



Department
of State

Winter Burials

Requests to impose a specific winter burial charge/fee for interments cannot be approved. If penetration of frost or removal of snow is necessary to perform a winter burial, you may charge the actual additional amount that it costs the cemetery to do this. A winter fee cannot be reasonably fixed in advance. This ruling is based on the following statutes. **The new "winter burial bill" is the same as directive 201.8 that has always been in effect.**

§1509. Cemetery rules and regulations; charges and lot tax assessments

(d) Services not in list of charges. In the event that a cemetery corporation provides any services not included in the list of charges, and for which a charge cannot reasonably be fixed in advance, the charges made therefor shall be reviewable by the cemetery board. In the event that the cemetery board determines that an excessive, unauthorized or improper charge has been made for such services or that the services have not been properly performed, it may direct the cemetery corporation to pay to the person from whom such charge was collected a sum equivalent to three times the amount of the excess as determined by the cemetery board, or in the case of work not properly performed, it may direct the cemetery corporation to perform the work properly.

Section 201.8 Availability for interment on six-day basis.

Every cemetery corporation shall be available for interments at least six days per week (legal holidays excluded) as set forth in the cemetery's regulations or in accordance with its practices, except as otherwise ordered by the Cemetery Board. Any cemetery which maintains and designates a burial section for persons of a particular religious belief must remain available for grave openings and interments Sunday through Friday or other six-day period in accordance with the religious and/or ethnic traditions of the persons interred in said religious section. Nothing herein shall require a cemetery to provide grave openings and/or interments if they are otherwise unable to do so as a direct consequence of severe weather conditions or other similar conditions.

§ 2. The not-for-profit corporation law is amended by adding a new section 1510-b to read as follows: This law takes effect approximately the middle of February 2007.

§ 1510-b. Availability for interment on six-day basis. Every cemetery corporation shall be available for interments at least six days per week, excluding legal holidays, as set forth in the cemetery's regulations or in accordance with its practices. Any cemetery which maintains and designates a burial section for persons of a particular religious belief must remain available for grave openings and interments Sunday through Friday or other six-day period in accordance with the religious and/or ethnic traditions of the persons interred in said religious section. Nothing in this section shall require a cemetery to

provide grave openings and/or interments if they are otherwise unable to do so as to direct consequence of severe weather conditions or other similar conditions.