



Rep. Emanuel Chris Welch

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1 AMENDMENT TO HOUSE BILL 4106

2 AMENDMENT NO. _____. Amend House Bill 4106 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Regulatory Sunset Act is amended by
5 changing Section 4.31 and by adding Section 4.41 as follows:

6 (5 ILCS 80/4.31)

7 Sec. 4.31. Acts repealed on January 1, 2021. The following
8 Acts are repealed on January 1, 2021:

9 The Crematory Regulation Act.

10 ~~The Cemetery Oversight Act.~~

11 The Illinois Health Information Exchange and Technology
12 Act.

13 The Radiation Protection Act of 1990.

14 (Source: P.A. 96-1041, eff. 7-14-10; 96-1331, eff. 7-27-10;
15 incorporates P.A. 96-863, eff. 3-1-10; 97-333, eff. 8-12-11.)

1 (5 ILCS 80/4.41 new)

2 Sec. 4.41. Act repealed on January 1, 2031. The following
3 Act is repealed on January 1, 2031:

4 The Cemetery Oversight Act.

5 Section 10. The Department of Professional Regulation Law
6 of the Civil Administrative Code of Illinois is amended by
7 changing Sections 2105-35 and 2105-120 as follows:

8 (20 ILCS 2105/2105-35)

9 Sec. 2105-35. Prohibited uses of roster of information.
10 Notwithstanding any other provision of law to the contrary, any
11 roster of information including, but not limited to, the
12 licensee's name, address, and profession, shall not be used by
13 a third party for the purpose of marketing goods or services
14 not related to the licensee's profession. Rosters provided by
15 the Department shall comply with the requirements set forth
16 under the Illinois Freedom of Information Act.

17 (Source: P.A. 96-978, eff. 7-2-10.)

18 (20 ILCS 2105/2105-120) (was 20 ILCS 2105/60g)

19 Sec. 2105-120. Board's report; licensee's or applicant's
20 motion for rehearing.

21 (a) The board shall present to the Secretary ~~Director~~ its
22 written report of its findings and recommendations. A copy of
23 the report shall be served upon the licensee or applicant,

1 either personally or by mail or email as provided in Section
2 2105-100 for the service of the notice. The Secretary may issue
3 an order that deviates from the board's report and is not
4 required to provide the board with an explanation of the
5 deviation.

6 (b) Within 20 days after the service required under
7 subsection (a), the licensee or applicant may present to the
8 Department a motion in writing for a rehearing. The written
9 motion shall specify the particular grounds for a rehearing. If
10 the licensee or applicant orders and pays for a transcript of
11 the record as provided in Section 2105-115, the time elapsing
12 thereafter and before the transcript is ready for delivery to
13 the licensee or applicant shall not be counted as part of the
14 20 days.

15 (Source: P.A. 99-227, eff. 8-3-15; 100-262, eff. 8-22-17.)

16 Section 15. The Cemetery Oversight Act is amended by
17 changing Sections 5-15, 5-20, 5-25, 10-20, 10-21, 10-40, 10-55,
18 20-8, 25-3, 25-5, 25-10, 25-15, 25-25, 25-30, 25-35, 25-90,
19 25-95, 25-105, 25-115, 25-125, and 35-5 and by adding Sections
20 5-16, 5-26, 25-26, and 25-126 as follows:

21 (225 ILCS 411/5-15)

22 (Section scheduled to be repealed on January 1, 2021)

23 Sec. 5-15. Definitions. In this Act:

24 "Address of record" means the designated address recorded

1 by the Department in the applicant's or licensee's application
2 file or license file. ~~It is the duty of the applicant or~~
3 ~~licensee to inform the Department of any change of address~~
4 ~~within 14 days either through the Department's website or by~~
5 ~~contacting the Department's licensure maintenance unit.~~ The
6 address of record for a cemetery authority shall be the
7 permanent street address of the cemetery.

8 "Applicant" means a person applying for licensure under
9 this Act as a cemetery authority, cemetery manager, or customer
10 service employee. Any applicant or any person who holds himself
11 or herself out as an applicant is considered a licensee for
12 purposes of enforcement, investigation, hearings, and the
13 Illinois Administrative Procedure Act.

14 "Burial permit" means a permit provided by a licensed
15 funeral director for the disposition of a dead human body.

16 "Care" means the maintenance of a cemetery and of the lots,
17 graves, crypts, niches, family mausoleums, memorials, and
18 markers therein, including: (i) the cutting and trimming of
19 lawn, shrubs, and trees at reasonable intervals; (ii) keeping
20 in repair the drains, water lines, roads, buildings, fences,
21 and other structures, in keeping with a well-maintained
22 cemetery as provided for in Section 20-5 of this Act and
23 otherwise as required by rule; (iii) maintenance of machinery,
24 tools, and equipment for such care; (iv) compensation of
25 cemetery workers, any discretionary payment of insurance
26 premiums, and any reasonable payments for workers' pension and

1 other benefits plans; and (v) the payment of expenses necessary
2 for such purposes and for maintaining necessary records of lot
3 ownership, transfers, and burials.

4 "Cemetery" means any land or structure in this State
5 dedicated to and used, or intended to be used, for the
6 interment, inurnment, or entombment of human remains.

7 "Cemetery authority" means any individual or legal entity
8 that owns or controls cemetery lands or property.

9 "Cemetery manager" means an individual directly
10 responsible or holding himself or herself directly responsible
11 for the operation, maintenance, development, or improvement of
12 a cemetery that is ~~or shall be~~ licensed under this Act,
13 ~~irrespective of whether the individual is paid by the licensed~~
14 ~~cemetery authority or a third party. This definition does not~~
15 ~~include a volunteer who receives no compensation, either~~
16 ~~directly or indirectly, for his or her work as a cemetery~~
17 ~~manager.~~

18 "Cemetery merchandise" means items of personal property
19 normally sold by a cemetery authority not covered under the
20 Illinois Funeral or Burial Funds Act, including, but not
21 limited to: (1) memorials, (2) markers, (3) monuments, (4)
22 foundations and installations, and (5) outer burial
23 containers.

24 "Cemetery operation" means to engage in any or all of the
25 following, whether on behalf of, or in the absence of, a
26 cemetery authority: (i) the interment, entombment, or

1 inurnment of human remains, (ii) the sale of interment,
2 entombment, or inurnment rights, cemetery merchandise, or
3 cemetery services, (iii) the maintenance of interment rights
4 ownership records, (iv) the maintenance of or reporting of
5 interment, entombment, or inurnment records, (v) the
6 maintenance of cemetery property, (vi) the development or
7 improvement of cemetery grounds, or (vii) the maintenance and
8 execution of business documents, including State and federal
9 government reporting and the payment of taxes, for a cemetery
10 business entity.

11 "Cemetery Oversight Database" means a database certified
12 by the Department as effective in tracking the interment,
13 entombment, or inurnment of human remains.

14 "Cemetery services" means those services customarily
15 performed by cemetery personnel in connection with the
16 interment, entombment, or inurnment of a dead human body.

17 "Certificate of organization" means the document received
18 by a cemetery association from the Secretary of State that
19 indicates that the cemetery association shall be deemed fully
20 organized as a body corporate under the name adopted and in its
21 corporate name may sue and be sued.

22 "Comptroller" means the Comptroller of the State of
23 Illinois.

24 "Confidential information" means unique identifiers,
25 including a person's Social Security number, home address, home
26 phone number, personal phone number, personal email address,

1 personal financial information, and any other information
2 protected by law.

3 "Consumer" means an individual who purchases or who is
4 considering purchasing cemetery, burial, or cremation products
5 or services from a cemetery authority, whether for themselves
6 or for another person.

7 "Customer service employee" means an individual who has
8 direct contact with consumers to explain cemetery merchandise,
9 services, and interment rights and to execute the sale of those
10 items to consumers, whether at the cemetery or an off-site
11 location, irrespective of whether compensation is paid by the
12 cemetery authority or a third party. ~~This definition does not
13 include a volunteer who receives no compensation, either
14 directly or indirectly, for his or her work as a customer
15 service employee.~~

16 "Department" means the Department of Financial and
17 Professional Regulation.

18 "Email address of record" means the designated email
19 address recorded by the Department in the applicant's
20 application file or the licensee's license file as maintained
21 by the Department's licensure maintenance unit.

22 "Employee" means an individual who works for a cemetery
23 authority where the cemetery authority has the right to control
24 what work is performed and the details of how the work is
25 performed regardless of whether federal or State payroll taxes
26 are withheld.

1 "Entombment right" means the right to place individual
2 human remains or individual cremated human remains in a
3 specific mausoleum crypt or lawn crypt selected by a consumer
4 for use as a final resting place.

5 "Family burying ground" means a cemetery in which no lots,
6 crypts, or niches are sold to the public and in which
7 interments, inurnments, and entombments are restricted to the
8 immediate family or a group of individuals related to each
9 other by blood or marriage.

10 "Full exemption" means an exemption granted to a cemetery
11 authority pursuant to subsection (a) of Section 5-20.

12 "Funeral director" means a funeral director as defined by
13 the Funeral Directors and Embalmers Licensing Code.

14 "Grave" means a space of ground in a cemetery used or
15 intended to be used for burial.

16 "Green burial or cremation disposition" means burial or
17 cremation practices that reduce the greenhouse gas emissions,
18 waste, and toxic chemicals ordinarily created in burial or
19 cremation or, in the case of greenhouse gas emissions, mitigate
20 or offset emissions. Such practices include any standards or
21 method for burial or cremation that the Department may name by
22 rule.

23 "Immediate family" means the designated agent of a person
24 or the persons given priority for the disposition of a person's
25 remains under the Disposition of Remains Act and shall include
26 a person's spouse, parents, grandparents, children,

1 grandchildren and siblings.

2 "Individual" means a natural person.

3 "Interment right" means the right to place individual human
4 remains or cremated human remains in a specific underground
5 location selected by a consumer for use as a final resting
6 place.

7 "Inurnment right" means the right to place individual
8 cremated human remains in a specific niche selected by the
9 consumer for use as a final resting place.

10 "Lawn crypt" means a permanent underground crypt installed
11 in multiple units for the entombment of human remains.

12 "Licensee" means a person licensed under this Act as a
13 cemetery authority, cemetery manager, or customer service
14 employee. Anyone who holds himself or herself out as a licensee
15 or who is accused of unlicensed practice is considered a
16 licensee for purposes of enforcement, investigation, hearings,
17 and the Illinois Administrative Procedure Act.

18 "Mausoleum crypt" means a grouping of spaces constructed of
19 reinforced concrete or similar material constructed or
20 assembled above the ground for entombing remains.

21 "Niche" means a space in a columbarium or mausoleum used,
22 or intended to be used, for inurnment of cremated human
23 remains.

24 "Partial exemption" means an exemption granted to a
25 cemetery authority pursuant to subsection (b) of Section 5-20.

26 "Parcel identification number" means a unique number

1 assigned by the Cemetery Oversight Database to a grave, plot,
2 crypt, or niche that enables the Department to ascertain the
3 precise location of a decedent's remains interred, entombed, or
4 inurned after the effective date of this Act.

5 "Person" means any individual, firm, partnership,
6 association, corporation, limited liability company, trustee,
7 government or political subdivision, or other entity.

8 "Public cemetery" means a cemetery owned, operated,
9 controlled, or managed by the federal government, by any state,
10 county, city, village, incorporated town, township,
11 multi-township, public cemetery district, or other municipal
12 corporation, political subdivision, or instrumentality thereof
13 authorized by law to own, operate, or manage a cemetery.

14 "Religious burying ground" means a cemetery in which no
15 lots, crypts, or niches are sold and in which interments,
16 inurnments, and entombments are restricted to a group of
17 individuals all belonging to a religious order or granted
18 burial rights by special consideration of the religious order.

19 "Religious cemetery" means a cemetery owned, operated,
20 controlled, and managed by any recognized church, religious
21 society, association, or denomination, or by any cemetery
22 authority or any corporation administering, or through which is
23 administered, the temporalities of any recognized church,
24 religious society, association, or denomination.

25 "Secretary" means the Secretary of Financial and
26 Professional Regulation or a person authorized by the Secretary

1 to act in the Secretary's stead.

2 "Term burial" means a right of interment sold to a consumer
3 in which the cemetery authority retains the right to disinter
4 and relocate the remains, subject to the provisions of
5 subsection (d) of Section 35-15 of this Act.

6 "Trustee" means any person authorized to hold funds under
7 this Act.

8 "Unique personal identifier" means the parcel
9 identification number in addition to the term of burial in
10 years; the numbered level or depth in the grave, plot, crypt,
11 or niche; and the year of death for human remains interred,
12 entombed, or inurned after the effective date of this Act. The
13 unique personal identifier is assigned by the Cemetery
14 Oversight Database.

15 (Source: P.A. 96-863, eff. 3-1-10; 97-679, eff. 2-6-12.)

16 (225 ILCS 411/5-16 new)

17 Sec. 5-16. Address of record; email address of record. All
18 applicants and licensees shall:

19 (1) provide a valid address and email address to the
20 Department, which shall serve as the address of record and
21 email address of record, respectively, at the time of
22 application for licensure or renewal of a license; and

23 (2) inform the Department of any change of address of
24 record or email address of record within 14 days after such
25 change either through the Department's website or by

1 contacting the Department's licensure maintenance unit.

2 (225 ILCS 411/5-20)

3 (Section scheduled to be repealed on January 1, 2021)

4 Sec. 5-20. Exemptions.

5 (a) Full exemption. Except as provided in this subsection,
6 this Act does not apply to (1) any cemetery authority operating
7 as a family burying ground or religious burying ground, (2) any
8 cemetery authority that has not engaged in an interment,
9 inurnment, or entombment of human remains within the last 10
10 years, or (3) any cemetery authority that is less than 3 acres.
11 For purposes of determining the applicability of this
12 subsection, the number of interments, inurnments, and
13 entombments shall be aggregated for each calendar year. A
14 cemetery authority claiming a full exemption shall apply for
15 exempt status as provided for in Section 10-20 of this Act. A
16 cemetery authority claiming a full exemption shall be subject
17 to Sections 10-40, 10-55, and 10-60 of this Act. A cemetery
18 authority that performs activities that would disqualify it
19 from a full exemption is required to apply for licensure within
20 one year following the date on which its activities would
21 disqualify it for a full exemption. A cemetery authority that
22 previously qualified for and maintained a full exemption that
23 fails to timely apply for licensure shall be deemed to have
24 engaged in unlicensed practice and shall be subject to
25 discipline in accordance with Article 25 of this Act.

1 (b) Partial exemption. If a cemetery authority does not
2 qualify for a full exemption and (1) engages in 25 or fewer
3 interments, inurnments, or entombments of human remains for
4 each of the preceding 2 calendar years, (2) operates as a
5 public cemetery, or (3) operates as a religious cemetery, then
6 the cemetery authority is partially exempt from this Act but
7 shall be required to comply with Sections 10-23, 10-40, 10-55,
8 10-60, subsections (a), (b), (b-5), (c), (d), and (h) of
9 Section 20-5, Sections 20-6, 20-8, 20-10, 20-12, 20-30, 20-35,
10 20-40, 25-3, and 25-120, and Article 35 of this Act. Cemetery
11 authorities claiming a partial exemption shall apply for the
12 partial exemption as provided in Section 10-20 of this Act. A
13 cemetery authority that changes to a status that would
14 disqualify it from a partial exemption is required to apply for
15 licensure within one year following the date on which it
16 changes its status. A cemetery authority that maintains a
17 partial exemption that fails to timely apply for licensure
18 shall be deemed to have engaged in unlicensed practice and
19 shall be subject to discipline in accordance with Article 25 of
20 this Act.

21 (c) Nothing in this Act applies to the City of Chicago in
22 its exercise of its powers under the O'Hare Modernization Act
23 or limits the authority of the City of Chicago to acquire
24 property or otherwise exercise its powers under the O'Hare
25 Modernization Act, or requires the City of Chicago, or any
26 person acting on behalf of the City of Chicago, to comply with

1 the licensing, regulation, or investigation, ~~or mediation~~
2 requirements of this Act in exercising its powers under the
3 O'Hare Modernization Act.

4 (Source: P.A. 96-863, eff. 3-1-10; 97-679, eff. 2-6-12.)

5 (225 ILCS 411/5-25)

6 (Section scheduled to be repealed on January 1, 2021)

7 Sec. 5-25. Powers and duties of the Department. The
8 Department shall, subject ~~Subject~~ to the provisions of this
9 Act, ~~the Department may~~ exercise the following functions,
10 powers, and duties:

11 (1) Authorize certification programs to ascertain the
12 qualifications and fitness of applicants for licensing as a
13 licensed cemetery manager or as a customer service employee
14 to ascertain whether they possess the requisite level of
15 knowledge for such position.

16 (2) Examine a licensed cemetery authority's records
17 from any year or any other aspects of cemetery operation as
18 the Department deems appropriate.

19 (3) Investigate any and all cemetery operations.

20 (4) Conduct hearings on proceedings to refuse to issue,
21 ~~or~~ renew, or restore licenses or to revoke, suspend, place
22 on probation, or reprimand, ~~or otherwise discipline~~ a
23 licensee ~~license~~ under this Act ~~or take other~~
24 ~~non-disciplinary action.~~

25 (5) Adopt ~~reasonable~~ rules and regulations required

1 for the administration of this Act.

2 (6) Prescribe forms to be issued for the administration
3 and enforcement of this Act.

4 (7) (Blank). ~~Maintain rosters of the names and~~
5 ~~addresses of all licensees and all persons whose licenses~~
6 ~~have been suspended, revoked, denied renewal, or otherwise~~
7 ~~disciplined within the previous calendar year. These~~
8 ~~rosters shall be available upon written request and payment~~
9 ~~of the required fee as established by rule.~~

10 (8) Work with the Office of the Comptroller and the
11 Department of Public Health, Division of Vital Records to
12 exchange information and request additional information
13 relating to a licensed cemetery authority.

14 (9) Investigate cemetery contracts, grounds, or
15 employee records.

16 (10) Issue licenses to those who meet the requirements
17 of this Act.

18 (11) Conduct investigations related to possible
19 violations of this Act.

20 ~~If the Department exercises its authority to conduct~~
21 ~~investigations under this Section, the Department shall~~
22 ~~provide the cemetery authority with information sufficient to~~
23 ~~challenge the allegation. If the complainant consents, then the~~
24 ~~Department shall provide the cemetery authority with the~~
25 ~~identity of and contact information for the complainant so as~~
26 ~~to allow the cemetery authority and the complainant to resolve~~

1 ~~the complaint directly. Except as otherwise provided in this~~
2 ~~Act, any complaint received by the Department and any~~
3 ~~information collected to investigate the complaint shall be~~
4 ~~maintained by the Department for the confidential use of the~~
5 ~~Department and shall not be disclosed. The Department may not~~
6 ~~disclose the information to anyone other than law enforcement~~
7 ~~officials or other regulatory agencies or persons that have an~~
8 ~~appropriate regulatory interest, as determined by the~~
9 ~~Secretary, or to a party presenting a lawful subpoena to the~~
10 ~~Department. Information and documents disclosed to a federal,~~
11 ~~state, county, or local law enforcement agency shall not be~~
12 ~~disclosed by the agency for any purpose to any other agency or~~
13 ~~person. A formal complaint filed against a licensee by the~~
14 ~~Department or any order issued by the Department against a~~
15 ~~licensee or applicant shall be a public record, except as~~
16 ~~otherwise prohibited by law.~~

17 (Source: P.A. 99-78, eff. 7-20-15.)

18 (225 ILCS 411/5-26 new)

19 Sec. 5-26. Confidentiality. All information collected by
20 the Department in the course of an examination or investigation
21 of a licensee or applicant, including, but not limited to, any
22 complaint against a licensee filed with the Department and
23 information collected to investigate any such complaint, shall
24 be maintained for the confidential use of the Department and
25 shall not be disclosed. The Department may not disclose the

1 information to anyone other than law enforcement officials,
2 other regulatory agencies that have an appropriate regulatory
3 interest as determined by the Director, or a party presenting a
4 lawful subpoena to the Department. Information and documents
5 disclosed to a federal, State, county, or local law enforcement
6 agency shall not be disclosed by the agency for any purpose to
7 any other agency or person. A formal complaint filed against a
8 licensee by the Department or any order issued by the
9 Department against a licensee or applicant shall be a public
10 record, except as otherwise prohibited by law.

11 (225 ILCS 411/10-20)

12 (Section scheduled to be repealed on January 1, 2021)

13 Sec. 10-20. Application for original license or exemption.

14 (a) Applications for original licensure as a cemetery
15 authority, cemetery manager, or customer service employee
16 authorized by this Act, or application for exemption from
17 licensure as a cemetery authority, shall be made to the
18 Department in writing on forms or electronically as prescribed
19 by the Department, ~~which shall include the applicant's Social~~
20 ~~Security number or FEIN number, or both,~~ and shall be
21 accompanied by the required fee that shall not be refundable.
22 ~~as set by Section 10-55 of this Act and further refined by~~
23 ~~rule. Applications for partial or full exemption from licensure~~
24 ~~as a cemetery authority shall be submitted to the Department~~
25 ~~within 6 months after the Department adopts rules under this~~

1 ~~Act. If the person fails to submit the application for partial~~
2 ~~or full exemption within this period, the person shall be~~
3 ~~subject to discipline in accordance with Article 25 of this~~
4 ~~Act. The process for renewing a full or partial exemption shall~~
5 ~~be set by rule.~~ If a cemetery authority seeks to practice at
6 more than one location, it shall meet all licensure
7 requirements at each location as required by this Act and by
8 rule, including submission of an application and fee. All
9 applications shall contain information that, in the judgment of
10 the Department, will enable the Department to pass on the
11 qualifications of the applicant for a license under this Act.

12 (b) (Blank).

13 (c) After initial licensure, if any person comes to obtain
14 at least 51% of the ownership over the licensed cemetery
15 authority, then the cemetery authority shall have to apply for
16 a new license and receive licensure in the required time as set
17 by rule. The current license remains in effect until the
18 Department takes action on the application for a new license.

19 (d) (Blank). ~~All applications shall contain the~~
20 ~~information that, in the judgment of the Department, will~~
21 ~~enable the Department to pass on the qualifications of the~~
22 ~~applicant for an exemption from licensure or for a license to~~
23 ~~practice as a cemetery authority, cemetery manager, or customer~~
24 ~~service employee as set by rule.~~

25 (Source: P.A. 96-863, eff. 3-1-10; 97-679, eff. 2-6-12.)

1 (225 ILCS 411/10-21)

2 (Section scheduled to be repealed on January 1, 2021)

3 Sec. 10-21. Qualifications for licensure.

4 ~~(a) A cemetery authority shall apply for licensure on forms~~
5 ~~prescribed by the Department and pay the required fee. An~~
6 applicant is qualified for licensure as a cemetery authority if
7 the applicant meets all of the following qualifications:

8 (1) The applicant has not committed any act or offense
9 in any jurisdiction that would constitute the basis for
10 discipline under this Act. When considering such license,
11 the Department shall take into consideration the
12 following:

13 (A) the applicant's record of compliance with the
14 Code of Professional Conduct and Ethics, and whether
15 the applicant has been found to have engaged in any
16 unethical or dishonest practices in the cemetery
17 business;

18 (B) whether the applicant has been adjudicated,
19 civilly or criminally, to have committed fraud or to
20 have violated any law of any state involving unfair
21 trade or business practices, has been convicted of a
22 misdemeanor of which fraud is an essential element or
23 which involves any aspect of the cemetery business, or
24 has been convicted of any felony;

25 (C) whether the applicant has willfully violated
26 any provision of this Act or a predecessor law or any

1 regulations relating thereto;

2 (D) whether the applicant has been permanently or
3 temporarily suspended, enjoined, or barred by any
4 court of competent jurisdiction in any state from
5 engaging in or continuing any conduct or practice
6 involving any aspect of the cemetery or funeral
7 business; and

8 (E) whether the applicant has ever had any license
9 to practice any profession or occupation suspended,
10 denied, fined, or otherwise acted against or
11 disciplined by the applicable licensing authority.

12 If the applicant is a corporation, limited liability
13 company, partnership, or other entity permitted by law,
14 then the Department shall determine whether each
15 principal, owner, member, officer, and shareholder holding
16 25% or more of corporate stock has met the requirements of
17 this item (1) of subsection (a) of this Section.

18 (2) The applicant must provide a statement of its
19 assets and liabilities to the Department.

20 (3) The applicant has not, within the preceding 10
21 years, been convicted of or entered a plea of guilty or
22 nolo contendere to (i) a ~~Class X~~ felony or (ii) a
23 misdemeanor felony, an essential element of which was fraud
24 or dishonesty under the laws of this State, another state,
25 the United States, or a foreign jurisdiction that is
26 directly related to the practice of cemetery operations. If

1 the applicant is a corporation, limited liability company,
2 partnership, or other entity permitted by law, then each
3 principal, owner, member, officer, and shareholder holding
4 25% or more of corporate stock has not, within the
5 preceding 10 years, been convicted of or entered a plea of
6 guilty or nolo contendere to (i) a ~~Class X~~ felony or (ii) a
7 misdemeanor felony, an essential element of which was fraud
8 or dishonesty under the laws of this State, another state,
9 the United States, or a foreign jurisdiction that is
10 directly related to the practice of cemetery operations.

11 (4) The applicant shall authorize the Department to
12 conduct a criminal background check that does not involve
13 fingerprinting.

14 (5) In the case of a person or entity applying for
15 renewal of his, her, or its license, the applicant has
16 complied with all other requirements of this Act and the
17 rules adopted for the implementation of this Act.

18 ~~(b) The cemetery manager and customer service employees of~~
19 ~~a licensed cemetery authority shall apply for licensure as a~~
20 ~~cemetery manager or customer service employee on forms~~
21 ~~prescribed by the Department and pay the required fee. A person~~
22 is qualified for licensure as a cemetery manager or customer
23 service employee if he or she meets all of the following
24 requirements:

25 (1) Is at least 18 years of age.

26 (2) Has acted in an ethical manner as set forth in

1 Section 10-23 of this Act. In determining qualifications of
2 licensure, the Department shall take into consideration
3 the factors outlined in item (1) of subsection (a) of this
4 Section.

5 (3) Submits proof of successful completion of a high
6 school education or its equivalent as established by rule.

7 (4) The applicant shall authorize the Department to
8 conduct a criminal background check that does not involve
9 fingerprinting.

10 (5) Has not committed a violation of this Act or any
11 rules adopted under this Act that, in the opinion of the
12 Department, renders the applicant unqualified to be a
13 cemetery manager.

14 (6) Submits proof of successful completion of a
15 certification course recognized by the Department for a
16 cemetery manager or customer service employee, whichever
17 the case may be.

18 (7) Has not, within the preceding 10 years, been
19 convicted of or entered a plea of guilty or nolo contendere
20 to (i) a ~~Class X~~ felony or (ii) a misdemeanor ~~felony~~, an
21 essential element of which was fraud or dishonesty under
22 the laws of this State, another state, the United States,
23 or a foreign jurisdiction that is directly related to the
24 practice of cemetery operations.

25 (8) (Blank).

26 (9) In the case of a person applying for renewal of his

1 or her license, has complied with all other requirements of
2 this Act and the rules adopted for implementation of this
3 Act.

4 (c) Each applicant for a cemetery authority, cemetery
5 manager, or customer service employee license shall authorize
6 the Department to conduct a criminal background check that does
7 not involve fingerprinting. The Department must, in turn,
8 conduct the criminal background check on each applicant. The
9 Department shall adopt rules to implement this subsection (c),
10 but in no event shall the Department impose a fee upon the
11 applicant for the background check.

12 (Source: P.A. 96-863, eff. 3-1-10; 97-679, eff. 2-6-12.)

13 (225 ILCS 411/10-40)

14 (Section scheduled to be repealed on January 1, 2021)

15 Sec. 10-40. Renewal, reinstatement, or restoration of
16 license ~~Expiration and renewal of license.~~

17 (a) The expiration date and renewal period for each license
18 issued under this Act shall be set by rule. The holder of a
19 license may renew such license during the month preceding the
20 expiration date thereof by paying the required fee.

21 (b) A licensee under this Act who has permitted his or her
22 license to expire or has had his or her license placed on
23 inactive status may have his or her license restored by making
24 application to the Department and filing proof acceptable to
25 the Department of his or her fitness of having his or her

1 license restored, including, but not limited to, sworn evidence
2 certifying to active practice in another jurisdiction
3 satisfactory to the Department, and by paying the required fee
4 as determined by rule. ~~Every cemetery authority, cemetery~~
5 ~~manager, and customer service employee license shall expire~~
6 ~~every 2 years. Every registration as a fully exempt cemetery~~
7 ~~authority or partially exempt cemetery authority shall expire~~
8 ~~every 4 years. The expiration date, renewal period, and other~~
9 ~~requirements for each license and registration shall be further~~
10 ~~refined by rule.~~

11 (Source: P.A. 96-863, eff. 3-1-10; 97-679, eff. 2-6-12.)

12 (225 ILCS 411/10-55)

13 (Section scheduled to be repealed on January 1, 2021)

14 Sec. 10-55. Fees.

15 (a) Except as provided in this Section, the fees for the
16 administration and enforcement of this Act shall be set by the
17 Department by rule. The fees ~~shall be reasonable and~~ shall not
18 be refundable.

19 (b) Cemetery manager applicants and customer service
20 employee applicants shall pay any certification program or
21 continuing education program fee directly to the entity
22 offering the program.

23 (c) (Blank). ~~The Department may waive fees based upon~~
24 ~~hardship.~~

25 (d) Nothing shall prohibit a cemetery authority from

1 paying, on behalf of its cemetery managers or customer service
2 employees, their application, renewal, or restoration fees.

3 (e) (Blank). ~~All fees and other moneys collected under this~~
4 ~~Act shall be deposited in the Cemetery Oversight Licensing and~~
5 ~~Disciplinary Fund.~~

6 (f) The fee for application as a cemetery authority seeking
7 a full exemption is \$0.

8 (g) The fee to renew registration as a fully exempt
9 cemetery authority is \$0. ~~As provided in Section 10-40 of this~~
10 ~~Act and as further refined by rule, each registration as a~~
11 ~~fully exempt cemetery authority shall expire every 4 years.~~

12 (h) The fee for application as a cemetery authority seeking
13 a partial exemption is \$150.

14 (i) The fee to renew registration as a partially exempt
15 cemetery authority is \$150. ~~As provided in Section 10-40 of~~
16 ~~this Act and as further refined by rule, each registration as a~~
17 ~~partially exempt cemetery authority shall expire every 4 years.~~

18 (j) The fee for original licensure, renewal, and
19 restoration as a cemetery authority not seeking a full or
20 partial exemption is \$75. ~~As provided in Section 10-40 of this~~
21 ~~Act and as further refined by rule, each cemetery authority~~
22 ~~license shall expire every 2 years.~~

23 (k) The fee for original licensure, renewal, and
24 restoration as a cemetery manager is \$25. ~~As provided in~~
25 ~~Section 10-40 of this Act and as further refined by rule, each~~
26 ~~cemetery manager license shall expire every 2 years.~~

1 (1) The fee for original licensure, renewal, and
2 restoration as a customer service employee is \$25. ~~As provided~~
3 ~~in Section 10-40 of this Act and as further refined by rule,~~
4 ~~each customer service employee license shall expire every 2~~
5 ~~years.~~

6 (Source: P.A. 96-863, eff. 3-1-10; 97-679, eff. 2-6-12.)

7 (225 ILCS 411/20-8)

8 (Section scheduled to be repealed on January 1, 2021)

9 Sec. 20-8. Vehicle traffic control. A cemetery authority
10 shall use its reasonable best efforts to ensure that funeral
11 processions entering and exiting the cemetery grounds do not
12 obstruct traffic on any street for a period in excess of 10
13 minutes, except where such funeral procession is continuously
14 moving or cannot be moved by reason of circumstances over which
15 the cemetery authority has no reasonable control. The cemetery
16 authority shall use its reasonable best efforts to help prevent
17 multiple funeral processions from arriving at the cemetery
18 simultaneously. ~~Notwithstanding any provision of this Act to~~
19 ~~the contrary, a cemetery authority that violates the provisions~~
20 ~~of this Section shall be guilty of a business offense and~~
21 ~~punishable by a fine of not more than \$500 for each offense.~~

22 (Source: P.A. 96-863, eff. 3-1-10.)

23 (225 ILCS 411/25-3)

24 (Section scheduled to be repealed on January 1, 2021)

1 Sec. 25-3. Exemption, ~~investigation, mediation.~~ All
2 cemetery authorities maintaining a partial exemption must
3 submit to the following investigation ~~and mediation~~ procedure
4 by the Department in the event of a consumer complaint:

5 (a) Complaints to cemetery:

6 (1) the cemetery authority shall make every effort to
7 first resolve a consumer complaint; and

8 (2) if the complaint is not resolved, then the cemetery
9 authority shall advise the consumer of his or her right to
10 file a complaint with ~~seek investigation and mediation by~~
11 the Department.

12 ~~(b) Complaints to the Department:~~

13 ~~(1) if the Department receives a complaint, the~~
14 ~~Department shall make an initial determination as to~~
15 ~~whether the complaint has a reasonable basis and pertains~~
16 ~~to this Act;~~

17 ~~(2) if the Department determines that the complaint has~~
18 ~~a reasonable basis and pertains to this Act, it shall~~
19 ~~inform the cemetery authority of the complaint and give it~~
20 ~~30 days to tender a response;~~

21 ~~(3) upon receiving the cemetery authority's response,~~
22 ~~or after the 30 days provided in subsection (2) of this~~
23 ~~subsection, whichever comes first, the Department shall~~
24 ~~attempt to resolve the complaint telephonically with the~~
25 ~~parties involved;~~

26 ~~(4) if the complaint still is not resolved, then the~~

1 ~~Department shall conduct an investigation and mediate the~~
2 ~~complaint as provided for by rule;~~

3 ~~(5) if the Department conducts an on-site~~
4 ~~investigation and face-to-face mediation with the parties,~~
5 ~~then it may charge the cemetery authority a single~~
6 ~~investigation and mediation fee, which fee shall be set by~~
7 ~~rule and shall be calculated on an hourly basis; and~~

8 ~~(6) if all attempts to resolve the consumer complaint~~
9 ~~as provided for in paragraphs (1) through (5) fail, then~~
10 ~~the cemetery authority may be subject to proceedings for~~
11 ~~penalties and discipline under this Article when it is~~
12 ~~determined by the Department that the cemetery authority~~
13 ~~may have engaged in any of the following: (i) gross~~
14 ~~malpractice; (ii) dishonorable, unethical, or~~
15 ~~unprofessional conduct of a character likely to deceive,~~
16 ~~defraud, or harm the public; (iii) gross, willful, or~~
17 ~~continued overcharging for services; (iv) incompetence;~~
18 ~~(v) unjustified failure to honor its contracts; or (vi)~~
19 ~~failure to adequately maintain its premises. The~~
20 ~~Department may issue a citation or institute disciplinary~~
21 ~~action and cause the matter to be prosecuted and may~~
22 ~~thereafter issue and enforce its final order as provided in~~
23 ~~this Act.~~

24 (Source: P.A. 96-863, eff. 3-1-10.)

25 (225 ILCS 411/25-5)

1 (Section scheduled to be repealed on January 1, 2021)

2 Sec. 25-5. Citations.

3 (a) The Department may adopt rules to permit the issuance
4 of citations for non-frivolous complaints. The citation shall
5 be issued to the licensee and shall contain the licensee's name
6 and address, the licensee's license number, a brief factual
7 statement, the Sections of the law allegedly violated, and the
8 penalty imposed. The citation must clearly state that the
9 licensee may choose, in lieu of accepting the citation, to
10 request a hearing. ~~If the licensee does not dispute the matter~~
11 ~~in the citation with the Department within 30 days after the~~
12 ~~citation is served, then the citation shall become a final~~
13 ~~order and shall constitute discipline.~~ The penalty shall be a
14 fine or other conditions as established by rule.

15 (b) The Department shall adopt rules designating
16 violations for which a citation may be issued. Such rules shall
17 designate as citation violations those violations for which
18 there is no substantial threat to the public health, safety,
19 and welfare. Citations shall not be utilized if there was any
20 significant consumer harm resulting from the violation.

21 (c) A citation must be issued within 6 months after the
22 reporting of a violation that is the basis for the citation.

23 (d) Service of a citation may be made by personal service,
24 regular mail, or email ~~or certified mail~~ to the licensee at the
25 licensee's address of record.

26 (Source: P.A. 96-863, eff. 3-1-10.)

1 (225 ILCS 411/25-10)

2 (Section scheduled to be repealed on January 1, 2021)

3 Sec. 25-10. Grounds for disciplinary action.

4 (a) The Department may refuse to issue or renew a license
5 or may revoke, suspend, place on probation, reprimand, or take
6 other disciplinary or non-disciplinary action as the
7 Department may deem appropriate, including ~~imposing~~ fines not
8 to exceed \$10,000 ~~\$8,000~~ for each violation, with regard to any
9 license under this Act, for any one or combination of the
10 following:

11 (1) Material misstatement in furnishing information to
12 the Department.

13 (2) Violations of this Act, ~~except for Section 20-8, or~~
14 ~~of the rules adopted under this Act.~~

15 (3) Conviction of, or entry of a plea of guilty or nolo
16 contendere to, any crime within the last 10 years that is a
17 Class X felony or higher or is a felony involving fraud and
18 dishonesty under the laws of the United States or any state
19 or territory thereof. Conviction of or entry of a plea of
20 guilty or nolo contendere, finding of guilt, jury verdict,
21 or entry of judgment or sentencing, including, but not
22 limited to, convictions, preceding sentences of
23 supervision, conditional discharge, or first offender
24 probation under the law of any jurisdiction of the United
25 States that is (i) a felony or (ii) a misdemeanor, an

1 essential element of which is fraud or dishonesty that is
2 directly related to the practice of cemetery operations.

3 (4) Fraud or any misrepresentation in applying for or
4 procuring a license under this Act or in connection with
5 applying for renewal. ~~Making any misrepresentation for the~~
6 ~~purpose of obtaining licensure or violating any provision~~
7 ~~of this Act or the rules adopted under this Act.~~

8 (5) Negligence, incompetence, or misconduct in the
9 practice of cemetery operations. ~~Professional~~
10 ~~incompetence.~~

11 (6) Gross malpractice.

12 (7) Aiding or assisting another person in violating any
13 provision of this Act or rules adopted under this Act.

14 (8) Failing, within 10 business days, to provide
15 information in response to a written request made by the
16 Department.

17 (9) Engaging in dishonorable, unethical, or
18 unprofessional conduct of a character likely to deceive,
19 defraud, or harm the public.

20 (10) Habitual or excessive use or abuse of drugs
21 defined in law as controlled substances, alcohol,
22 narcotics, stimulants, or any other substances that
23 results in the inability to practice with reasonable
24 judgment, skill, or safety. ~~Inability to practice with~~
25 ~~reasonable judgment, skill, or safety as a result of~~
26 ~~habitual or excessive use of alcohol, narcotics,~~

1 ~~stimulants, or any other chemical agent or drug.~~

2 (11) Discipline by another ~~agency,~~ state, territory,
3 foreign country, the District of Columbia, the United
4 States government territory, or any other government
5 agency ~~foreign nation,~~ if at least one of the grounds for
6 the discipline is the same or substantially equivalent to
7 those set forth in this Act ~~Section.~~

8 (12) Directly or indirectly giving to or receiving from
9 any person, firm, corporation, partnership, or association
10 any fee, commission, rebate, or other form of compensation
11 for professional services not actually or personally
12 rendered.

13 (13) A finding by the Department that the licensee,
14 after having his or her license placed on probationary
15 status, has violated the terms of probation or failed to
16 comply with such terms.

17 (14) Willfully making or filing false records or
18 reports in his or her practice, including, but not limited
19 to, false records filed with any governmental agency or
20 department.

21 (15) Inability to practice the profession with
22 reasonable judgment, skill, or safety as a result of
23 physical illness, including, but not limited to,
24 deterioration through the aging process, loss of motor
25 skill, mental illness, or disability.

26 (16) Failure to comply with an order, decision, or

1 finding of the Department made pursuant to this Act.

2 (17) Directly or indirectly receiving compensation for
3 any professional services not actually performed.

4 (18) Practicing under a false or, except as provided by
5 law, an assumed name.

6 (19) Using or attempting to use an expired, inactive,
7 suspended, or revoked license or impersonating another
8 licensee. Fraud or misrepresentation in applying for, or
9 procuring, a license under this Act or in connection with
10 applying for renewal of a license under this Act.

11 (20) A finding by the Department that an applicant or
12 licensee has failed to pay a fine imposed by the
13 Department. Cheating on or attempting to subvert the
14 licensing examination administered under this Act.

15 (21) Unjustified failure to honor its contracts.

16 (22) Negligent supervision of a cemetery manager,
17 customer service employee, employee, or independent
18 contractor.

19 (23) (Blank). ~~A pattern of practice or other behavior~~
20 ~~which demonstrates incapacity or incompetence to practice~~
21 ~~under this Act.~~

22 (24) (Blank). ~~Allowing an individual who is not, but is~~
23 ~~required to be, licensed under this Act to perform work for~~
24 ~~the cemetery authority.~~

25 (25) (Blank).

26 (b) (Blank). ~~No action may be taken under this Act against~~

1 ~~a person licensed under this Act unless the action is commenced~~
2 ~~within 5 years after the occurrence of the alleged violations,~~
3 ~~except for a violation of item (3) of subsection (a) of this~~
4 ~~Section. If a person licensed under this Act violates item (3)~~
5 ~~of subsection (a) of this Section, then the action may commence~~
6 ~~within 10 years after the occurrence of the alleged violation.~~
7 ~~A continuing violation shall be deemed to have occurred on the~~
8 ~~date when the circumstances last existed that give rise to the~~
9 ~~alleged violation.~~

10 (c) In enforcing this Section, the Department, upon a
11 showing of a possible violation, may order a licensee or
12 applicant to submit to a mental or physical examination, or
13 both, at the expense of the Department. The Department may
14 order the examining physician to present testimony concerning
15 his or her examination of the licensee or applicant. No
16 information shall be excluded by reason of any common law or
17 statutory privilege relating to communications between the
18 licensee or applicant and the examining physician. The
19 examining physicians shall be specifically designated by the
20 Department. The licensee or applicant may have, at his or her
21 own expense, another physician of his or her choice present
22 during all aspects of the examination. Failure of a licensee or
23 applicant to submit to any such examination when directed,
24 without reasonable cause, shall be grounds for either immediate
25 suspending of his or her license or immediate denial of his or
26 her application.

1 (1) If the Secretary immediately suspends the license
2 of a licensee for his or her failure to submit to a mental
3 or physical examination when directed, a hearing must be
4 convened by the Department within 15 days after the
5 suspension and completed without appreciable delay.

6 (2) If the Secretary otherwise suspends a license
7 pursuant to the results of the licensee's mental or
8 physical examination, a hearing must be convened by the
9 Department within 15 days after the suspension and
10 completed without appreciable delay. The Department shall
11 have the authority to review the licensee's record of
12 treatment and counseling regarding the relevant impairment
13 or impairments to the extent permitted by applicable
14 federal statutes and regulations safeguarding the
15 confidentiality of medical records.

16 (3) Any licensee suspended under this subsection
17 (c) shall be afforded an opportunity to demonstrate to the
18 Department that he or she can resume practice in compliance
19 with the acceptable and prevailing standards under the
20 provisions of his or her license.

21 (d) The determination by a circuit court that a licensee is
22 subject to involuntary admission or judicial admission, as
23 provided in the Mental Health and Developmental Disabilities
24 Code, operates as an automatic suspension. Such suspension may
25 end only upon a finding by a court that the patient is no
26 longer subject to involuntary admission or judicial admission,

1 the issuance of an order so finding and discharging the
2 patient, and the filing of a petition for restoration
3 demonstrating fitness to practice.

4 (e) In cases where the Department of Healthcare and Family
5 Services has previously determined that a licensee or a
6 potential licensee is more than 30 days delinquent in the
7 payment of child support and has subsequently certified the
8 delinquency to the Department, the Department shall refuse to
9 issue or renew or shall revoke or suspend that person's license
10 or shall take other disciplinary action against that person
11 based solely upon the certification of delinquency made by the
12 Department of Healthcare and Family Services in accordance with
13 subdivision (a) (5) of Section 2105-15 of the Department of
14 Professional Regulation Law of the Civil Administrative Code of
15 Illinois.

16 (f) The Department shall refuse to issue or renew or shall
17 revoke or suspend a person's license or shall take other
18 disciplinary action against that person for his or her failure
19 to file a return, to pay the tax, penalty, or interest shown in
20 a filed return, or to pay any final assessment of tax, penalty,
21 or interest as required by any tax Act administered by the
22 Department of Revenue, until the requirements of the tax Act
23 are satisfied in accordance with subsection (g) of Section
24 2105-15 of the Department of Professional Regulation Law of the
25 Civil Administrative Code of Illinois.

26 (Source: P.A. 96-863, eff. 3-1-10; 97-679, eff. 2-6-12.)

1 (225 ILCS 411/25-15)

2 (Section scheduled to be repealed on January 1, 2021)

3 Sec. 25-15. Injunction; cease ~~Cease~~ and desist order.

4 (a) If any person or entity violates a provision of this
5 Act, the Secretary may, in the name of the People of the State
6 of Illinois, through the Attorney General of the State of
7 Illinois, petition for an order enjoining such violation or for
8 an order enforcing compliance with this Act. Upon the filing of
9 a verified petition in such court, the court may issue a
10 temporary restraining order, without notice or bond, and may
11 preliminarily and permanently enjoin such violation. If it is
12 established that such person or entity has violated or is
13 violating the injunction, the court may punish the offender for
14 contempt of court. Proceedings under this Section are in
15 addition to, and not in lieu of, all other remedies and
16 penalties provided by this Act. ~~The Secretary may issue an~~
17 ~~order to cease and desist to any licensee or other person doing~~
18 ~~business without the required license when, in the opinion of~~
19 ~~the Secretary, the licensee or other person is violating or is~~
20 ~~about to violate any provision of this Act or any rule or~~
21 ~~requirement imposed in writing by the Department.~~

22 (b) Whenever in the opinion of the Department any person or
23 entity violates any provision of this Act, the Department may
24 issue a rule to show cause why an order to cease and desist
25 should not be entered against them. The rule shall clearly set

1 forth the grounds relied upon by the Department and shall
2 provide a period of 7 days from the date of the rule to file an
3 answer to the satisfaction of the Department. Failure to answer
4 to the satisfaction of the Department shall cause an order to
5 cease and desist to be issued immediately. ~~The Secretary may~~
6 ~~issue an order to cease and desist prior to a hearing and such~~
7 ~~order shall be in full force and effect until a final~~
8 ~~administrative order is entered.~~

9 ~~(c) The Secretary shall serve notice of his or her action,~~
10 ~~designated as an order to cease and desist made pursuant to~~
11 ~~this Section, including a statement of the reasons for the~~
12 ~~action, either personally or by certified mail, return receipt~~
13 ~~requested. Service by certified mail shall be deemed completed~~
14 ~~when the notice is deposited in the United States mail and sent~~
15 ~~to the address of record or, in the case of unlicensed~~
16 ~~activity, the address known to the Department.~~

17 ~~(d) Within 15 days after service of the order to cease and~~
18 ~~desist, the licensee or other person may request, in writing, a~~
19 ~~hearing.~~

20 ~~(e) The Secretary shall schedule a hearing within 30 days~~
21 ~~after the request for a hearing unless otherwise agreed to by~~
22 ~~the parties.~~

23 ~~(f) The Secretary shall have the authority to prescribe~~
24 ~~rules for the administration of this Section.~~

25 ~~(g) If, after hearing, it is determined that the Secretary~~
26 ~~has the authority to issue the order to cease and desist, he or~~

1 ~~she may issue such orders as may be reasonably necessary to~~
2 ~~correct, eliminate, or remedy such conduct.~~

3 ~~(h) The powers vested in the Secretary by this Section are~~
4 ~~additional to any and all other powers and remedies vested in~~
5 ~~the Secretary by law and nothing in this Section shall be~~
6 ~~construed as requiring that the Secretary shall employ the~~
7 ~~power conferred in this Section instead of or as a condition~~
8 ~~precedent to the exercise of any other power or remedy vested~~
9 ~~in the Secretary.~~

10 (Source: P.A. 96-863, eff. 3-1-10.)

11 (225 ILCS 411/25-25)

12 (Section scheduled to be repealed on January 1, 2021)

13 Sec. 25-25. Investigations, notice, hearings.

14 (a) The Department may investigate the actions of any
15 applicant or of any person or entity holding or claiming to
16 hold a license under this Act. ~~The Department may at any time~~
17 ~~investigate the actions of any applicant or of any person or~~
18 ~~persons rendering or offering to render services as a cemetery~~
19 ~~authority, cemetery manager, or customer service employee of or~~
20 ~~any person holding or claiming to hold a license as a licensed~~
21 ~~cemetery authority, cemetery manager, or customer service~~
22 ~~employee. If it appears to the Department that a person has~~
23 ~~engaged in, is engaging in, or is about to engage in any~~
24 ~~practice declared to be unlawful by this Act, then the~~
25 ~~Department may: (1) require that person to file on such terms~~

1 ~~as the Department prescribes a statement or report in writing,~~
2 ~~under oath or otherwise, containing all information the~~
3 ~~Department may consider necessary to ascertain whether a~~
4 ~~licensee is in compliance with this Act, or whether an~~
5 ~~unlicensed person is engaging in activities for which a license~~
6 ~~is required; (2) examine under oath any individual in~~
7 ~~connection with the books and records pertaining to or having~~
8 ~~an impact upon the operation of a cemetery; (3) examine any~~
9 ~~books and records of the licensee that the Department may~~
10 ~~consider necessary to ascertain compliance with this Act; and~~
11 ~~(4) require the production of a copy of any record, book,~~
12 ~~document, account, or paper that is produced in accordance with~~
13 ~~this Act and retain it in his or her possession until the~~
14 ~~completion of all proceedings in connection with which it is~~
15 ~~produced.~~

16 (b) The Department shall, before disciplining an applicant
17 or licensee, at least 30 days prior to the date set for the
18 hearing: (i) notify, in writing, the accused of the charges
19 made and the time and place for the hearing on the charges,
20 (ii) direct him or her to file a written answer to the charges
21 under oath within 20 days after service of the notice, and
22 (iii) inform the applicant or licensee that failure to file an
23 answer will result in a default being entered against the
24 applicant or licensee. ~~The Secretary may, after 10 days notice~~
25 ~~by certified mail with return receipt requested to the licensee~~
26 ~~at the address of record or to the last known address of any~~

1 ~~other person stating the contemplated action and in general the~~
2 ~~grounds therefor, fine such licensee an amount not exceeding~~
3 ~~\$10,000 per violation or revoke, suspend, refuse to renew,~~
4 ~~place on probation, or reprimand any license issued under this~~
5 ~~Act if he or she finds that:~~

6 ~~(1) the licensee has failed to comply with any~~
7 ~~provision of this Act or any order, decision, finding,~~
8 ~~rule, regulation, or direction of the Secretary lawfully~~
9 ~~made pursuant to the authority of this Act; or~~

10 ~~(2) any fact or condition exists which, if it had~~
11 ~~existed at the time of the original application for the~~
12 ~~license, clearly would have warranted the Secretary in~~
13 ~~refusing to issue the license.~~

14 ~~(c) Written or electronic notice, and any notice in the~~
15 ~~subsequent proceedings, may be served by personal delivery, by~~
16 ~~email, or by mail to the applicant or licensee at his or her~~
17 ~~address of record or email address of record. The Secretary may~~
18 ~~fine, revoke, suspend, refuse to renew, place on probation,~~
19 ~~reprimand, or take any other disciplinary action as to the~~
20 ~~particular license with respect to which grounds for the fine,~~
21 ~~revocation, suspension, refuse to renew, probation, or~~
22 ~~reprimand, or other disciplinary action occur or exist, but if~~
23 ~~the Secretary finds that grounds for revocation are of general~~
24 ~~application to all offices or to more than one office of the~~
25 ~~licensee, the Secretary shall fine, revoke, suspend, refuse to~~
26 ~~renew, place on probation, reprimand, or otherwise discipline~~

1 ~~every license to which such grounds apply.~~

2 (d) At the time and place fixed in the notice, the hearing
3 officer appointed by the Secretary shall proceed to hear the
4 charges and the parties or their counsel shall be accorded
5 ample opportunity to present any statement, testimony,
6 evidence, and argument as may be pertinent to the charges or to
7 their defense. The hearing officer may continue the hearing
8 from time to time. In every case in which a license is revoked,
9 suspended, placed on probation, reprimanded, or otherwise
10 disciplined, the Secretary shall serve the licensee with notice
11 of his or her action, including a statement of the reasons for
12 his or her actions, either personally or by certified mail,
13 return receipt requested. Service by certified mail shall be
14 deemed completed when the notice is deposited in the United
15 States mail and sent to the address of record.

16 (e) In case the licensee or applicant, after receiving the
17 notice, fails to file an answer, his or her license may, in the
18 discretion of the Secretary, be suspended, revoked, or placed
19 on probationary status, or be subject to whatever disciplinary
20 action the Secretary considers proper, including limiting the
21 scope, nature, or extent of the person's practice or imposition
22 of a fine, without hearing, if the act or acts charges
23 constitute sufficient grounds for the action under this Act. An
24 order assessing a fine, an order revoking, suspending, placing
25 on probation, or reprimanding a license or, an order denying
26 renewal of a license shall take effect upon service of the

1 ~~order unless the licensee requests, in writing, within 20 days~~
2 ~~after the date of service, a hearing. In the event a hearing is~~
3 ~~requested, an order issued under this Section shall be stayed~~
4 ~~until a final administrative order is entered.~~

5 ~~(f) If the licensee requests a hearing, then the Secretary~~
6 ~~shall schedule a hearing within 30 days after the request for a~~
7 ~~hearing unless otherwise agreed to by the parties. The~~
8 ~~Secretary shall have the authority to appoint an attorney duly~~
9 ~~licensed to practice law in the State of Illinois to serve as~~
10 ~~the hearing officer in any disciplinary action with regard to a~~
11 ~~license. The hearing officer shall have full authority to~~
12 ~~conduct the hearing.~~

13 ~~(g) The hearing shall be held at the time and place~~
14 ~~designated by the Secretary.~~

15 ~~(h) The Secretary shall have the authority to prescribe~~
16 ~~rules for the administration of this Section.~~

17 ~~(i) Fines imposed and any costs assessed shall be paid~~
18 ~~within 60 days.~~

19 (Source: P.A. 96-863, eff. 3-1-10; 97-679, eff. 2-6-12.)

20 (225 ILCS 411/25-26 new)

21 Sec. 25-26. Hearing officer. Notwithstanding any provision
22 of this Act, the Secretary has the authority to appoint an
23 attorney duly licensed to practice law in the State of Illinois
24 to serve as the hearing officer in any action for refusal to
25 issue or renew a license or discipline a license. The hearing

1 officer shall have full authority to conduct the hearing. The
2 hearing officer shall report his or her findings of fact,
3 conclusions of law, and recommendations to the Board and the
4 Secretary.

5 (225 ILCS 411/25-30)

6 (Section scheduled to be repealed on January 1, 2021)

7 Sec. 25-30. Hearing; motion for rehearing ~~Consent order.~~

8 (a) The hearing officer appointed by the Secretary shall
9 hear evidence in support of the formal charges and evidence
10 produced by the licensee. At the conclusion of the hearing, the
11 hearing officer shall present to the Board and the Secretary a
12 written report of his or her findings of fact, conclusions of
13 law, and recommendations. The Board shall review the report of
14 the hearing officer and record and issue its own report
15 adopting, rejecting, or modifying the hearing officer's
16 finding of fact, conclusion of law, and recommendations. If the
17 Board fails to present its report, the applicant or licensee
18 may request in writing a direct appeal to the Secretary, in
19 which case the Secretary may issue an order based upon the
20 report of the hearing officer and the record of the proceedings
21 or issue an order remanding the matter back to the hearing
22 officer for additional proceedings in accordance with the
23 order.

24 (b) After the Board has issued its report, a copy of the
25 Board's report and the hearing officer's report shall be served

1 upon the applicant or licensee, either personally or as
2 provided in this Act for the service of the notice of hearing.
3 Within 20 calendar days after such service, the applicant or
4 licensee may present to the Department a motion, in writing,
5 for a rehearing which shall specify the particular grounds for
6 rehearing. The Department may respond to the motion for
7 rehearing within 20 calendar days after its service on the
8 Department. If no motion for rehearing is filed, then upon the
9 expiration of the time specified for filing such a motion, or
10 upon denial of a motion for rehearing, the Secretary may enter
11 an order in accordance with the recommendations of the Board or
12 hearing officer. If the applicant or licensee orders from the
13 reporting service and pays for a transcript of the record
14 within the time for filing a motion for rehearing, the 20
15 calendar day period within which a motion may be filed shall
16 commence upon delivery of the transcript to the applicant or
17 licensee.

18 (c) If the Secretary disagrees in any regard with the
19 report of Board, the Secretary may issue an order contrary to
20 the report.

21 (d) Whenever the Secretary is not satisfied that
22 substantial justice has been done, the Secretary may order a
23 hearing by the same or another hearing officer.

24 (e) At any point in any investigation or disciplinary
25 proceeding provided for in this Act, both parties may agree to
26 a negotiated consent order. The consent order shall be final

1 upon signature of the Secretary.

2 ~~At any point in any investigation or disciplinary proceeding~~
3 ~~provided for in this Act, both parties may agree to a~~
4 ~~negotiated consent order. The consent order shall be final upon~~
5 ~~signature of the Secretary.~~

6 (Source: P.A. 96-863, eff. 3-1-10.)

7 (225 ILCS 411/25-35)

8 (Section scheduled to be repealed on January 1, 2021)

9 Sec. 25-35. Record of proceedings; ~~transcript.~~

10 (a) The Department, at its expense, shall provide a
11 certified shorthand reporter to take down the testimony and
12 preserve a record of all proceedings at the hearing of any case
13 in which a licensee may be revoked, suspended, placed on
14 probationary status, reprimanded, fined, or subjected to other
15 disciplinary action with reference to the license when a
16 disciplinary action is authorized under this Act and rules. The
17 notice of hearing, complaint, and all other documents in the
18 nature of pleadings and written portions filed in the
19 proceedings, the transcript of the testimony, the report of the
20 hearing officer, and the orders of the Department shall be the
21 record of the proceedings. The record may be made available to
22 any person interested in the hearing upon payment of the fee
23 required by Section 2105-115 of the Department of Professional
24 Regulation Law shall preserve a record of all proceedings at
25 ~~the formal hearing of any case. Any notice, all documents in~~

1 ~~the nature of pleadings, written motions filed in the~~
2 ~~proceedings, the transcripts of testimony, and orders of the~~
3 ~~Department shall be in the record of the proceeding.~~

4 (b) The Department may contract for court reporting
5 services, and, in the event it does so, the Department shall
6 provide the name and contact information for the certified
7 shorthand reporter who transcribed the testimony at a hearing
8 to any person interested, who may obtain a copy of the
9 transcript of any proceedings at a hearing upon payment of the
10 fee specified by the certified shorthand reporter.

11 (Source: P.A. 96-863, eff. 3-1-10.)

12 (225 ILCS 411/25-90)

13 (Section scheduled to be repealed on January 1, 2021)

14 Sec. 25-90. Restoration of license from discipline.

15 (a) At any time after the successful completion of a term
16 of indefinite probation, suspension, or revocation of a license
17 under this Act, the Department may restore the license to the
18 licensee, unless after an investigation and a hearing the
19 Secretary determines that restoration is not in the public
20 interest.

21 (b) Where circumstances of suspension or revocation so
22 indicate, the Department may require an examination of the
23 licensee prior to restoring his or her license.

24 (c) No person whose license has been revoked as authorized
25 in this Act may apply for restoration of that license until

1 such time as provided for in the Civil Administrative Code of
2 Illinois.

3 (d) A license that has been suspended or revoked shall be
4 considered non-renewed for purposes of restoration and a
5 licensee restoring his or her license from suspension or
6 revocation must comply with the requirements for restoration as
7 set forth in Section 10-40.

8 (Source: P.A. 96-863, eff. 3-1-10.)

9 (225 ILCS 411/25-95)

10 (Section scheduled to be repealed on January 1, 2021)

11 Sec. 25-95. Administrative review; venue.

12 (a) All final administrative decisions of the Department
13 are subject to judicial review under the Administrative Review
14 Law and its rules. The term "administrative decision" is
15 defined as in Section 3-101 of the Code of Civil Procedure.

16 (b) Proceedings for judicial review shall be commenced in
17 the circuit court of the county in which the party applying for
18 review resides, but if the party is not a resident of Illinois,
19 the venue shall be in Sangamon County.

20 (c) The Department shall not be required to certify any
21 record to the court or file any answer in court, or to
22 otherwise appear in any court in a judicial review proceeding,
23 unless and until the Department has received from the plaintiff
24 payment of the costs of furnishing and certifying the record,
25 which costs shall be determined by the Department.

1 (d) Failure on the part of the plaintiff to file a receipt
2 in court shall be grounds for dismissal of the action.

3 (Source: P.A. 96-863, eff. 3-1-10.)

4 (225 ILCS 411/25-105)

5 (Section scheduled to be repealed on January 1, 2021)

6 Sec. 25-105. Unlicensed practice; violations; civil
7 penalty ~~Violations.~~

8 (a) Any person who practices, offers to practice, attempts
9 to practice, or hold himself or herself out as being able to
10 engage in cemetery operations without being licensed or exempt
11 under this Act shall, in addition to any other penalty provided
12 by law, pay a civil penalty to the Department in an amount not
13 to exceed \$10,000 for each offense, as determined by the
14 Department. The civil penalty shall be assessed by the
15 Department after a hearing is held in accordance with the
16 provision set forth in this Act regarding the provision of a
17 hearing for the discipline of a licensee.

18 (b) The Department may investigate any actual, alleged, or
19 suspected unlicensed activity.

20 (c) The civil penalty shall be paid within 60 days after
21 the effective date of the order imposing the civil penalty. The
22 order shall constitute a judgment and may be filed and
23 execution had thereon in the same manner as any judgment from
24 any court of record.

25 (d) A person or entity not registered under this Act who

1 has violated any provision of this Act or its rules is guilty
2 of a Class A misdemeanor for the first offense and a Class 4
3 felony for a second and subsequent offenses.

4 ~~Each of the following acts is a Class A misdemeanor for the~~
5 ~~first offense and a Class 4 felony for each subsequent offense:~~

6 ~~(1) the practice of or attempted practice of or holding~~
7 ~~out as available to practice as a cemetery authority,~~
8 ~~cemetery manager, or customer service employee without a~~
9 ~~license; or~~

10 ~~(2) the obtaining of or the attempt to obtain any~~
11 ~~license or authorization under this Act by fraud or~~
12 ~~misrepresentation.~~

13 (Source: P.A. 96-863, eff. 3-1-10; 97-679, eff. 2-6-12.)

14 (225 ILCS 411/25-115)

15 (Section scheduled to be repealed on January 1, 2021)

16 Sec. 25-115. Illinois Administrative Procedure Act;
17 application. The Illinois Administrative Procedure Act is
18 expressly adopted and incorporated in this Act as if all of the
19 provisions of that Act were included in this Act, except that
20 the provision of paragraph (d) of Section 10-65 of the Illinois
21 Administrative Procedure Act, which provides that at hearings
22 the licensee has the right to show compliance with all lawful
23 requirements for retention or continuation or renewal of the
24 license, is specifically excluded. The Department shall not be
25 required to annually verify email addresses as specified in

1 paragraph (a) of subsection (2) of Section 10-75 of the
2 Illinois Administrative Procedure Act. For the purpose of this
3 Act, the notice required under Section 10-25 of the Illinois
4 Administrative Procedure Act is considered sufficient when
5 mailed to the address of record.

6 (Source: P.A. 96-863, eff. 3-1-10.)

7 (225 ILCS 411/25-125)

8 (Section scheduled to be repealed on January 1, 2021)

9 Sec. 25-125. Board Cemetery Oversight Board.

10 (a) The Secretary shall appoint the Cemetery Oversight
11 Board. The Board shall consist of 7 members who shall serve in
12 an advisory capacity to the Secretary. Four ~~The Cemetery~~
13 ~~Oversight Board is created and shall consist of the Secretary,~~
14 ~~who shall serve as its chairperson, and 8 members appointed by~~
15 ~~the Secretary. Appointments shall be made within 90 days after~~
16 ~~the effective date of this Act. Three~~ members shall represent
17 the segment of the cemetery industry that does not maintain a
18 partial exemption or full exemption, one member shall represent
19 the segment of the cemetery industry that maintains a partial
20 exemption as a public cemetery, and one member shall represent
21 the segment of the cemetery industry that maintains a partial
22 exemption as a religious cemetery, ~~2 members shall be consumers~~
23 ~~as defined in this Act, and one member shall represent the~~
24 general public. In addition to the 6 members from the cemetery
25 industry, there shall be one public member. The public member

1 shall be a voting member, not licensed under this Act, and
2 shall not have any affiliation with the death care industry. No
3 ~~member shall be a licensed professional from a non-cemetery~~
4 ~~segment of the death care industry. Board members shall serve~~
5 ~~5 year terms and until their successors are appointed and~~
6 ~~qualified. The membership of the Board should reasonably~~
7 ~~reflect representation from the geographic areas in this State.~~
8 ~~No member shall be reappointed to the Board for a term that~~
9 ~~would cause his or her continuous service on the Board to be~~
10 ~~longer than 10 successive years. Appointments to fill vacancies~~
11 ~~shall be made in the same manner as original appointments, for~~
12 ~~the unexpired portion of the vacated term. Five members of the~~
13 ~~Board shall constitute a quorum. A quorum is required for Board~~
14 ~~decisions. The Secretary may remove any member of the Board for~~
15 ~~misconduct, incompetence, neglect of duty, or for reasons~~
16 ~~prescribed by law for removal of State officials. The Secretary~~
17 ~~may remove a member of the Board who does not attend 2~~
18 ~~consecutive meetings. The Department may, at any time, seek the~~
19 ~~expert advice and knowledge of the Board on any matter relating~~
20 ~~to the administration or enforcement of this Act. The Secretary~~
21 ~~shall consider the recommendations of the Board in the~~
22 ~~development of proposed rules under this Act and in the~~
23 ~~approval of entities seeking to offer certification programs to~~
24 ~~cemetery manager applicants and customer service employee~~
25 ~~applicants. Notice of any proposed rulemaking under this Act~~
26 ~~and applications submitted by entities seeking to offer~~

1 ~~certification programs shall be transmitted to the Board and~~
2 ~~the Department shall review the response of the Board and any~~
3 ~~recommendations made therein.~~

4 (b) Board members shall serve 5-year terms and serve until
5 their successors are appointed and qualified.

6 (c) In appointing members to the Board, the Secretary shall
7 give due consideration to recommendations by members and
8 organizations of the cemetery industry.

9 (d) The membership of the Board should reasonably reflect
10 representation from the geographic areas in this State.

11 (e) No member shall be appointed to the Board for a term
12 that would cause his or her continuous service on the Board to
13 be longer than 2 consecutive 5-year terms.

14 (f) The Secretary may terminate the appointment of any
15 member for cause which, in the opinion of the Secretary,
16 reasonably justified such termination, including, but not
17 limited to, failure to attend 2 consecutive meetings.

18 (g) Appointments to fill vacancies shall be made in the
19 same manner as original appointments, for the unexpired portion
20 of the vacated term.

21 (h) Four members of the Board shall constitute a quorum. A
22 quorum is required for Board decisions.

23 (i) Notice of proposed rulemaking shall be transmitted to
24 the Board and the Department shall review the response of the
25 Board and any recommendations made therein.

26 (j) Members of the Board shall have no liability in any

1 action based upon activity performed in good faith as members
2 of the Board.

3 (k) Members of the Board may be reimbursed for all
4 legitimate, necessary, and authorized expenses.

5 (Source: P.A. 96-863, eff. 3-1-10; 97-679, eff. 2-6-12.)

6 (225 ILCS 411/25-126 new)

7 Sec. 25-126. Powers and duties of the Board. Subject to the
8 provisions of this Act, the Board shall exercise the following
9 functions, powers, and duties:

10 (1) The Board shall hold at least 3 regular meetings
11 each year.

12 (2) The Board shall annually elect a Chairperson and a
13 Vice Chairperson who shall be licensed under this Act.

14 (3) The Board, upon request by the Department, may make
15 an evaluation to determine if certification programs to
16 cemetery manager applicants and customer service employee
17 applicants conform to the requirements as set forth in the
18 rules.

19 (4) The Department may, at any time, seek the expert
20 advice and knowledge of the Board on any matter relating to
21 the enforcement of this Act.

22 (5) The Board shall assist the Department in conducting
23 oral interviews, disciplinary conferences, informal
24 conferences, and formal evidentiary hearings.

1 (225 ILCS 411/35-5)

2 (Section scheduled to be repealed on January 1, 2021)

3 Sec. 35-5. Penalties. Cemetery authorities shall respect
4 the rights of consumers of cemetery products and services as
5 put forth in this Article. Failure to abide by the cemetery
6 duties listed in this Article or to comply with a request by a
7 consumer based on a consumer's privileges under this Article
8 may activate the ~~mediation, citation, or~~ disciplinary
9 processes in Article 25 of this Act.

10 (Source: P.A. 96-863, eff. 3-1-10.)

11 (225 ILCS 411/10-39 rep.)

12 (225 ILCS 411/25-1 rep.)

13 (225 ILCS 411/25-50 rep.)

14 (225 ILCS 411/25-55 rep.)

15 (225 ILCS 411/25-60 rep.)

16 (225 ILCS 411/25-100 rep.)

17 (225 ILCS 411/25-110 rep.)

18 (225 ILCS 411/25-120 rep.)

19 (225 ILCS 411/75-20 rep.)

20 (225 ILCS 411/75-35 rep.)

21 Section 20. The Cemetery Oversight Act is amended by
22 repealing Sections 10-39, 25-1, 25-50, 25-55, 25-60, 25-100,
23 25-110, 25-120, 75-20, and 75-35.

24 Section 99. Effective date. This Act takes effect upon

1 becoming law.".