, §3 (AMD). PL 2003, c. 689, Pt. B, §6 (REV).]

F. Death suspected of being due to a threat to the public health when the authority of the medical examiner is needed to adequately study the case for the protection of the public health. [PL 1985, c. 611, §6 (RPR).]

G. Death suspected of not having been certified, including, but not limited to, bodies brought into the State and any buried remains uncovered other than by legal exhumation. [PL 1985, c. 611, §6 (RPR).]

H. Deaths suspected of being medical examiner cases which may have been improperly certified or inadequately examined, including, but not limited to, bodies brought into the State under those circumstances. [PL 1991, c. 339, §3 (AMD).]

I. Sudden infant death syndrome deaths and all other deaths of children under the age of 18 unless clearly certifiable by an attending physician as due to specific natural causes unrelated to abuse or neglect. [PL 1985, c. 611, §6 (RPR).]

J. Whenever human or possibly human remains are discovered not properly interred or disposed of, for which the responsibility to do so cannot be readily determined. [PL 1985, c. 611, §6 (RPR).]

K. Any cause when there is no attending physician capable of certifying the death as due to natural causes. When a person dies who is under the care of a religious practitioner who uses prayer and spiritual means of healing, the fact that the deceased has been under such religious care does not warrant suspicion of foul play or investigation beyond that warranted by the other facts of the case. [PL 1985, c. 611, §6 (RPR).]

In the absence of any of the circumstances outline in this subsection, the fact that a patient dies within 24 hours of admission to a hospital or other health care facility need not be reported to the Office of Chief Medical Examiner.

In any case in which the necessity of a report is questionable, a report must be made. [PL 2019, c. 87, §1 (AMD).]

1-A. Medical examiner case determination. Notwithstanding that a case must be reported under subsection 1, the acceptance of any reported death as a medical examiner case is to be determined by the Chief Medical Examiner unless acceptance is specifically ordered by the Attorney General or district attorney having jurisdiction. [PL 2003, c. 433, §4 (NEW).]

The following deaths that must be reported need not be accepted by the Chief Medical Examiner as a medical examiner case: [PL 2003, c. 433, §4 (NEW).]

A. Deaths due to the consequences of long-term exposure to environmental or occupational toxins or long-term exposure to carcinogens. [PL 2019, c. 87, §2 (AMD).]

B. Deaths in the elderly who have sustained limb or axial fractures, excluding the head, for which they are or have been hospitalized. [PL 2003, c. 433, §4 (NEW).]

C. Sudden natural deaths in the elderly who have not had previous specific symptoms or who were not under treatment by a physician for the specific natural cause that is considered to be the cause of death. [PL 2003, c. 433, §4 (NEW).]

These reportable deaths may be referred back to the attending physician by the Chief Medical Examiner for certification of the death, even though the attending physician has not treated the patient for the specific natural disease that the attending physician will enter as the physician's diagnosis. [PL 2003, c. 433, §4 (NEW).]

2. Attendance by physician. [PL 2003, c. 433, §5 (RPR).]

3. Transplant operations. No operation for the transplant of an organ or a portion of any organ may take place, when the donor's death occurs under circumstances indicating a medical examiner case, without approval of the medical examiner. Any doctor performing a transplant operation when the donor has died under these circumstances shall note the condition of the vital organs in the region of surgery and shall include this notation in a written report of the operation and manner in which death was pronounced, with the report to be given to the medical examiner upon his request. The medical examiner may choose to be present during the removal of the donated organ. [PL 1985, c. 611, §6 (RPR).]

4. Questionable cases and cases that may constitute exceptions. [PL 2003, c. 433, §6 (RPR).]

5. Delayed reports. When a death has occurred that falls under this law as a medical examiner case and the body has already been released for final disposition, the case may be accepted and the body ordered held for examination by a medical examiner, but no exhumation may take place when the body has been finally interred, except pursuant to section 3029. [PL 1985, c. 611, §6 (NEW).]

SECTION HISTORY

PL 1967, c. 534, §2 (NEW). PL 1973, c. 567, §20 (AMD). PL 1979, c. 538, §5 (RPR). PL 1985, c. 611, §6 (RPR). PL 1987, c. 296, §3 (AMD). PL 1991, c. 339, §3 (AMD). PL 1995, c. 560, §K 82 (AMD). PL 1995, c. 560, §K 83 (AFF). PL 2001, c. 222, §§4-6 (AMD). PL 2001, c. 354, §3 (AMD). PL 2003, c. 433, §§3-6 (AMD). PL 2003, c. 689, §B 6 (REV). PL 2011, c. 60, §1 (AMD). PL 2011, c. 420, Pt. D, §2 (AMD). PL 2011, c. 420, Pt. D, §6 (AFF). PL 2019, c. 87, §§1, 2 (AMD).

§ 3028-A. Disposal of unidentified remains

Whenever unidentified human remains are recovered, the Chief Medical Examiner may store the remains, release them to an educational institution, inter them in an appropriate resting place or have them cremated. Ashes of remains cremated may be disposed of in any appropriate manner. Human remains uncovered in a cared-for cemetery or known to be Indian remains are excluded from the operation of this section. [PL 2017, c. 335, §1 (AMD).]

The Chief Medical Examiner may assume responsibility for the disposal of identified human remains of a deceased resident of this State that are the subject of a medical examiner case if no one takes custody and control of the human remains for a period of 30 days after the Chief Medical Examiner has both completed an autopsy or necessary examination of the human remains and made reasonable inquiry under section 3028-D, subsection 1. Such abandoned remains may be interred or cremated. The Chief Medical Examiner shall file or

cause to be filed a certificate of abandonment in the municipality where the human remains were recovered that indicates the means of disposal. [PL 2017, c. 335, §1 (NEW).]

In the absence of a responsible party, payment of expenses incurred by the Chief Medical Examiner pursuant to this section must be made pursuant to section 3028-D, subsection 2 as if the remains were unidentified. The Chief Medical Examiner may seek to recover costs from the estate or municipality of residence of the deceased. [PL 2017, c. 335, §1 (NEW).]

SECTION HISTORY
PL 1985, c. 611, §8 (NEW). PL 2017, c. 335, §1 (AMD).

§ 3029. Body buried without inquiry

1. Notification of district attorney or Attorney General. If in any medical examiner case:

A. The body is buried:

(1) Without inquiry or examination by the medical examiner;

(2) Before the inquiry or examination has been completed to the satisfaction of the medical examiner; or

(3) Without an autopsy if such was advisable pursuant to section 3028; and

B. The body is required for that inquiry, examination, completion or autopsy, the medical examiner shall notify the district attorney, for the district in which the body was found, or the Attorney General.

2. Petition for order of exhumation. The district attorney or Attorney General may, under the circumstances enumerated in subsection 1 and if the district attorney or Attorney General finds it to be in the public interest, petition a justice of the Superior Court for an order of exhumation. [PL 2001, c. 222, §10 (AMD).]

3. Report of findings. The medical examiner, Chief Medical Examiner or pathologist who completes the inquiry, examination or autopsy shall report the findings to the justice and to the Office of Chief Medical Examiner. [PL 2001, c. 222, §10 (AMD).]

SECTION HISTORY
PL 1967, c. 534, §2 (NEW). PL 1973, c. 567, §20 (AMD). PL 1979, c. 538, §9 (RPR). PL 2001, c. 222, §10 (AMD).

SUBTITLE 3: INCOME SUPPLEMENTATION
PART 5: MUNICIPAL SUPPORT OF THE POOR
CHAPTER 1161: MUNICIPAL GENERAL ASSISTANCE

§4313. Reimbursement to individuals relieving eligible persons; prior approval; emergencies

Municipalities, as provided in section 4307, shall pay expenses necessarily incurred for providing basic necessities to eligible persons anywhere in the State by any person not liable for their support provided that the municipality of responsibility shall be notified and approve those expenses and services prior to their being made or delivered, except as provided in this section. [PL

1983, c. 577, §1 (NEW).]

1. Emergency care. In the event of an admission of an eligible person to the hospital, the hospital shall notify the overseer of the liable municipality within 5 business days of the person's admission. In no event may hospital services to a person who meets the financial eligibility guidelines adopted pursuant to section 1716 be billed to the patient or to a municipality. [PL 1995, c. 696, Pt. A, §40 (AMD).]

2. Burial or cremation. In the event of the death of an eligible person, the funeral director shall notify the overseer prior to burial or cremation or by the end of 3 business day following the funeral director's receipt of the body, whichever is earlier. Notwithstanding section 4305, subsection 3, paragraph C, a decision on any application for assistance with burial expenses need not be rendered until the overseer has verified that a relative or other resource is not available to pay for the direct burial or cremation costs, but the decision must be rendered within 8 days after receiving an application. The father, mother, grandfather, grandmother, children or grandchildren by consanguinity, or the spouse or registered domestic partner are responsible for the burial or cremation costs of the eligible person in proportion to their respective abilities. When no legally liable relative possesses a financial capacity to pay either in hump sum or on an installment basis for the direct costs of a burial or cremation, the contribution of a municipality under this subsection is limited to a reasonable calculation of the funeral director's costs, less any and all contributions from any other source. For the purpose of this subsection, "registered domestic partner" means an individual registered as a domestic partner under section 2710, subsection 3. [PL 2017, c. 62, §1 (AMD).]

SECTION HISTORY

PL 1983, c. 577, §1 (NEW). PL 1983, c. 701, §4 (AMD). PL 1985, c. 245 (AMD). PL 1987, c. 542, §§H4, H8 (AMD). PL 1993, c. 410 §AAA8 (AMD). PL 1995, c. 696, §A40 (AMD). PL 2005, c. 483, §1 (AMD). PL 2007, c. 411, §1 (AMD). PL 2017, c. 62, §1 (AMD).

TITLE 24-A MAINE INSURANCE CODE

CHAPTER 23: TRADE PRACTICES AND FRAUDS

§ 2175. Insurer's ownership of funeral establishment or cemetery prohibited

No insurer may own or manage or supervise or operate or maintain a mortuary establishment, a funeral establishment, a cemetery, a cemetery corporation or association, a crematorium, a mausoleum or a columbarium. [PL 1989, c. 206, §1 (AMD).]

§ 2176. Funeral and burial service contracts prohibited

An insurer may not contract or agree with any funeral director, funeral establishment, mortuary establishment, cemetery, cemetery corporation or association, crematorium, mausoleum or columbarium or any representative of any of these directors or establishments to the effect that the director or establishment shall conduct the funeral, burial, or cremation or other disposal of the remains of any individual insured by the insurer. An insurer may not retain, utilize or employ any director or establishment as a producer or agency of the insurer and a director or establishment may

not act as or purport to be an insurance producer or engage in insurance producer activities. Nothing in this section prevents compliance with Title 39-A, section 216, or the use of an insurance policy, including, subject to the provisions of section 2420, the assignment of rights under life insurance contracts, to provide security for the payment for a funeral, burial or cremation or, subject to chapter 27, the naming of a funeral home or funeral director as beneficiary under a life insurance policy to provide payment for a funeral, burial or cremation. Nothing in this section prohibits the use of an insurance policy as an investment by a mortuary trustee pursuant to Title 32, section 1401. [PL 1999, c. 258, §1 (AMD).]

TITLE 30-A: MUNICIPALITIES AND COUNTIES

PART 2: MUNICIPALITIES

SUBPART 3: MUNICIPAL AFFAIRS

CHAPTER 131: HISTORY AND OBSERVANCES

§ 2901. Decoration of veterans' graves on Memorial Day

1. Decoration of veterans' graves. Each municipality, as directed by its municipal officers, annually shall decorate on the day Memorial Day is observed the graves of veterans of the Armed Forces of the United States of America with an American flag and appropriate flag holders. [PL 1999, c. 700, §3 (AMD).]

2. Erection of flagpole as alternative. [PL 1999, c. 700, §3 (RPR).]

3. No effect on individuals' right to decorate. This section does not in any way affect the right of any friend or relative of a deceased veteran to decorate the grave. [PL 1987, c. 737, Pt. A, §2 and Pt. C, §106 (NEW). PL 1989, c. 6 (AMD); c. 9, §2 (AMD); c. 104, Pt. C, §§8, 10 (AMD).]

4. Bell ringing on Veterans Day. Each municipality shall, unless it will cause the municipality to incur an additional expense, cause any public bell or clarion within its possession or control to be rung at 11:00 a.m. on Veterans Day, and the municipal officers of each municipality shall request that any other bell or clarion within the municipality be rung voluntarily at 11:00 a.m. on Veterans Day, and shall take such steps as are necessary to properly coordinate public and volunteer events. [PL 1999, c. 700, §3 (AMD).]

5. Unorganized townships. If veterans' graves as described in this section are located in an unorganized township, the county in which that unorganized township is located is subject to the provisions in this section. [PL 1999, c. 700, §3 (NEW).]

6. Graves on land owned by Federal Government. Veterans' graves located on a site that was owned by the Federal Government as of January 1, 2000 are not subject to the requirements of this section. [PL 1999, c. 700, §3 (NEW).]

SECTION HISTORY

PL 1987, c. 737, §A2, C106 (NEW). PL 1989, c. 6, § (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §C8, 10 (AMD). PL 1989, c. 211, § (AMD). PL 1999, c. 700, §3 (AMD).

SUBPART 5: HEALTH, WELFARE AND IMPROVEMENTS
CHAPTER 151: HEALTH, WELFARE AND IMPROVEMENTS

§3107. Abandoned cemeteries

1. Abandoned cemetery. For purposes of this section, "abandoned cemetery" means a cemetery in which no burial has been made in the previous 40 years and the lots or grave sites of which have not been maintained within the previous 10 years, except for maintenance rendered by the municipality in which the cemetery is located. [PL 2005, c. 225, §1 (NEW).]

2. Acquisition by municipality. A municipality may acquire an abandoned cemetery, including ownership of any unoccupied lots or grave sites in the cemetery. The municipality shall use due diligence in identifying any owners of the abandoned cemetery or any of the cemetery's unoccupied lots or grave sites and provide notice to the owners of the municipality's intention to acquire the abandoned cemetery. If a municipality cannot locate an owner pursuant to this subsection, the municipality shall publish notice of its intention to acquire the abandoned cemetery for 3 successive weeks in a newspaper having general circulation in the county in which the municipality is located. [PL 2005, c. 225, §1 (NEW).]

3. Notice. The notice required in subsection 2 must give a basic description of the abandoned cemetery by referencing the municipality's tax maps, set a date and place where objections to the acquisition of the abandoned cemetery by the municipality will be received and heard and, if there are unoccupied lots or grave sites in the abandoned cemetery, state the municipality's intention to acquire the unoccupied lots or grave sites. [PL 2005, c. 225, §1 (NEW).]

4. Reassertion by owner. If an owner who receives notice under subsection 2 objects to the municipality's acquisition of the abandoned cemetery or an unoccupied lot or grave site in the cemetery, the owner must in writing object and reassert the owner's right of ownership over the abandoned cemetery or unoccupied lot or grave site within 14 days of the date of the notice. An owner who reasserts ownership rights under this subsection shall promptly conform to all municipal ordinances concerning the abandoned cemetery or unoccupied lot or gravesite. [PL 2005, c. 225, §1 (NEW).]

5. Reversion to municipality. Title to an abandoned cemetery and any unoccupied lots or grave sites described in the notice required under subsection 2 reverts to the municipality if an objection by an owner of the abandoned cemetery or unoccupied lot or grave site within the cemetery is not received by the 15th day after notice is sent to an identified owner or the last notice is published in a newspaper of general circulation as required under subsection 2. After title has reverted pursuant to this subsection, the municipality shall record a confirmation of the acquisition of the abandoned cemetery, including a basic description of the cemetery referencing the municipality's tax maps, in the registry of deeds in the county in which the cemetery is located. [PL 2005, c. 225, §1 (NEW).]

6. Maintenance of title and characteristics. Once title to an abandoned cemetery has been recorded by a municipality, that municipality shall maintain the title in perpetuity and may never transfer title to the cemetery. The municipality shall also maintain the characteristics of the cemetery with no change in use of the cemetery land. [PL 2005, c. 225, §1 (NEW).]

7. Survey and preservation plan. Prior to acquiring an abandoned cemetery under this section, a municipality may cause a survey to be done of the cemetery for which it is acquiring title in order to ascertain the true extent of the cemetery. The municipality may develop a preservation plan with guidance from a local cemetery corporation or association and local or state archaeologists. [PL 2005, c. 225, §1 (NEW).]

SUBPART 6: REGULATION, LICENSES AND PERMITS
CHAPTER 183: ECONOMIC REGULATION
SUBCHAPTER 1: JUNKYARDS AND AUTOMOBILE GRAVEYARDS

§3755-A. Automobile recycling business permits; operation standards

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3. Operation standards. An automobile recycling business licensed under this section must meet the following standards.

C. A vehicle may not be dismantled or stored within 500 feet of a school, church, cemetery or public playground or park that existed on the date the permit was issued. [PL 1993, c. 173, §6 (NEW).]

SUBPART 6-A: PLANNING AND LAND USE REGULATION
CHAPTER 187: PLANNING AND LAND USE REGULATION
SUBCHAPTER 5: ENFORCEMENT OF LAND USE REGULATIONS

§4452. Enforcement of land use laws and ordinances

5. Application. This section applies to the enforcement of land use laws and ordinances or rules that are administered and enforced primarily at the local level, including:

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T. Laws pertaining to limitations on construction and excavation near burial sites and established cemeteries in Title 13, section 1371-A and local ordinances and regulations adopted by municipalities in accordance with this section and section 3001 regarding those limitations [RR 2007, c. 2 §16 (COR).]

SUBPART 9: FISCAL MATTERS
CHAPTER 223: MUNICIPAL FIANCES
SUBCHAPTER IV: EXPENDITURES

§ 5723. Public works

A municipality may raise or appropriate money to: [PL 1987, c. 737, Pt. A, §2 and Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL. 1989, c. 104, Pt. C, §§8, 10 (AMD).]

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3. Cemeteries. Provide for public cemeteries; maintain private cemeteries established before 1880; care for graves of veterans and maintain fences around cemeteries in which veterans are buried. [PL 1987, c. 737, Pt. A, §2 and Pt. C, §106 (NEW). PL 1989, c. 6 (AMD); PL 1989 c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

PART 3: PLANTATIONS AND UNORGANIZED PLACES
CHAPTER 303: DEORGANIZED PLACES:

§ 7305. Cemetery trust funds

The State Tax Assessor may transfer any cemetery trust funds held by a municipality at the time of deorganization to a cemetery association, provided that association is formed under the laws of the State. If no such association exists, the State Tax Assessor may transfer the funds to the county commissioners. These funds are to be retained for the purpose of allowing the interest only to be used in the same manner and for the same purposes for which the fund was originally accepted by the deorganized municipality. If the funds are in the care and custody of the county commissioners and a cemetery association is subsequently formed, the county commissioners may transfer the funds to the cemetery association. [PL 1987, c. 737, Pt. A, §2 and Pt. C, §106 (NEW). PL 1989, c. 6 (AMD); PL 1989 c. 9, §2 (AMD); PL 1989 c. 104, Pt. C, §§8, 10 (AMD).]

TITLE 32. PROFESSIONS AND OCCUPATIONS
CHAPTER 21. FUNERAL DIRECTORS AND EMBALMERS
SUBCHAPTER 1. GENERAL PROVISIONS

§ 1400. Definitions

When used in this chapter, unless the context otherwise requires, the following words shall have the following meanings: [PL 1967, c. 253, §1 (NEW).]

1. Advertisement. "Advertisement" means the publication, dissemination, circulation or placing before the public, or causing directly or indirectly to be made, published, disseminated or placed before the public any announcement or statement in a newspaper, magazine or other publication, or in the form of a book, notice, circular, pamphlet, letter, handbill, poster, bill, sign, placard, card, label or tag, or over any radio or television station. [PL 1967, c. 253, §1 (NEW).]

1-A. Board. "Board" means the State Board of Funeral Service. [PL 1983, c. 468, §3 (NEW).]

2. Burial. "Burial" includes interment in any form or cremation and the transportation of the human remains necessary therefor. [PL 1967, c. 253, §1 (NEW); 1997, c. 210, §40 (AMD).]

2-A. Commissioner. "Commissioner" means the Commissioner of Professional and Financial Regulation. [PL 1989, c. 450, §12 (AMD).]

3. Funeral establishment. "Funeral establishment" means every place or premises devoted to or used in the care and preparation for the funeral and burial of human remains or maintained for the convenience of the bereaved for viewing or other services in connection with the human remains or as the office or place for carrying on the profession of funeral service. [PL 2001, c. 169, §1 (AMD).]

4. Funeral service profession. "Funeral service profession" means the aggregate of all funeral service licensees and their duties and responsibilities in connection with the funeral as an organized, purposeful, time limited, flexible, group centered response to death. [PL 1967, c. 253, §1 (NEW).]

5. Practice of funeral service. "Practice of funeral service" means the engagement of a person in the care or disposition of the human remains or in the practice of disinfecting and preparing by embalming or otherwise the human remains for the funeral service, transportation of human remains to the place of burial or cremation, or the practice of helping to meet the emotions and disposition of the bereaved or the practice of funeral directing or embalming as presently known, whether under these titles or designations or otherwise. "Practice of funeral service" also means making arrangements for funeral services or selling funeral supplies to the public or making financial arrangements for the rendering of such services or the sale of such supplies. "Practice of funeral service" does not mean the ownership or operation of a cemetery, crematorium, mausoleum or columbarium or any other facility used for burial of human remains. "Practice of funeral service" does not include the transportation of human remains by an authorized person. [PL 2001, c. 169, §2 (AMD).]

A license for the practice of funeral service as used in this chapter is the license given to a person who is engaged in the practice of funeral service as above defined. [2001, c. 169, §2 (AMD).]

6. Practitioner trainee. "Practitioner trainee" means a person who is engaged in preparing to become licensed for the practice of funeral service under the personal supervision and instruction of a person duly licensed for the practice of funeral service, and who is duly registered as such and approved by the board. [PL 1983, c. 468, §4 (AMD).]

SECTION HISTORY

PL 1967, c. 253, §1 (NEW). PL 1971, c. 326, §1 (AMD). PL 1981, c. 703, §A44 (AMD). PL 1983, c. 468, §§3, 4 (AMD). PL 1989, c. 450, §12 (AMD). PL 1997, c. 210, §40 (AMD). PL 2001, c. 169, §§1, 2 (AMD).

§1401. Prearranged funerals or burial plans

1. Plan requirements. Except as provided in subsection 1-A, any prearranged funeral or burial plan contracted or undertaken within this State must comply with the following.

A. All money paid during a person's lifetime to any individual, firm, association, partnership or corporation, by that person or by someone on behalf of that person, under an agreement that services will be performed or personal property will be delivered in connection with the

disposition of that person's body after death must be deposited by the payee within 10 days after receipt of the money in a separate account in a financial institution or credit union authorized to do business in this State, as defined in Title 9-B, section 131, subsections 12-A and 17-A, in the name of the payee as mortuary trustee for the person for whose benefit the payment was made and must be held in that account together with interest if any. If money is paid by check, share draft or money order, the payee shall instruct the payor to make the instrument payable to the financial institution or credit union into which it is to be deposited and to include on the instrument the name of the mortuary trustee and the person for whose benefit the payment was made. [PL 1999, c. 590, §1 (AMD).]

B. The payee shall deposit the money in either a federally insured deposit or share account or a trust account; the type of account must be disclosed to the payor or the payor's representative and a deposit in a trust account may be invested in or used to purchase only the following:

(1) Federally insured deposit or share accounts;

(2) Securities issued, insured or guaranteed by the United States or by any agency or corporate or other instrumentality of the United States;

(3) Municipal securities that are exempt from registration under Title 32, section 16201, subsection 1; and

(4) Permanent life insurance, other than variable life insurance and annuities, from an insurer authorized to transact insurance in this State, subject to the provisions of Title 24-A, chapter 27. A payee or mortuary trustee may not receive any commission, fee or other consideration from an insurer in connection with the procurement or purchase of insurance permitted by this subparagraph.

Except for fees allowed by this section, all investments made with trust assets remain trust assets. [PL 2005, c. 65, Pt. C, §16 (AMD).]

C. Within 30 days after the deposit of funds by the payee, the financial institution or credit union shall provide a written confirmation of the deposit, including the amount deposited, to the payor or the payor's legal representative. Nothing in this section may be construed to prevent the direct transfer of these funds to another financial institution or credit union by payee transfer, by financial institution or credit union merger or consolidation or by operation of law, provided that within 30 days after the direct transfer of the funds, the recipient financial institution or credit union shall provide a written confirmation of the deposit, including the amount deposited, to the payor or the payor's legal representative. [PL 1999, c. 590, §1 (AMD).]

D. The agreement must be in writing and a copy must be furnished to the payor or the payor's legal representative by the payee when the agreement is executed. The agreement may be revocable or irrevocable; however, if irrevocable, there must be a provision to allow for the transfer of the account by the appointment of successor trustees. The agreement must clearly state the name of the initial financial institution or credit union into which the money will be deposited and must direct the payor to send a copy of the agreement to the named financial institution or credit union. The agreement must clearly state terms providing for disposition

of excess funds after funeral goods and services have been provided. The agreement must clearly state any fees that may be charged against the account; fees must be reasonable, as defined by the board, and may be charged only:

(1) Upon transfer of the account by the appointment of a successor trustee;

(2) Upon revocation of the agreement if the agreement is revocable; and

(3) For the actual financial and tax administration of the account.

The payee shall maintain a complete record of the deposit of all funds, including principal and interest. The record must be available for inspection by the payor, the payor's legal representative, the commissioner's designee or an inspector for the board and must contain the name and address of the financial institution or credit union currently in possession of the funds and the dates and amounts of deposits. [PL 2007, c. 402, Pt. J, §1 (AMD).]

E. The funds may be directed by the payee to another financial institution or credit union or directed back to the payor or the payor's legal representative, if otherwise lawful and permitted by contract, on written instructions of the payor or the payor's legal representative. The funds may only be withdrawn by the payee on presentation of a certified copy of the death certificate of the person for whose benefit the funds were paid, in which event they must be used in accordance with the agreement. [PL 2007, c. 402, Pt. J, §1 (AMD).]

1-A. Plan funded with proceeds of life insurance policy. A prearranged funeral or burial plan agreement may be funded with proceeds of a life insurance policy in accordance with this subsection. [PL 2003, c. 109, §3 (NEW).]

A. During a person's lifetime, a person or that person's legal representative may enter into an agreement that services will be performed or personal property will be delivered in connection with the disposition of that person's body after death by:

(1) Assigning the mortuary trustee as owner and beneficiary of a life insurance policy payable to the mortuary trustee upon that person's death; or

(2) Designating the mortuary trustee as a beneficiary of a life insurance policy payable to the mortuary trustee upon that person's death. [PL 2003, c. 109, §3 (NEW).]

B. An agreement under paragraph A must be in writing and a copy must be furnished to the person or the person's legal representative by the mortuary trustee when the agreement is executed. The agreement may be revocable or irrevocable; however, if the agreement is irrevocable, there must be a provision to allow for the transfer of the trust account by the appointment of successor trustees. The agreement must clearly state terms providing for disposition of excess funds after funeral goods and services have been provided. The agreement must clearly state any fees that may be charged against the trust account. Fees must be reasonable, as defined by the board, and may be charged only:

(1) Upon transfer of a trust account by the appointment of a successor trustee;

(2) Upon revocation of the agreement if the agreement is revocable; and

(3) For the actual financial and tax administration of the trust account. [PL 2003, c. 109, §3 (NEW).]

C. The mortuary trustee shall maintain a complete record of a trust account established under this subsection. The record must be available for inspection by the person, the person's legal representative, the commissioner's designee or an inspector for the board. [PL 2003, c. 109,

§3 (NEW).]

This subsection may not be construed to alter the terms of a life insurance policy or supersede any law governing the regulation of life insurance policies. [PL 2003, c. 109, §3 (NEW).]

2. Rulemaking. The board shall adopt rules regarding prearranged funeral agreements, including, but not limited to:

A. The form, format and content of trust agreements; [PL 1999, c. 258, §2 (NEW); §3 (AFF).]

B. Standards regarding when service contracts are required in conjunction with trust agreements and the form, format and content of the service contracts; [PL 1999, c. 258, §2 (NEW); §3 (AFF).]

C. The establishment of reasonable fees that may be charged only pursuant to subsection 1, paragraph D; and [PL 1999, c. 258, §2 (NEW); §3 (AFF).]

D. Inspection of trust agreements, account information and any related documentation. [PL 1999, c. 258, §2 (NEW); §3 (AFF).]

Rules adopted pursuant to this section are routine technical rules under the Maine Revised Statutes, Title 5, chapter 375, subchapter II-A. [PL 1999, c. 258, §2 (NEW); §3 (AFF).]

3. Financial institution or credit union liability. The financial institution or credit union is discharged from liability for direct payment of the funds in an account under subsection 1 to another financial institution or credit union or to the payor, upon presentation of a written consent to withdrawal signed by the payor or the payor's legal representative and by the payee or upon withdrawal of the funds by the payee upon presentation of a certified copy of the death certificate of the person for whose benefit the funds were paid. [PL 1999, c. 590, §2 (AMD).]

4. Applicability. This section does not apply to the sale of cemetery lots, crypts, niches, cemetery burial privileges, cemetery space or perpetual care. [PL 1999, c. 258, §2 (NEW); PL 1999, c. 258, §3 (AFF).]

5. Cotrustees. This section may not be construed as prohibiting any person, including a payor, from serving as a mortuary cotrustee with the payee. [PL 1999, c. 258, §2 (NEW); PL 1999, c. 258, §3 (AFF).]

6. Penalties. Any person who violates this section is guilty of a Class E crime. This section does not preclude prosecution or conviction under other applicable laws, including, but not limited to, disciplinary actions under this chapter. [PL 1999, c. 258, §2 (NEW); PL 1999, c. 258, §3 (AFF).]

§ 1403. Employment of funeral directors, embalmers or practitioners of funeral services by cemeteries prohibited

No funeral home, funeral establishment or person holding a license under this chapter may be employed as a funeral home, funeral establishment, or as an embalmer or funeral director or practitioner of funeral services by a cemetery, cemetery association or cemetery corporation, nor shall such person be so employed by a funeral home, funeral establishment or mortuary

establishment which owns or controls or is owned or controlled by a cemetery, cemetery association or cemetery corporation. Control shall not be considered to exist because the owners, officers or employees of a funeral home, funeral establishment or mortuary establishment serve without pay or for a fee not exceeding $500 per year per person as officers or as the minority of the directors or trustees of a cemetery association or cemetery corporation in which they have no financial investment. This section does not prevent employment of persons licensed under this chapter by cemeteries, cemetery associations or cemetery corporations in other capacities than that of funeral director or embalmer or practitioner of funeral services. This section does not apply to disinterments or transfers of disinterred bodies. [PL 1989, c. 450, §14 (AMD).]

Any person who violates this section is guilty of a Class E crime. [PL 1983, c. 413, §56 (RPR).]

§ 1405. Cremation

A person, firm or corporation within the State, after obtaining a license from and paying a license fee to the Department of Health and Human Services may establish and maintain suitable buildings and appliances for the cremation of bodies of the dead and, subject to the rules of the department, may cremate such bodies and dispose of the ashes of the same. The department shall adopt rules to implement this section. Rules adopted pursuant to this section are routine technical rules as defined by Title 5, chapter 375, subchapter 2-A. [PL 2007, c. 225, §1 (AMD).]

The body of a deceased person may not be cremated within 48 hours after death unless the person died of a contagious or infectious disease, and in no event may the body of a deceased person be cremated, buried at sea, used by medical science or removed from the State until the person, firm or corporation in charge of the disposition has received a certificate from a duly appointed medical examiner or medicolegal death investigator appointed pursuant to Title 22, section 3023-A that the medical examiner or medicolegal death investigator has made personal inquiry into the cause and manner of death and is satisfied that further examination or judicial inquiry concerning the cause and manner of death is not necessary. This certificate, a certified copy of the death certificate and a burial transit permit when presented by the authorized person as defined in Title 22, section 2846 is sufficient authority for cremation, burial at sea, use by medical science or removal from the State, and the person, firm or corporation in charge of the disposition may not refuse to cremate or otherwise dispose of the body solely because these documents are presented by such an authorized person. The certificate must be retained by the person, firm or corporation in charge of the cremation or disposition for a period of 15 years. For the certificate, the medical examiner must receive a fee of $25 payable by the person requesting the certificate. This fee may be waived at the discretion of the Chief Medical Examiner. [PL 2019, c. 87, §3 (AMD).]

Human remains may not be removed, transported or shipped to a crematory unless encased in a casket or other suitable container. Following cremation, the crematory shall label the container containing the cremated remains with the name of the person who was cremated. [PL 2017, c. 101, §4 (AMD).]

SECTION HISTORY

PL 1971, c. 56 (AMD). PL 1975, c. 293, §4 (AMD). PL 1977, c. 232, §5 (AMD). PL 1979, c. 538, §§12,13 (AMD). PL 1985, c. 611, §§11,12 (AMD). PL 1997, c. 210, §40 (AMD). PL 2003, c. 689, §B6 (REV). PL 2007, c. 225, §1 (AMD). PL 2017, c. 101, §4 (AMD). PL 2017, c. 284, Pt. GGG, §1 (AMD). PL 2019, c. 87, §3 (AMD).

§1405-A. Disposition of cremains

A funeral director or a practitioner of funeral services who receives cremated remains or has received cremated remains prior to the effective date of this section may dispose of those cremated remains in accordance with Title 13, section 1032, providing the following conditions have been met: [PL 2009, c. 39, §1 (AMD).]

1. Cremated remains not claimed for one year. The cremated remains have not been claimed after a time period of at least one year from the time of cremation; and [PL 2009, c. 39, §1 (AMD).]

2. Notice. The funeral director or practitioner of funeral services has sent notice by certified mail, return receipt requested, to the last known address of the person who authorized the cremation at least 60 days prior to disposal. [PL 2001, c. 611, §1 (NEW).]

SECTION HISTORY
PL 2001, c. 611, §1 (NEW). PL 2009, c. 39, §1 (AMD).

§ 1406. Grave markers

Any funeral establishment or person licensed under this chapter, when selling a grave marker to a consumer before the completion of the funeral of the person whose grave is to be marked, shall adhere to the sale requirements for funeral goods and services set forth in the Federal Trade Commission's Funeral Industry Practices Rule, 16 Code of Federal Regulations, Part 453. Violation of this section is an unfair trade practice in violation of Title 5, section 207.

SUBCHAPTER 2: BOARD OF FUNERAL SERVICES

§ 1451. Board; powers and duties

The State Board of Funeral Service, as established by Title 5, section 12004-A, subsection 18, consists of 7 members, 5 of whom must be persons licensed for the practice of funeral service for 10 consecutive years or who have had 10 consecutive years' experience as a practitioner of funeral service in this State immediately preceding their appointment and 2 of whom must be public members as defined in Title 5, section 12004-A. Members are appointed by the Governor for a term of 4 years. A national organization of retired persons may submit a list of applicants to the Governor for use in the selection process of one of the public members. Appointments of members must comply with Title 10, section 8009. A board member may be removed by the Governor for cause. [PL 2013, c. 217, Pt. D, §1 (AMD).]

The board may adopt rules consistent with law governing the practice of funeral service, including but not limited to licensing of practitioner trainees, practitioners of funeral service, funeral directors, embalmers, funeral attendants, funeral home establishments and branches. These rules do not become effective unless adopted in conformity with Title 5, chapter 375, subchapter 2. [PL 2007, c. 402, Pt. J, §2 (AMD).]

The board shall meet at least once a year to conduct its business and to elect a chair. Additional meetings must be held as necessary to conduct the business of the board and may be convened at the call of the chair or a majority of the board members. [PL 2013, c. 246, Pt. B, §7 (AMD).]

The board shall issue all notices and licenses and may cause inspections to be made of all establishments or places of business of any person engaged in the profession of funeral service in the State, which may include the investigation of complaints or suspected violation of this chapter and the rules adopted by the board. The inspection may also be for the purpose of determining that these establishments and places are maintained in a clean and sanitary manner and that suitable equipment for their proper conduct is maintained and that the laws and the rules of the board relating to the conduct of these establishments are observed. The inspection may include a review of the financial records to determine compliance with the laws and rules of the board governing prearranged funeral services or plans. The inspection may be made by members of the board upon authorization by the board or by professional technical staff. [PL 2007, c. 402, Pt. J, §2 (AMD).]

The board may enter into reciprocal agreements with corresponding boards of other states for the purpose of allowing the practitioners of funeral services to perform their licensed functions in this or other states under such terms and conditions as the boards may prescribe. [PL 1983, c. 413, §57 (NEW).]

SECTION HISTORY
PL 1967, c. 253, §2 (RPR). PL 1971, c. 326, §2 (AMD). PL 1975, c. 293, §4 (AMD). PL 1975, c. 575, §20 (AMD). PL 1975, c. 771, §343 (AMD). PL 1977, c. 694, §566 (AMD). PL 1981, c. 703, §A45 (AMD). PL 1983, c. 413, §57 (RPR). PL 1983, c. 553, §30 (AMD). PL 1983, c. 812, §206 (AMD). PL 1989, c. 450, §§15, 16 (AMD). PL 1989, c. 503, §B127 (AMD). PL 1989, c. 878, §B27 (AMD). PL 1993, c. 600, §A105 (AMD). PL 1995, c. 397, §§31, 32 (AMD). PL 1999, c. 91, §1 (AMD). PL 1999, c. 91, §2 (AFF). PL 2001, c. 169, §3 (AMD). PL 2001, c. 505, §1 (AMD). PL 2007, c. 402, Pt. J, §2 (AMD). PL 2013, c. 217, Pt. D, §1 (AMD). PL 2013, c. 246, Pt. B, §7(AMD).

TITLE 35-A: PUBLIC UTILITIES

PART 4: GAS

CHAPTER 47: GAS UTILITIES

§4710. Eminent domain

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3. Owner's consent required. A natural gas utility may not take, without the owner's consent:

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C. Public or private burying grounds. [1999, c. 605, §2 (NEW); §3 (AFF).]

TITLE 36: TAXATION

Part 2: PROPERTY TAXES

Chapter 105: CITIES AND TOWNS
Subchapter 4: EXEMPTIONS

§ 652. Property of institutions and organizations

1. Property of institutions and organizations. The property of institutions and organizations is exempt from taxation as provided in this subsection.

A. The real estate and personal property owned and occupied or used solely for their own purposes by benevolent and charitable institutions incorporated by this State are exempt from taxation. Such an institution may not be deprived of the right of exemption by reason of the source from which its funds are derived or by reason of limitation in the classes of persons for whose benefit the funds are applied.

For the purposes of this paragraph, "benevolent and charitable institutions" includes, but is not limited to, nonprofit nursing homes licensed by the Department of Health and Human Services pursuant to Title 22, chapter 405, nonprofit residential care facilities licensed by the Department of Health and Human Services pursuant to Title 22, chapter 1663, nonprofit community mental health service facilities licensed by the Commissioner of Health and Human Services pursuant to Title 34-B, chapter 3 and nonprofit child care centers incorporated by this State as benevolent and charitable institutions. For the purposes of this paragraph, "nonprofit" refers to an institution that has been determined by the United States Internal Revenue Service to be exempt from taxation under Section 501(c)(3) of the Code. [PL 2007, c. 627, §20 (AMD).]

B. The real estate and personal property owned and occupied or used solely for their own purposes by literary and scientific institutions are exempt from taxation. If any building or part of a building is used primarily for employee housing, that building, or that part of the building used for employee housing, is not exempt from taxation. [PL 2007, c. 627, §20 (AMD).]

C. Further conditions to the right of exemption under paragraphs A and B are that:

(1) Any corporation claiming exemption under paragraph A must be organized and conducted exclusively for benevolent and charitable purposes;

(2) A director, trustee, officer or employee of an organization claiming exemption may not receive directly or indirectly any pecuniary profit from the operation of that organization, except as reasonable compensation for services in effecting its purposes or as a proper beneficiary of its strictly benevolent or charitable purposes;

(3) All profits derived from the operation of an organization claiming exemption and the proceeds from the sale of its property must be devoted exclusively to the purposes for which it is organized;

(4) The institution, organization or corporation claiming exemption under this section must file with the assessors upon their request a report for its preceding fiscal year in such detail as the assessors may reasonably require;

(5) An exemption may not be allowed under this section in favor of an agricultural fair association holding pari-mutuel racing meets unless it has qualified the next preceding year as a recipient of a stipend from the Stipend Fund provided in Title 7, section 86;

(6) An exemption allowed under paragraph A or B for real or personal property owned and occupied or used to provide federally subsidized residential rental housing is limited as follows:

Federally subsidized residential rental housing placed in service prior to September 1, 1993 by other than a nonprofit housing corporation that is acquired on or after September 1, 1993 by a nonprofit housing corporation and the operation of which is not an unrelated trade or business to that nonprofit housing corporation is eligible for an exemption limited to 50% of the municipal assessed value of that property.

An exemption granted under this subparagraph must be revoked for any year in which the owner of the property is no longer a nonprofit housing corporation or the operation of the residential rental housing is an unrelated trade or business to that nonprofit housing corporation.

(a) For the purposes of this subparagraph, the following terms have the following meanings.

(i) "Federally subsidized residential rental housing" means residential rental housing that is subsidized through project-based rental assistance, operating assistance or interest rate subsidies paid or provided by or on behalf of an agency or department of the Federal Government.

(ii) "Nonprofit housing corporation" means a nonprofit corporation organized in the State that is exempt from tax under Section 501(c)(3) of the Code and has among its corporate purposes the provision of services to people of low income or the construction, rehabilitation, ownership or operation of housing.

(iii) "Residential rental housing" means one or more buildings, together with any facilities functionally related and subordinate to the building or buildings, located on one parcel of land and held in common ownership prior to the conversion to nonprofit status and containing 9 or more similarly constructed residential units offered for rental to the general public for use on other than a transient basis, each of which contains separate and complete facilities for living, sleeping, eating, cooking and sanitation.

(iv) "Unrelated trade or business" means any trade or business whose conduct is not substantially related to the exercise or performance by a nonprofit corporation of the purposes or functions constituting the basis for exemption under Section 501(c)(3) of the Code.

(b) Eligibility of the following property for exemption is not affected by the provisions of this subparagraph:

(i) Property used as a nonprofit nursing home, residential care facility licensed by the Department of Health and Human Services pursuant to Title 22, chapter 1663 or a community living arrangement as defined in Title 30-A, section 4357-A or any property owned by a nonprofit organization licensed or funded by the Department of Health and Human Services to provide services to or for the benefit of persons with mental illness or intellectual disabilities;

(ii) Property used for student housing;

(iii) Property used for parsonages;

(iv) Property that was owned and occupied or used to provide residential rental housing that qualified for exemption under paragraph A or B prior to September 1, 1993; or

(v) Property exempt from taxation under other provisions of law; and

(7) In addition to the requirements of subparagraphs (1) to (4), an exemption is not allowed under paragraph A or B for real or personal property owned and occupied or used to provide residential rental housing that is transferred or placed in service on or after September 1, 1993, unless the property is owned by a nonprofit housing corporation and the operation of the residential rental housing is not an unrelated trade or business to the nonprofit housing corporation.

For the purposes of this subparagraph, the following terms have the following meanings.

(a) "Nonprofit housing corporation" means a nonprofit corporation organized in the State that is exempt from tax under Section 501(c)(3) of the Code and has among its corporate purposes the provision of services to people of low income or the construction, rehabilitation, ownership or operation of housing.

(b) "Residential rental housing" means one or more buildings, together with any facilities functionally related and subordinate to the building or buildings, containing one or more similarly constructed residential units offered for rental to the general public for use on other than a transient basis, each of which contains separate and complete facilities for living, sleeping, eating, cooking and sanitation.

(c) "Unrelated trade or business" means any trade or business whose conduct is not substantially related to the exercise or performance by a nonprofit organization of the purposes constituting the basis for exemption under Section 501(c)(3) of the Code. [PL 2019, c. 501, §19 (AMD).]

D. [PL 1979, c. 467, §3 (RP).]

E. The real estate and personal property owned, occupied and used for their own purposes by posts of the American Legion, Veterans of Foreign Wars, American Veterans, Sons of Union Veterans of the Civil War, Disabled American Veterans and Navy Clubs of the U.S.A. that are used solely by those organizations for meetings, ceremonials or instruction or to further the charitable activities of the organization, including all facilities that are appurtenant to that property and used in connection with those purposes, are exempt from taxation. If an organization is not the sole occupant of the property, the exemption granted under this paragraph applies only to that portion of the property owned, occupied and used by the organization for its purposes.

Further conditions to the right of exemption are that:

(1) A director, trustee, officer or employee of any organization claiming exemption may not receive directly or indirectly any pecuniary profit from the operation of that organization, except as reasonable compensation for services in effecting its purposes or as a proper beneficiary of its purposes;

(2) All profits derived from the operation of the organization and the proceeds from the sale of its property must be devoted exclusively to the purposes for which it is organized; and

(3) The institution, organization or corporation claiming exemption under this paragraph must file with the assessors upon their request a report for its preceding fiscal year in such detail as the assessors may reasonably require. [PL 2007, c. 627, §20 (AMD).]

F. The real estate and personal property owned and occupied or used solely for their own purposes by chambers of commerce or boards of trade in this State are exempt from taxation.

Further conditions to the right of exemption are that:

(1) A director, trustee, officer or employee of any organization claiming exemption may not receive directly or indirectly any pecuniary profit from the operation of that organization, except as reasonable compensation for services in effecting its purposes or as a proper beneficiary of its purposes;

(2) All profits derived from the operation of the organization and the proceeds from the sale of its property must be devoted exclusively to the purposes for which it is organized; and

(3) The institution, organization or corporation claiming exemption under this paragraph must file with the assessors upon their request a report for its preceding fiscal year in such detail as the assessors may reasonably require. [PL 2007, c. 627, §20 (AMD).]

G. Houses of religious worship, including vestries, and the pews and furniture within them; tombs and rights of burial; and property owned and used by a religious society as a parsonage up to the value of $20,000, and personal property not exceeding $6,000 in value are exempt from taxation, except that any portion of a parsonage that is rented is subject to taxation. For purposes of this paragraph, "parsonage" means the principal residence provided by a religious society for its cleric whether or not the principal residence is located within the same municipality as the house of religious worship where the cleric regularly conducts religious services. [PL 2007, c. 627, §20 (AMD).]

H. Real estate and personal property owned by or held in trust for fraternal organizations, except college fraternities, operating under the lodge system that are used solely by those fraternal organizations for meetings, ceremonials or religious or moral instruction, including all facilities that are appurtenant to that property and used in connection with those purposes are exempt from taxation. If a building is used in part for those purposes and in part for any other purpose, only the part used for those purposes is exempt.

Further conditions to the right of exemption under this paragraph are that:

(1) A director, trustee, officer or employee of any organization claiming exemption may not receive directly or indirectly any pecuniary profit from the operation of that organization, except as reasonable compensation for services in effecting its purposes or as a proper beneficiary of its purposes;

(2) All profits derived from the operation of the organization and the proceeds from the sale of its property must be devoted exclusively to the purposes for which it is organized; and

(3) The institution, organization or corporation claiming exemption under this paragraph must file with the assessors upon their request a report for its preceding fiscal year in such detail as the assessors may reasonably require. [PL 2007, c. 627, §20 (AMD).]

I. [PL 1979, c. 467, §7 (RP).]

J. The real and personal property owned by one or more of the organizations in paragraphs A and B and E to H and occupied or used solely for their own purposes by one or more other such organizations are exempt from taxation. [PL 2007, c. 627, §20 (AMD).]

K. Except as otherwise provided in this subsection, the real and personal property leased by and occupied or used solely for its own purposes by an incorporated benevolent and charitable organization that is exempt from taxation under section 501 of the Code and the primary purpose of which is the operation of a

hospital licensed by the Department of Health and Human Services, a health maintenance organization or a blood bank are exempt from taxation. For property tax years beginning on or after April 1, 2012, the exemption provided by this paragraph does not include real property. [PL 2009, c. 425, §1 (AMD).]

L. [PL 2007, c. 627, §20 (RP).]

[PL 2019, c. 501, §19 (AMD).]

An organization or institution that desires exemption under this section must file a written application accompanied by written proof of entitlement for each parcel on or before the first day of April in the year in which the exemption is first requested with the assessors of the municipality in which the property would otherwise be taxable. If granted, the exemption continues in effect until the assessors determine that the organization or institution is no longer qualified. Proof of entitlement must indicate the specific basis upon which exemption is claimed. [PL 2007, c. 627, §20 (AMD).]

SECTION HISTORY

PL 1965, c. 13 (AMD). PL 1967, c. 64 (AMD). PL 1967, c. 372 (AMD). PL 1971, c. 111 (AMD). PL 1971, c. 475 (AMD). PL 1973, c. 719 (AMD). PL 1975, c. 771, §402 (AMD). PL 1977, c. 487 (AMD). PL 1979, c. 467, §§2-7 (AMD). PL 1991, c. 420 (AMD). PL 1993, c. 286, §1 (AMD). PL 1993, c. 286, §2 (AFF). PL 1993, c. 422, §§4,5 (AMD). PL 1993, c. 572, §1 (AMD). RR 1995, c. 2, §93 (COR). PL 1995, c. 366, §1 (AMD). PL 1995, c. 560, §K82 (AMD). PL 1995, c. 560, §K83 (AFF). PL 1997, c. 442, §3 (AMD). PL 1997, c. 668, §20 (AMD). PL 2001, c. 354, §3 (AMD). PL 2001, c. 596, §§B23,24 (AMD). PL 2001, c. 596, §B25 (AFF). PL 2003, c. 689, §§B6,7 (REV). PL 2005, c. 563, §16 (AMD). PL 2005, c. 645, §1 (AMD). PL 2007, c. 438, §19 (AMD). PL 2007, c. 627, §20 (AMD). PL 2009, c. 425, §1 (AMD). PL 2019, c. 501, §19 (AMD).

Title 37-B: DEFENSE, VETERANS AND EMERGENCY MANAGEMENT

Chapter 7: MAINE BUREAU OF VETERANS' SERVICES

§515. Adjutant General as next of kin

If the Adjutant General is next of kin to a veteran under Title 22, section 2843-A, the Adjutant General shall ensure that the veteran receives all benefits to which the veteran is entitled, including a grave marker or other death benefit from the United States Department of Veterans Affairs. [PL 2015, c. 7, sec. 3 sub-§515 (AMD).]

TITLE 38: WATERS AND NAVIGATION

CHAPTER 3: PROTECTION AND IMPROVEMENT OF WATERS
SUBCHAPTER 1: ENVIRONMENTAL PROTECTION BOARD
Article 7: PERFORMANCE STANDARDS FOR EXCAVATIONS FOR BORROW, CLAY, TOPSOIL, OR SILT

§ 490-D. Performance standards

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7. Property boundary. A natural buffer strip at least 50 feet wide must be maintained between any excavation and any property boundary. A natural buffer strip at least 25 feet wide must be maintained between any topsoil excavation and a property boundary. These distances may be reduced to not less than 10 feet with the written permission of the affected property owner or owners, except that the distance may not be reduced to less than 25 feet from the boundary of a cemetery or burial ground. The buffer strip between excavations owned by abutting owners may be eliminated with the abutter's written permission, provided the elimination of this buffer strip does not increase the runoff from either excavation across the property boundary. Any written permission to reduce a buffer must provide that it remains in effect until mining ceases and must be recorded in the registry of deeds. All property boundaries must be identified in the field by markings such as metal posts, stakes, flagging or blazed trees. The department may not grant a variance from the provisions of this subsection. [PL 2005, c. 158, §4 (AMD).]

ARTICLE 8-A; PERFORMANCE STANDARDS FOR QUARRIES

§ 490-Z. Performance standards for quarries

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7. Property boundary. A natural buffer strip at least 100 feet wide must be maintained between an excavation and any property boundary. This distance may be reduced to 10 feet with the written permission of the affected abutting property owner or owners, except that the distance may not be reduced to less than 25 feet from the boundary of a cemetery or burial ground. The natural buffer strip between quarries owned by abutting owners may be eliminated with the abutter's written permission if the elimination of this natural buffer strip does not increase the runoff from either excavation across the property boundary. Any written permission to reduce a buffer must provide that it remains in effect until mining ceases and must be recorded in the registry of deeds. All property boundaries must be identified in the field by markings such as metal posts, stakes, flagging or blazed trees. The department may not grant a variance from the provisions of this subsection. [PL 2005, c. 158, §12 (AMD).]

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FOR REFERENCE

The following pages contain the specific laws that were amended between the years 2017 and 2020.

Laws Amended between the years of 2017 and 2020 (these are included in the index laws).

TITLE 13: CORPORATIONS

Part 2: CORPORATIONS WITHOUT CAPITAL
CHAPTER 82: CEMETERY CORPORATIONS
SUBCHAPTER 1: GENERAL PROVISIONS

§ 1035. Penalties

Except as otherwise provided in this chapter, a person who fails to comply with or violates any of the provisions of this chapter in respect to the establishment, maintenance or operation of a cemetery, community mausoleum, crematory, or columbarium or to the disposal of dead human bodies commits a Class E crime except that, notwithstanding Title 17-A, sections 1704 and 1705, the fine may not be less than $100 or more than $500. [PL 2019, c. 113, Pt. C, §25 (AMD).]

TITLE 22 HEALTH AND WELFARE

SUBTITLE 2: HEALTH
PART 6: BIRTHS, MARRIAGES AND DEATHS
CHAPTER 707: DEATH AND BURIALS

§2842. Registration of deaths

3. Medical certificate by medical examiner of the Office of the Chief Medical Examiner. When a death occurs under circumstances that make it a medical examiner as defined in section 3025, or when inquiry as to the cause of death is required by law, the medical examiner or the Office of Chief Medical Examiner shall complete the medical certification of the cause of death as specified by department rule and sign the death certificate. A certification need not be completed before the remains are ready for release. The medical examiner of the Office of Chief Medical Examiner is responsible for the identity of the deceased and the time, date, place, cause, manner and circumstances of death on the death certificate. Entries may be left "pending" if further study is needed; or, at the specific direction of the Attorney General relative to cases under investigation by the Attorney General's office, entries must be left "withheld" until such time as the Attorney General, in the Attorney General's sole discretion, determines that any criminal investigation and prosecution will not be hard by public disclosure of such information. Notwithstanding section 2706, subsection 4, unless directed otherwise by the Attorney General as specified in this subsection, this information for which the medical examiner is responsible may be made available to the general public by the Office of Chief Medical Examiner. [PL 2017, c. 475, Pt. A, §30 (AMD).]

4. Correction of errors on death statistic records filed under chapter 711. Certificates of death in medical examiner cases, as defined in section 3025, may be completed or amended at any time by means described in rule by the department to the Office of Chief Medical Examiner. Either the Chief Medical Examiner or the medical examiner assigned to the case may sign the forms or submit an electronic amendment or file a certificate using the electronic death

registration system in accordance with section 2847. A person authorized by the Chief Medical Examiner may amend a certificate of death with respect to the time, date, place and circumstances of death. The medical examiner assigned shall submit the form or electronic amendment to the Office of Chief Medical Examiner for filing with the State Registrar of Vital Statistics. These forms or electronic amendments may be filed at any time after death and need not include a summary description of the evidence in support of the completion or amendment. [PL 2017, c. 475, Pt. A, §20 (AMD).]

5. Correction of certificate of death. A certificate of death filed in accordance with this section may be completed or amended at any time by means described in rules adopted by the department. The health care provider who certified the death in accordance with subsection 2-A may sign the forms, submit an electronic amendment or file a certificate using the electronic death registration system in accordance with section 2847. A health care provider may amend a certificate of death with respect to the time, date, place and circumstances of death. Forms or electronic amendments may be filed at any time after death. [PL 2019, c. 340 §16 (NEW).]

§ 2843. Permits for final disposition of dead human bodies

3-A. Authorization for burial of cremated remains in public burying ground. The State Registrar of Vital Statistics shall provide an authorization to be used for the purposes of this subsection. If cremated remains are buried in a public burying ground in the State, the person in charge of the public burying ground shall endorse and record the date the cremated remains were buried on an authorization for the remains and return the authorization to the State Registrar of Vital Statistics or the clerk of the municipality in which the public burying ground is located within 7 days after the cremated remains were buried. If there is no person in charge of the public burying ground, an official of the municipality in which the public burying ground is located shall endorse and record the date the cremated remains were buried on the authorization and present the authorization to the State Registrar of Vital Statistics or the clerk of the municipality. If an authorization is not returned to the State Registrar of Vital Statistics within 7 days after the cremated remains were buried, the funeral director or authorized person may present a copy of the authorization, if the authorization has been endorsed, to the State Registrar of Vital Statistics or the clerk of the municipality where the death occurred and to the clerk who issued the authorization.

For purposes of this subsection, unless the context otherwise indicates, the following terms have the following meanings.

A. "Authorization" means the form or electronic process prescribed and furnished by the State Registrar of Vital Statistics for the purpose of recording the consent of an authorized person for the burial or removal of cremated remains in a public burying ground as specified by department rule. [PL 2019, c. 257, §1 (NEW).]

B. "Burial" means all manner of dispersal or deposit in or on the ground or in a structure. [PL 2019, c. 257 §1 (NEW).]

C. "Public burying ground" has the same meaning as in Title 13, section 1101-A, subsection 4. [PL 2019, c. 257 §1 (NEW).]

Laws Amended between the years of 2017 and 2020 (these are included in the index laws).

4. Records. Each municipality shall maintain a record of any endorsed permit received pursuant to subsection 3 or 3-A. These records must be open to public inspection. [PL 2017, c. 101, §2 (AMD).]

§ 2843-A. Custody of remains of deceased persons

2. Custody and control generally. The custody and control of the remains of deceased resident of this State, dead bodies or dead human bodies are governed by the following provisions in the following order of priority:

A. If the subject has designated another person to have custody and control in a written and signed document, custody and control belong to that designated person [2017, c. 475, Pt. A, §31 (RPR.]

B. If the subject has not left a written and signed document designating a person to have custody and control, or if the person designated by the subject refuses custody and control, custody and control belong to the next of kin; and [PL 2017, c. 475 Pt. A, §31 (RPR).]

C. If the next of kin is 2 or more persons with the same relationship to the subject, the majority of the next of kin have custody and control. If the next of kin cannot, by majority vote, make a decision regarding the subject's remains, the court shall make the decision upon petition under subsection 4, paragraph D. [PL 2017, c. 475, Pt. A, §31 (RPR).]

If a person who has the right of custody and control under this subsection does not exercise the rights and responsibilities of custody and control within 4 days after the death of the subject, custody and control belong to a person from the next lower level of priority as established in paragraphs A to C.

If a person who has custody and control under this subsection does not complete decision making regarding final disposition within 30 days after taking custody and control, a funeral director or practitioner of funeral service who has physical possession of the remains or dead body may bury the remains or dead body at the expense of the funeral director or practitioner.

A person who has been charged with murder, as described in Title 17-A, section 201, or manslaughter as described in Title 17-A, section 203, subsection 1, paragraph B, forfeits the right of custody and control provided under this subsection, and a funeral director or practitioner of a funeral service who is aware of the charges may not release the remains or a dead body to that person who has been charged with murder or manslaughter. If the charges against the person are dismissed or the person is acquitted of the charges before the final disposition takes place, the person regains the right of custody and control in the same position of priority established in this subsection.

The remains or a dead body is considered abandoned if no one take custody and control of the remains or dead body for a period of 15 days. A funeral director or practitioner of funeral service who has physical possession of abandoned remains or an abandoned dead body may bury or cremate the remains or dead body. The funeral director or practitioner of funeral service may embalm or refrigerate abandoned remains or an abandoned dead body without authorization. A certificate of abandonment that indicates the means of disposition must be filed in the municipality where the death occurred. [PL 2017, c. 475, Pt. A, §31 (RPR).]

Laws Amended between the years of 2017 and 2020 (these are included in the index laws).

9. Application. This section does not apply to the disposition of the remains of a deceased person under chapter 709. This section does not diminish or otherwise alter the authority of a medical examiner or other official authorized under chapter 711. This section does not alter the rights and obligations of the decedent's next of kin under Title 18-C [PL 2017, c. 402, Pt. C, §49 (AMD); PL 2019, c. 417, Pt. B, §14 (AFF.]

10. Funeral director or practitioner of funeral service. The following provisions apply to the actions and liability of a funeral director or practitioner of funeral service, cemeteries and crematories and their employees:

…

F. Upon cremation of the remains or dead body, the crematory shall prepare a certificate of cremation signed and dated by the person in charge of the cremation indicating the date of cremation and the identity of the cremated remains or dead body as identified by the funeral director or practitioner of funeral service of the cremation authorization form, including the deceased person's full name, date and place of death, gender and veteran status. The crematory shall provide the certificate of cremation to the funeral director of practitioner of funeral service of the person who has custody and control of the remains or dead body. [PL 2017, c. 101 §3 (NEW).]

CHAPTER 711: MEDICAL EXAMINER ACT

§ 3025. Medical examiner case.

…

In the absence of any of the circumstances outline in this subsection, the fact that a patient dies within 24 hours of admission to a hospital or other health care facility need not be reported to the Office of Chief Medical Examiner.

In any case in which the necessity of a report is questionable, a report must be made. [PL 2019, c. 87, §1 (AMD).]

1-A. Medical examiner case determination.

…

Deaths due to the consequences of long-term exposure to environmental or occupational toxins or long-term exposure to carcinogens. [PL 2019, c. 87, §2 (AMD).]

§ 3028-A. Disposal of unidentified remains

Whenever unidentified human remains are recovered, the Chief Medical Examiner may store the remains, release them to an educational institution, inter them in an appropriate resting place or have them cremated. Ashes of remains cremated may be disposed of in any appropriate manner. Human remains uncovered in a cared-for cemetery or known to be Indian remains are excluded from the operation of this section. [PL 2017, c. 335, §1 (AMD).]

The Chief Medical Examiner may assume responsibility for the disposal of identified human remains of a deceased resident of this State that are the subject of a medical examiner case if no one takes custody and control of the human remains for a period of 30 days after the Chief Medical Examiner has both completed an autopsy or necessary examination of the human remains and made reasonable inquiry under section 3028-D, subsection 1. Such abandoned remains may be interred or cremated. The Chief Medical Examiner shall file or cause to be filed a certificate of abandonment in the municipality where the human remains were recovered that indicates the means of disposal. [PL 2017, c. 335, §1 (NEW).]

In the absence of a responsible party, payment of expenses incurred by the Chief Medical Examiner pursuant to this section must be made pursuant to section 3028-D, subsection 2 as if the remains were unidentified. The Chief Medical Examiner may seek to recover costs from the estate or municipality of residence of the deceased. [PL 2017, c. 335, §1 (NEW).]

SUBTITLE 3: INCOME SUPPLEMENTATION
PART 5: MUNICIPAL SUPPORT OF THE POOR
CHAPTER 1161: MUNICIPAL GENERAL ASSISTANCE

§4313. Reimbursement to individuals relieving eligible persons; prior approval; emergencies

…

2. Burial or cremation. In the event of the death of an eligible person, the funeral director shall notify the overseer prior to burial or cremation or by the end of 3 business day following the funeral director's receipt of the body, whichever is earlier. Notwithstanding section 4305, subsection 3, paragraph C, a decision on any application for assistance with burial expenses need not be rendered until the overseer has verified that a relative or other resource is not available to pay for the direct burial or cremation costs, but the decision must be rendered within 8 days after receiving an application. The father, mother, grandfather, grandmother, children or grandchildren by consanguinity, or the spouse or registered domestic partner are responsible for the burial or cremation costs of the eligible person in proportion to their respective abilities. When no legally liable relative possesses a financial capacity to pay either in hump sum or on an installment basis for the direct costs of a burial or cremation, the contribution of a municipality under this subsection is limited to a reasonable calculation of the funeral director's costs, less any and all contributions from any other source. For the purpose of this subsection, "registered domestic partner" means an individual registered as a domestic partner under section 2710, subsection 3. [PL 2017, c. 62, §1 (AMD).]

TITLE 32. PROFESSIONS AND OCCUPATIONS
CHAPTER 21. FUNERAL DIRECTORS AND EMBALMERS
SUBCHAPTER 1. GENERAL PROVISIONS

§ 1405. Cremation

…

The body of a deceased person may not be cremated within 48 hours after death unless the person died of a contagious or infectious disease, and in no event may the body of a deceased person be cremated, buried at sea, used by medical science or removed from the State until the person, firm or corporation in charge of the disposition has received a certificate from a duly appointed medical examiner or medicolegal death investigator appointed pursuant to Title 22, section 3023-A that the medical examiner or medicolegal death investigator has made personal inquiry into the cause and manner of death and is satisfied that further examination or judicial inquiry concerning the cause and manner of death is not necessary. This certificate, a certified copy of the death certificate and a burial transit permit when presented by the authorized person as defined in Title 22, section 2846 is sufficient authority for cremation, burial at sea, use by medical science or removal from the State, and the person, firm or corporation in charge of the disposition may not refuse to cremate or otherwise dispose of the body solely because these documents are presented by such an authorized person. The certificate must be retained by the person, firm or corporation in charge of the cremation or disposition for a period of 15 years. For the certificate, the medical examiner must receive a fee of $25 payable by the person requesting the certificate. This fee may be waived at the discretion of the Chief Medical Examiner. [PL 2019, c. 87, §3 (AMD).]

Human remains may not be removed, transported or shipped to a crematory unless encased in a casket or other suitable container. Following cremation, the crematory shall label the container containing the cremated remains with the name of the person who was cremated. [PL 2017, c. 101, §4 (AMD).]

TITLE 36: TAXATION

Part 2: PROPERTY TAXES

Chapter 105: CITIES AND TOWNS

Subchapter 4: EXEMPTIONS

§ 652. Property of institutions and organizations

…

C. Further conditions to the right of exemption under paragraphs A and B are that:

(1) Any corporation claiming exemption under paragraph A must be organized and conducted exclusively for benevolent and charitable purposes;

(2) A director, trustee, officer or employee of an organization claiming exemption may not receive directly or indirectly any pecuniary profit from the operation of that organization, except as reasonable compensation for services in effecting its purposes or as a proper beneficiary of its strictly benevolent or charitable purposes;

(3) All profits derived from the operation of an organization claiming exemption and the proceeds from the sale of its property must be devoted exclusively to the purposes for which it is organized;

(4) The institution, organization or corporation claiming exemption under this section must file with the assessors upon their request a report for its preceding fiscal year in such detail as the assessors may reasonably require;

(5) An exemption may not be allowed under this section in favor of an agricultural fair association holding pari-mutuel racing meets unless it has qualified the next preceding year as a recipient of a stipend from the Stipend Fund provided in Title 7, section 86;

(6) An exemption allowed under paragraph A or B for real or personal property owned and occupied or used to provide federally subsidized residential rental housing is limited as follows: Federally subsidized residential rental housing placed in service prior to September 1,

1993 by other than a nonprofit housing corporation that is acquired on or after September 1, 1993 by a nonprofit housing corporation and the operation of which is not an unrelated trade or business to that nonprofit housing corporation is eligible for an exemption limited to 50% of the municipal assessed value of that property.

An exemption granted under this subparagraph must be revoked for any year in which the owner of the property is no longer a nonprofit housing corporation or the operation of the residential rental housing is an unrelated trade or business to that nonprofit housing corporation.

(a) For the purposes of this subparagraph, the following terms have the following meanings.

(i) "Federally subsidized residential rental housing" means residential rental housing that is subsidized through project-based rental assistance, operating assistance or interest rate subsidies paid or provided by or on behalf of an agency or department of the Federal Government.

(ii) "Nonprofit housing corporation" means a nonprofit corporation organized in the State that is exempt from tax under Section 501(c)(3) of the Code and has among its corporate purposes the provision of services to people of low income or the construction, rehabilitation, ownership or operation of housing.

(iii) "Residential rental housing" means one or more buildings, together with any facilities functionally related and subordinate to the building or buildings, located on one parcel of land and held in common ownership prior to the conversion to nonprofit status and containing 9 or more similarly constructed residential units offered for rental to the general public for use on other than a transient basis, each of which contains separate and complete facilities for living, sleeping, eating, cooking and sanitation.

(iv) "Unrelated trade or business" means any trade or business whose conduct is not substantially related to the exercise or performance by a nonprofit corporation of the purposes or functions constituting the basis for exemption under Section 501(c)(3) of the Code.

(b) Eligibility of the following property for exemption is not affected by the provisions of this subparagraph:

(i) Property used as a nonprofit nursing home, residential care facility licensed by the Department of Health and Human Services pursuant to Title 22, chapter 1663 or a community living arrangement as defined in Title 30-A, section 4357-A or any property owned by a nonprofit organization licensed or funded by the Department of Health and Human Services to provide services to or for the benefit of persons with mental illness or intellectual disabilities;

(ii) Property used for student housing;

(iii) Property used for parsonages;

(iv) Property that was owned and occupied or used to provide residential rental housing that qualified for exemption under paragraph A or B prior to September 1, 1993; or

(v) Property exempt from taxation under other provisions of law; and

(7) In addition to the requirements of subparagraphs (1) to (4), an exemption is not allowed under paragraph A or B for real or personal property owned and occupied or used to provide residential rental housing that is transferred or placed in service on or after September 1, 1993, unless the property is owned by a nonprofit housing corporation and the operation of the residential rental housing is not an unrelated trade or business to the nonprofit housing corporation.

For the purposes of this subparagraph, the following terms have the following meanings.

(a) "Nonprofit housing corporation" means a nonprofit corporation organized in the State that is exempt from tax under Section 501(c)(3) of the Code and has among its corporate purposes the provision of services to people of low income or the construction, rehabilitation, ownership or operation of housing.

(b) "Residential rental housing" means one or more buildings, together with any facilities functionally related and subordinate to the building or buildings, containing one or more similarly constructed residential units offered for rental to the general public for use on other than a transient basis, each of which contains separate and complete facilities for living, sleeping, eating, cooking and sanitation.

(c) "Unrelated trade or business" means any trade or business whose conduct is not substantially related to the exercise or performance by a nonprofit organization of the purposes constituting the basis for exemption under Section 501(c)(3) of the Code. [PL 2019, c. 501, §19 (AMD).]



Membership



We invite all who are involved in the cemetery industry to become members. Cemeteries within New England can join with full voting rights. Cemeteries from outside of New England or individuals who are associated with a cemetery may join as associates members and receive the full benefits of membership less voting rights. Companies or individuals who supply services or goods to the cemetery industry may support our organization by becoming a Supplier Member.

All members adhere to the Code of Ethics of the New England Cemetery Association, found on our website **www.newenglandcemetery.org**

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