



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

SB2515

Introduced 10/27/2011, by Sen. John O. Jones

SYNOPSIS AS INTRODUCED:

See Index

Repeals the Cemetery Oversight Act. Repeals provisions of Public Act 96-863 that would have repealed the Cemetery Care Act and the Cemetery Association Act on March 1, 2012. Repeals provisions of the State Finance Act listing special funds that were created by Public Act 96-863. Amends various Acts by deleting or repealing certain language that was added by Public Act 96-863 and by adding certain language that was deleted or repealed by Public Act 96-863. Makes other changes. Effective immediately.

LRB097 14091 CEL 58758 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning regulation.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 (225 ILCS 411/Act rep.)

5 Section 1. The Cemetery Oversight Act is repealed.

6 (P.A. 96-863, Sec. 90-90 rep.)

7 (P.A. 96-863, Sec. 90-95 rep.)

8 Section 2. "An Act concerning State government", approved
9 January 19, 2010, Public Act 96-863, is amended by repealing
10 Sections 90-90 and 90-95.

11 Section 3. The Regulatory Sunset Act is amended by changing
12 Section 4.31 as follows:

13 (5 ILCS 80/4.31)

14 Sec. 4.31. Acts repealed on January 1, 2021. The following
15 Acts are repealed on January 1, 2021:

16 The Crematory Regulation Act.

17 ~~The Cemetery Oversight Act.~~

18 The Illinois Health Information Exchange and Technology
19 Act.

20 The Radiation Protection Act of 1990.

21 (Source: P.A. 96-1041, eff. 7-14-10; 96-1331, eff. 7-27-10;

1 incorporates P.A. 96-863, eff. 3-1-10; 97-333, eff. 8-12-11.)

2 Section 4. The Freedom of Information Act is amended by
3 changing Section 7 as follows:

4 (5 ILCS 140/7) (from Ch. 116, par. 207)

5 Sec. 7. Exemptions.

6 (1) When a request is made to inspect or copy a public
7 record that contains information that is exempt from disclosure
8 under this Section, but also contains information that is not
9 exempt from disclosure, the public body may elect to redact the
10 information that is exempt. The public body shall make the
11 remaining information available for inspection and copying.
12 Subject to this requirement, the following shall be exempt from
13 inspection and copying:

14 (a) Information specifically prohibited from
15 disclosure by federal or State law or rules and regulations
16 implementing federal or State law.

17 (b) Private information, unless disclosure is required
18 by another provision of this Act, a State or federal law or
19 a court order.

20 (b-5) Files, documents, and other data or databases
21 maintained by one or more law enforcement agencies and
22 specifically designed to provide information to one or more
23 law enforcement agencies regarding the physical or mental
24 status of one or more individual subjects.

1 (c) Personal information contained within public
2 records, the disclosure of which would constitute a clearly
3 unwarranted invasion of personal privacy, unless the
4 disclosure is consented to in writing by the individual
5 subjects of the information. "Unwarranted invasion of
6 personal privacy" means the disclosure of information that
7 is highly personal or objectionable to a reasonable person
8 and in which the subject's right to privacy outweighs any
9 legitimate public interest in obtaining the information.
10 The disclosure of information that bears on the public
11 duties of public employees and officials shall not be
12 considered an invasion of personal privacy.

13 (d) Records in the possession of any public body
14 created in the course of administrative enforcement
15 proceedings, and any law enforcement or correctional
16 agency for law enforcement purposes, but only to the extent
17 that disclosure would:

18 (i) interfere with pending or actually and
19 reasonably contemplated law enforcement proceedings
20 conducted by any law enforcement or correctional
21 agency that is the recipient of the request;

22 (ii) interfere with active administrative
23 enforcement proceedings conducted by the public body
24 that is the recipient of the request;

25 (iii) create a substantial likelihood that a
26 person will be deprived of a fair trial or an impartial

1 hearing;

2 (iv) unavoidably disclose the identity of a
3 confidential source, confidential information
4 furnished only by the confidential source, or persons
5 who file complaints with or provide information to
6 administrative, investigative, law enforcement, or
7 penal agencies; except that the identities of
8 witnesses to traffic accidents, traffic accident
9 reports, and rescue reports shall be provided by
10 agencies of local government, except when disclosure
11 would interfere with an active criminal investigation
12 conducted by the agency that is the recipient of the
13 request;

14 (v) disclose unique or specialized investigative
15 techniques other than those generally used and known or
16 disclose internal documents of correctional agencies
17 related to detection, observation or investigation of
18 incidents of crime or misconduct, and disclosure would
19 result in demonstrable harm to the agency or public
20 body that is the recipient of the request;

21 (vi) endanger the life or physical safety of law
22 enforcement personnel or any other person; or

23 (vii) obstruct an ongoing criminal investigation
24 by the agency that is the recipient of the request.

25 (e) Records that relate to or affect the security of
26 correctional institutions and detention facilities.

1 (f) Preliminary drafts, notes, recommendations,
2 memoranda and other records in which opinions are
3 expressed, or policies or actions are formulated, except
4 that a specific record or relevant portion of a record
5 shall not be exempt when the record is publicly cited and
6 identified by the head of the public body. The exemption
7 provided in this paragraph (f) extends to all those records
8 of officers and agencies of the General Assembly that
9 pertain to the preparation of legislative documents.

10 (g) Trade secrets and commercial or financial
11 information obtained from a person or business where the
12 trade secrets or commercial or financial information are
13 furnished under a claim that they are proprietary,
14 privileged or confidential, and that disclosure of the
15 trade secrets or commercial or financial information would
16 cause competitive harm to the person or business, and only
17 insofar as the claim directly applies to the records
18 requested.

19 The information included under this exemption includes
20 all trade secrets and commercial or financial information
21 obtained by a public body, including a public pension fund,
22 from a private equity fund or a privately held company
23 within the investment portfolio of a private equity fund as
24 a result of either investing or evaluating a potential
25 investment of public funds in a private equity fund. The
26 exemption contained in this item does not apply to the

1 aggregate financial performance information of a private
2 equity fund, nor to the identity of the fund's managers or
3 general partners. The exemption contained in this item does
4 not apply to the identity of a privately held company
5 within the investment portfolio of a private equity fund,
6 unless the disclosure of the identity of a privately held
7 company may cause competitive harm.

8 Nothing contained in this paragraph (g) shall be
9 construed to prevent a person or business from consenting
10 to disclosure.

11 (h) Proposals and bids for any contract, grant, or
12 agreement, including information which if it were
13 disclosed would frustrate procurement or give an advantage
14 to any person proposing to enter into a contractor
15 agreement with the body, until an award or final selection
16 is made. Information prepared by or for the body in
17 preparation of a bid solicitation shall be exempt until an
18 award or final selection is made.

19 (i) Valuable formulae, computer geographic systems,
20 designs, drawings and research data obtained or produced by
21 any public body when disclosure could reasonably be
22 expected to produce private gain or public loss. The
23 exemption for "computer geographic systems" provided in
24 this paragraph (i) does not extend to requests made by news
25 media as defined in Section 2 of this Act when the
26 requested information is not otherwise exempt and the only

1 purpose of the request is to access and disseminate
2 information regarding the health, safety, welfare, or
3 legal rights of the general public.

4 (j) The following information pertaining to
5 educational matters:

6 (i) test questions, scoring keys and other
7 examination data used to administer an academic
8 examination;

9 (ii) information received by a primary or
10 secondary school, college, or university under its
11 procedures for the evaluation of faculty members by
12 their academic peers;

13 (iii) information concerning a school or
14 university's adjudication of student disciplinary
15 cases, but only to the extent that disclosure would
16 unavoidably reveal the identity of the student; and

17 (iv) course materials or research materials used
18 by faculty members.

19 (k) Architects' plans, engineers' technical
20 submissions, and other construction related technical
21 documents for projects not constructed or developed in
22 whole or in part with public funds and the same for
23 projects constructed or developed with public funds,
24 including but not limited to power generating and
25 distribution stations and other transmission and
26 distribution facilities, water treatment facilities,

1 airport facilities, sport stadiums, convention centers,
2 and all government owned, operated, or occupied buildings,
3 but only to the extent that disclosure would compromise
4 security.

5 (l) Minutes of meetings of public bodies closed to the
6 public as provided in the Open Meetings Act until the
7 public body makes the minutes available to the public under
8 Section 2.06 of the Open Meetings Act.

9 (m) Communications between a public body and an
10 attorney or auditor representing the public body that would
11 not be subject to discovery in litigation, and materials
12 prepared or compiled by or for a public body in
13 anticipation of a criminal, civil or administrative
14 proceeding upon the request of an attorney advising the
15 public body, and materials prepared or compiled with
16 respect to internal audits of public bodies.

17 (n) Records relating to a public body's adjudication of
18 employee grievances or disciplinary cases; however, this
19 exemption shall not extend to the final outcome of cases in
20 which discipline is imposed.

21 (o) Administrative or technical information associated
22 with automated data processing operations, including but
23 not limited to software, operating protocols, computer
24 program abstracts, file layouts, source listings, object
25 modules, load modules, user guides, documentation
26 pertaining to all logical and physical design of

1 computerized systems, employee manuals, and any other
2 information that, if disclosed, would jeopardize the
3 security of the system or its data or the security of
4 materials exempt under this Section.

5 (p) Records relating to collective negotiating matters
6 between public bodies and their employees or
7 representatives, except that any final contract or
8 agreement shall be subject to inspection and copying.

9 (q) Test questions, scoring keys, and other
10 examination data used to determine the qualifications of an
11 applicant for a license or employment.

12 (r) The records, documents, and information relating
13 to real estate purchase negotiations until those
14 negotiations have been completed or otherwise terminated.
15 With regard to a parcel involved in a pending or actually
16 and reasonably contemplated eminent domain proceeding
17 under the Eminent Domain Act, records, documents and
18 information relating to that parcel shall be exempt except
19 as may be allowed under discovery rules adopted by the
20 Illinois Supreme Court. The records, documents and
21 information relating to a real estate sale shall be exempt
22 until a sale is consummated.

23 (s) Any and all proprietary information and records
24 related to the operation of an intergovernmental risk
25 management association or self-insurance pool or jointly
26 self-administered health and accident cooperative or pool.

1 Insurance or self insurance (including any
2 intergovernmental risk management association or self
3 insurance pool) claims, loss or risk management
4 information, records, data, advice or communications.

5 (t) Information contained in or related to
6 examination, operating, or condition reports prepared by,
7 on behalf of, or for the use of a public body responsible
8 for the regulation or supervision of financial
9 institutions or insurance companies, unless disclosure is
10 otherwise required by State law.

11 (u) Information that would disclose or might lead to
12 the disclosure of secret or confidential information,
13 codes, algorithms, programs, or private keys intended to be
14 used to create electronic or digital signatures under the
15 Electronic Commerce Security Act.

16 (v) Vulnerability assessments, security measures, and
17 response policies or plans that are designed to identify,
18 prevent, or respond to potential attacks upon a community's
19 population or systems, facilities, or installations, the
20 destruction or contamination of which would constitute a
21 clear and present danger to the health or safety of the
22 community, but only to the extent that disclosure could
23 reasonably be expected to jeopardize the effectiveness of
24 the measures or the safety of the personnel who implement
25 them or the public. Information exempt under this item may
26 include such things as details pertaining to the

1 mobilization or deployment of personnel or equipment, to
2 the operation of communication systems or protocols, or to
3 tactical operations.

4 (w) (Blank).

5 (x) Maps and other records regarding the location or
6 security of generation, transmission, distribution,
7 storage, gathering, treatment, or switching facilities
8 owned by a utility, by a power generator, or by the
9 Illinois Power Agency.

10 (y) Information contained in or related to proposals,
11 bids, or negotiations related to electric power
12 procurement under Section 1-75 of the Illinois Power Agency
13 Act and Section 16-111.5 of the Public Utilities Act that
14 is determined to be confidential and proprietary by the
15 Illinois Power Agency or by the Illinois Commerce
16 Commission.

17 (z) Information about students exempted from
18 disclosure under Sections 10-20.38 or 34-18.29 of the
19 School Code, and information about undergraduate students
20 enrolled at an institution of higher education exempted
21 from disclosure under Section 25 of the Illinois Credit
22 Card Marketing Act of 2009.

23 (aa) Information the disclosure of which is exempted
24 under the Viatical Settlements Act of 2009.

25 (bb) Records and information provided to a mortality
26 review team and records maintained by a mortality review

1 team appointed under the Department of Juvenile Justice
2 Mortality Review Team Act.

3 (cc) (Blank). ~~Information regarding interments,~~
4 ~~entombments, or inurnments of human remains that are~~
5 ~~submitted to the Cemetery Oversight Database under the~~
6 ~~Cemetery Care Act or the Cemetery Oversight Act, whichever~~
7 ~~is applicable.~~

8 (dd) Correspondence and records (i) that may not be
9 disclosed under Section 11-9 of the Public Aid Code or (ii)
10 that pertain to appeals under Section 11-8 of the Public
11 Aid Code.

12 (ee) ~~(dd)~~ The names, addresses, or other personal
13 information of persons who are minors and are also
14 participants and registrants in programs of park
15 districts, forest preserve districts, conservation
16 districts, recreation agencies, and special recreation
17 associations.

18 (ff) ~~(ee)~~ The names, addresses, or other personal
19 information of participants and registrants in programs of
20 park districts, forest preserve districts, conservation
21 districts, recreation agencies, and special recreation
22 associations where such programs are targeted primarily to
23 minors.

24 (2) A public record that is not in the possession of a
25 public body but is in the possession of a party with whom the
26 agency has contracted to perform a governmental function on

1 behalf of the public body, and that directly relates to the
2 governmental function and is not otherwise exempt under this
3 Act, shall be considered a public record of the public body,
4 for purposes of this Act.

5 (3) This Section does not authorize withholding of
6 information or limit the availability of records to the public,
7 except as stated in this Section or otherwise provided in this
8 Act.

9 (Source: P.A. 96-261, eff. 1-1-10; 96-328, eff. 8-11-09;
10 96-542, eff. 1-1-10; 96-558, eff. 1-1-10; 96-736, eff. 7-1-10;
11 96-863, eff. 3-1-10; 96-1378, eff. 7-29-10; 97-333, eff.
12 8-12-11; 97-385, eff. 8-15-11; 97-452, eff. 8-19-11; revised
13 9-2-11.)

14 Section 5. The Human Skeletal Remains Protection Act is
15 amended by changing Section 1 as follows:

16 (20 ILCS 3440/1) (from Ch. 127, par. 2661)

17 Sec. 1. Definitions. For the purposes of this Act:

18 (a) "Human skeletal remains" include the bones and
19 decomposed fleshy parts of a deceased human body.

20 (b) "Unregistered graves" are any graves or locations where
21 a human body has been buried or deposited; is over 100 years
22 old; and is not in a cemetery ~~under the authority of the~~
23 ~~Illinois Department of Financial and Professional Regulation~~
24 ~~pursuant to the Cemetery Oversight Act~~ registered with the

1 State Comptroller under the Cemetery Care Act.

2 (c) "Grave artifacts" are any item of human manufacture or
3 use that is associated with the human skeletal remains in an
4 unregistered grave.

5 (d) "Grave markers" are any tomb, monument, stone,
6 ornament, mound, or other item of human manufacture that is
7 associated with an unregistered grave.

8 (e) "Person" means any natural individual, firm, trust,
9 estate, partnership, association, joint stock company, joint
10 venture, corporation or a receiver, trustee, guardian or other
11 representatives appointed by order of any court, the Federal
12 and State governments, including State Universities created by
13 statute or any city, town, county or other political
14 subdivision of this State.

15 (f) "Disturb" includes excavating, removing, exposing,
16 defacing, mutilating, destroying, molesting, or desecrating in
17 any way human skeletal remains, unregistered graves, and grave
18 markers.

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

20 (30 ILCS 105/5.775 rep.)

21 (30 ILCS 105/5.776 rep.)

22 Section 10. The State Finance Act is amended by repealing
23 Sections 5.775 and 5.776.

24 Section 25. The Crematory Regulation Act is amended by

1 changing Sections 5, 10, 11, 11.5, 13, 20, 22, 25, 40, 55, 60,
2 62, 62.5, 62.10, 62.15, 62.20, 65, and 80 as follows:

3 (410 ILCS 18/5)

4 Sec. 5. Definitions. As used in this Act:

5 ~~"Address of record" means the designated address recorded~~
6 ~~by the Department in the applicant's or licensee's application~~
7 ~~file or license file. It is the duty of the applicant or~~
8 ~~licensee to inform the Department of any change of address~~
9 ~~within 14 days, and such changes must be made either through~~
10 ~~the Department's website or by contacting the Department's~~
11 ~~licensure maintenance unit. The address of record shall be the~~
12 ~~permanent street address of the crematory.~~

13 "Alternative container" means a receptacle, other than a
14 casket, in which human remains are transported to the crematory
15 and placed in the cremation chamber for cremation. An
16 alternative container shall be (i) composed of readily
17 combustible materials suitable for cremation, (ii) able to be
18 closed in order to provide a complete covering for the human
19 remains, (iii) resistant to leakage or spillage, (iv) rigid
20 enough for handling with ease, and (v) able to provide
21 protection for the health, safety, and personal integrity of
22 crematory personnel.

23 "Authorizing agent" means a person legally entitled to
24 order the cremation and final disposition of specific human
25 remains.

1 "Body parts" means limbs or other portions of the anatomy
2 that are removed from a person or human remains for medical
3 purposes during treatment, surgery, biopsy, autopsy, or
4 medical research; or human bodies or any portion of bodies that
5 have been donated to science for medical research purposes.

6 "Burial transit permit" means a permit for disposition of a
7 dead human body as required by Illinois law.

8 "Casket" means a rigid container that is designed for the
9 encasement of human remains, is usually constructed of wood,
10 metal, or like material and ornamented and lined with fabric,
11 and may or may not be combustible.

12 "Change of ownership" means a transfer of more than 50% of
13 the stock or assets of a crematory authority.

14 "Comptroller" means the Comptroller of the State of
15 Illinois.

16 "Cremated remains" means all human remains recovered after
17 the completion of the cremation, which may possibly include the
18 residue of any foreign matter including casket material,
19 bridgework, or eyeglasses, that was cremated with the human
20 remains.

21 "Cremation" means the technical process, using heat and
22 flame, that reduces human remains to bone fragments. The
23 reduction takes place through heat and evaporation. Cremation
24 shall include the processing, and may include the
25 pulverization, of the bone fragments.

26 "Cremation chamber" means the enclosed space within which

1 the cremation takes place.

2 "Cremation interment container" means a rigid outer
3 container that, subject to a cemetery's rules and regulations,
4 is composed of concrete, steel, fiberglass, or some similar
5 material in which an urn is placed prior to being interred in
6 the ground, and which is designed to withstand prolonged
7 exposure to the elements and to support the earth above the
8 urn.

9 "Cremation room" means the room in which the cremation
10 chamber is located.

11 "Crematory" means the building or portion of a building
12 that houses the cremation room and the holding facility.

13 "Crematory authority" means the legal entity which is
14 licensed by the ~~Department~~ Comptroller to operate a crematory
15 and to perform cremations.

16 "Department" means the ~~Illinois Department of Financial~~
17 ~~and Professional Regulation~~ Illinois Department of Public
18 Health.

19 "Final disposition" means the burial, cremation, or other
20 disposition of a dead human body or parts of a dead human body.

21 "Funeral director" means a person known by the title of
22 "funeral director", "funeral director and embalmer", or other
23 similar words or titles, licensed by the State to practice
24 funeral directing or funeral directing and embalming.

25 "Funeral establishment" means a building or separate
26 portion of a building having a specific street address and

1 location and devoted to activities relating to the shelter,
2 care, custody, and preparation of a deceased human body and may
3 contain facilities for funeral or wake services.

4 "Holding facility" means an area that (i) is designated for
5 the retention of human remains prior to cremation, (ii)
6 complies with all applicable public health law, (iii) preserves
7 the health and safety of the crematory authority personnel, and
8 (iv) is secure from access by anyone other than authorized
9 persons. A holding facility may be located in a cremation room.

10 "Human remains" means the body of a deceased person,
11 including any form of body prosthesis that has been permanently
12 attached or implanted in the body.

13 ~~"Licensee" means an entity licensed under this Act. An~~
14 ~~entity that holds itself as a licensee or that is accused of~~
15 ~~unlicensed practice is considered a licensee for purposes of~~
16 ~~enforcement, investigation, hearings, and the Illinois~~
17 ~~Administrative Procedure Act.~~

18 "Niche" means a compartment or cubicle for the
19 memorialization and permanent placement of an urn containing
20 cremated remains.

21 ~~"Person" means any person, partnership, association,~~
22 ~~corporation, limited liability company, or other entity, and in~~
23 ~~the case of any such business organization, its officers,~~
24 ~~partners, members, or shareholders possessing 25% or more of~~
25 ~~ownership of the entity.~~

26 "Processing" means the reduction of identifiable bone

1 fragments after the completion of the cremation process to
2 unidentifiable bone fragments by manual or mechanical means.

3 "Pulverization" means the reduction of identifiable bone
4 fragments after the completion of the cremation process to
5 granulated particles by manual or mechanical means.

6 "Scattering area" means an area which may be designated by
7 a cemetery and located on dedicated cemetery property where
8 cremated remains, which have been removed from their container,
9 can be mixed with, or placed on top of, the soil or ground
10 cover.

11 ~~"Secretary" means the Secretary of Financial and~~
12 ~~Professional Regulation.~~

13 "Temporary container" means a receptacle for cremated
14 remains, usually composed of cardboard, plastic or similar
15 material, that can be closed in a manner that prevents the
16 leakage or spillage of the cremated remains or the entrance of
17 foreign material, and is a single container of sufficient size
18 to hold the cremated remains until an urn is acquired or the
19 cremated remains are scattered.

20 "Urn" means a receptacle designed to encase the cremated
21 remains.

22 (Source: P.A. 96-863, eff. 3-1-12.)

23 (410 ILCS 18/10)

24 Sec. 10. Establishment of crematory and licensing of
25 crematory authority.

1 (a) Any person doing business in this State, or any
2 cemetery, funeral establishment, corporation, partnership,
3 joint venture, voluntary organization or any other entity, may
4 erect, maintain, and operate a crematory in this State and
5 provide the necessary appliances and facilities for the
6 cremation of human remains in accordance with this Act.

7 (b) A crematory shall be subject to all local, State, and
8 federal health and environmental protection requirements and
9 shall obtain all necessary licenses and permits from ~~the~~
10 ~~Department of Financial and Professional Regulation,~~ the
11 ~~Department of Public Health,~~ the federal Department of Health
12 and Human Services, and the Illinois and federal Environmental
13 Protection Agencies, or such other appropriate local, State, or
14 federal agencies.

15 (c) A crematory may be constructed on or adjacent to any
16 cemetery, on or adjacent to any funeral establishment, or at
17 any other location consistent with local zoning regulations.

18 (d) An application for licensure as a crematory authority
19 shall be in writing on forms furnished by the ~~Department~~
20 Comptroller. Applications shall be accompanied by a ~~reasonable~~
21 ~~fee determined by rule~~ of \$50 and shall contain all of the
22 following:

23 (1) The full name and address, both residence and
24 business, of the applicant if the applicant is an
25 individual; the full name and address of every member if
26 the applicant is a partnership; the full name and address

1 of every member of the board of directors if the applicant
2 is an association; and the name and address of every
3 officer, director, and shareholder holding more than 25% of
4 the corporate stock if the applicant is a corporation.

5 (2) The address and location of the crematory.

6 (3) A description of the type of structure and
7 equipment to be used in the operation of the crematory,
8 including the operating permit number issued to the
9 cremation device by the Illinois Environmental Protection
10 Agency.

11 (3.5) Attestation by the owner that cremation services
12 shall be by a person trained in accordance with the
13 requirements of Section 22 of this Act.

14 (3.10) A copy of the certification or certifications
15 issued by the certification program to the person or
16 persons who will operate the cremation device.

17 (4) Any further information that the ~~Department~~
18 Comptroller reasonably may require ~~as established by rule~~.

19 (e) Each crematory authority shall file an annual report
20 with the ~~Department~~ Comptroller, accompanied with a ~~reasonable~~
21 \$25 fee ~~determined by rule~~, providing (i) an affidavit signed
22 by the owner of the crematory authority that at the time of the
23 report the cremation device was in proper operating condition,
24 (ii) the total number of all cremations performed at the
25 crematory during the past year, (iii) attestation by the
26 licensee that all applicable permits and certifications are

1 valid, and (iv) either (A) any changes required in the
2 information provided under subsection (d) or (B) an indication
3 that no changes have occurred, ~~and (v) any other information~~
4 ~~that the Department may require as established by rule.~~ The
5 annual report shall be filed by a crematory authority on or
6 before March 15 of each calendar year, in the Office of the
7 Comptroller. If the fiscal year of a crematory authority is
8 other than on a calendar year basis, then the crematory
9 authority shall file the report required by this Section within
10 75 days after the end of its fiscal year. The Comptroller
11 shall, for good cause shown, grant an extension for the filing
12 of the annual report upon the written request of the crematory
13 authority. An extension shall not exceed 60 days. ~~If the fiscal~~
14 ~~year of a crematory authority is other than on a calendar year~~
15 ~~basis, then the crematory authority shall file the report~~
16 ~~required by this Section within 75 days after the end of its~~
17 ~~fiscal year.~~ If a crematory authority fails to submit an annual
18 report to the ~~Department~~ Comptroller within the time specified
19 in this Section, the ~~Department~~ Comptroller shall impose upon
20 the crematory authority a penalty ~~as provided for by rule~~ of \$5
21 for each and every day the crematory authority remains
22 delinquent in submitting the annual report. The ~~Department~~
23 Comptroller may abate all or part of the \$5 daily penalty for
24 good cause shown.

25 (f) All records required to be maintained under this Act,
26 including but not limited to those relating to the license and

1 annual report of the crematory authority required to be filed
2 under this Section, shall be subject to inspection by the
3 Comptroller upon reasonable notice.

4 (g) The ~~Department~~ Comptroller may inspect crematory
5 records at the crematory authority's place of business to
6 review the licensee's compliance with this Act. The inspection
7 must include verification that:

8 (1) the crematory authority has complied with
9 record-keeping requirements of this Act;

10 (2) a crematory device operator's certification of
11 training is conspicuously displayed at the crematory;

12 (3) the cremation device has a current operating permit
13 issued by the Illinois Environmental Protection Agency and
14 the permit is conspicuously displayed in the crematory;

15 (4) the crematory authority is in compliance with local
16 zoning requirements; and

17 (5) the crematory authority license issued by the
18 ~~Department~~ Comptroller is conspicuously displayed at the
19 crematory.

20 ~~(6) other details as determined by rule.~~

21 (h) The ~~Department~~ Comptroller shall issue licenses under
22 this Act to the crematories that are registered with the
23 Comptroller as of ~~on March 1, 2012~~ July 1, 2003 without
24 requiring the previously registered crematories to complete
25 license applications.

26 (Source: P.A. 96-863, eff. 3-1-12.)

1 (410 ILCS 18/11)

2 Sec. 11. Grounds for ~~denial or discipline~~ refusal of
3 license or suspension or revocation of license.

4 (a) In this Section, "applicant" means a person who has
5 applied for a license under this Act ~~including those persons~~
6 ~~whose names are listed on a license application in Section 10~~
7 ~~of this Act.~~

8 (b) The ~~Department~~ Comptroller may refuse to issue ~~a~~
9 ~~license, place on probation, reprimand, or take other~~
10 ~~disciplinary action that the Department may deem appropriate,~~
11 ~~including imposing fines not to exceed \$10,000 for each~~
12 ~~violation, with regard to any~~ a license under this Act, or may
13 suspend or revoke a license issued under this Act, on any of
14 the following grounds:

15 (1) The applicant or licensee has made any
16 misrepresentation or false statement or concealed any
17 material fact in ~~furnishing information to the Department~~
18 connection with a license application or licensure under
19 this Act.

20 (2) The applicant or licensee has been engaged in
21 business practices that work a fraud.

22 (3) The applicant or licensee has refused to give
23 information required under this Act to be disclosed to the
24 ~~Department or failing, within 30 days, to provide~~
25 ~~information in response to a written request made by the~~

1 ~~Department~~ Comptroller.

2 (4) ~~Engaging in dishonorable, unethical, or~~
3 ~~unprofessional conduct of a character likely to deceive,~~
4 ~~defraud, or harm the public.~~ The applicant or licensee has
5 conducted or is about to conduct cremation business in a
6 fraudulent manner.

7 (5) As to any individual listed in the license
8 application as required under Section 10, that individual
9 has conducted or is about to conduct any cremation business
10 on behalf of the applicant in a fraudulent manner or has
11 been convicted of any felony or misdemeanor an essential
12 element of which is fraud.

13 (6) The applicant or licensee has failed to make the
14 annual report required by this Act or to comply with a
15 final order, decision, or finding of the ~~Department~~
16 Comptroller made under this Act.

17 (7) The applicant or licensee, including any member,
18 officer, or director of the applicant or licensee if the
19 applicant or licensee is a firm, partnership, association,
20 or corporation and including any shareholder holding more
21 than 25% of the corporate stock of the applicant or
22 licensee, has violated any provision of this Act or any
23 regulation or order made by the ~~Department~~ Comptroller
24 under this Act.

25 (8) The ~~Department~~ Comptroller finds any fact or
26 condition existing that, if it had existed at the time of

1 the original application for a license under this Act,
2 would have warranted the Comptroller in refusing the
3 issuance of the license.

4 ~~(9) Any violation of this Act or of the rules adopted~~
5 ~~under this Act.~~

6 ~~(10) Incompetence.~~

7 ~~(11) Gross malpractice.~~

8 ~~(12) Discipline by another state, District of~~
9 ~~Columbia, territory, or foreign nation, if at least one of~~
10 ~~the grounds for the discipline is the same or substantially~~
11 ~~equivalent to those set forth in this Section.~~

12 ~~(13) Directly or indirectly giving to or receiving from~~
13 ~~any person, firm, corporation, partnership, or association~~
14 ~~any fee, commission, rebate, or other form of compensation~~
15 ~~for professional services not actually or personally~~
16 ~~rendered.~~

17 ~~(14) A finding by the Department that the licensee,~~
18 ~~after having its license placed on probationary status, has~~
19 ~~violated the terms of probation.~~

20 ~~(15) Willfully making or filing false records or~~
21 ~~reports, including, but not limited to, false records filed~~
22 ~~with State agencies or departments.~~

23 ~~(16) Gross, willful, or continued overcharging for~~
24 ~~professional services, including filing false statements~~
25 ~~for collection of fees for which services are not rendered.~~

26 ~~(17) Practicing under a false or, except as provided by~~

1 ~~law, an assumed name.~~

2 ~~(18) Cheating on or attempting to subvert this Act's~~
3 ~~licensing application process.~~

4 (Source: P.A. 96-863, eff. 3-1-12.)

5 (410 ILCS 18/11.5)

6 Sec. 11.5. License revocation or suspension; surrender of
7 license.

8 (a) ~~(Blank)~~. Upon determining that grounds exist for the
9 revocation or suspension of a license issued under this Act,
10 the Comptroller, if appropriate, may revoke or suspend the
11 license issued to the licensee.

12 (b) Upon the revocation or suspension of a license issued
13 under this Act, the licensee must immediately surrender the
14 license to the ~~Department~~ Comptroller. If the licensee fails to
15 do so, the ~~Department~~ Comptroller may seize the license.

16 (Source: P.A. 96-863, eff. 3-1-12.)

17 (410 ILCS 18/13)

18 Sec. 13. License; display; transfer; duration.

19 (a) Every license issued under this Act must state the
20 number of the license, the business name and address of the
21 licensee's principal place of business, and the licensee's
22 parent company, if any. The license must be conspicuously
23 posted in the place of business operating under the license.

24 (b) ~~After initial licensure, if any person comes to obtain~~

1 ~~at least 25% of the ownership over the licensed crematory~~
2 ~~authority, then the crematory authority shall have to apply for~~
3 ~~a new license and receive licensure in the required time as set~~
4 ~~out by rule. No license is transferable or assignable without~~
5 ~~the express written consent of the Comptroller. A transfer of~~
6 ~~more than 50% of the ownership of any business licensed under~~
7 ~~this Act shall be deemed to be an attempted assignment of the~~
8 ~~license originally issued to the licensee for whom consent of~~
9 ~~the Comptroller is required.~~

10 (c) Every license issued under this Act shall remain in
11 force until it has been surrendered, suspended, or revoked in
12 accordance with this Act. Upon the request of an interested
13 person or on the ~~Department's~~ Comptroller's own motion, the
14 ~~Department~~ Comptroller may issue a new license to a licensee
15 whose license has been revoked under this Act if no factor or
16 condition then exists which would have warranted the ~~Department~~
17 Comptroller in originally refusing the issuance of the license.

18 (Source: P.A. 96-863, eff. 3-1-12.)

19 (410 ILCS 18/20)

20 Sec. 20. Authorization to cremate.

21 (a) A crematory authority shall not cremate human remains
22 until it has received all of the following:

23 (1) A cremation authorization form signed by an
24 authorizing agent. The cremation authorization form shall
25 be provided by the crematory authority and shall contain,

1 at a minimum, the following information:

2 (A) The identity of the human remains and the time
3 and date of death.

4 (B) The name of the funeral director ~~and~~ or funeral
5 establishment, ~~if applicable,~~ that obtained the
6 cremation authorization.

7 (C) Notification as to whether the death occurred
8 from a disease declared by the Department of Health to
9 be infectious, contagious, communicable, or dangerous
10 to the public health.

11 (D) The name of the authorizing agent and the
12 relationship between the authorizing agent and the
13 decedent.

14 (E) A representation that the authorizing agent
15 does in fact have the right to authorize the cremation
16 of the decedent, and that the authorizing agent is not
17 aware of any living person who has a superior priority
18 right to that of the authorizing agent, as set forth in
19 Section 15. In the event there is another living person
20 who has a superior priority right to that of the
21 authorizing agent, the form shall contain a
22 representation that the authorizing agent has made all
23 reasonable efforts to contact that person, has been
24 unable to do so, and has no reason to believe that the
25 person would object to the cremation of the decedent.

26 (F) Authorization for the crematory authority to

1 cremate the human remains.

2 (G) A representation that the human remains do not
3 contain a pacemaker or any other material or implant
4 that may be potentially hazardous or cause damage to
5 the cremation chamber or the person performing the
6 cremation.

7 (H) The name of the person authorized to receive
8 the cremated remains from the crematory authority.

9 (I) The manner in which final disposition of the
10 cremated remains is to take place, if known. If the
11 cremation authorization form does not specify final
12 disposition in a grave, crypt, niche, or scattering
13 area, then the form may indicate that the cremated
14 remains will be held by the crematory authority for 30
15 days before they are released, unless they are picked
16 up from the crematory authority prior to that time, in
17 person, by the authorizing agent. At the end of the 30
18 days the crematory authority may return the cremated
19 remains to the authorizing agent if no final
20 disposition arrangements are made; or at the end of 60
21 days the crematory authority may dispose of the
22 cremated remains in accordance with subsection (d) of
23 Section 40.

24 (J) A listing of any items of value to be delivered
25 to the crematory authority along with the human
26 remains, and instructions as to how the items should be

1 handled.

2 (K) A specific statement as to whether the
3 authorizing agent has made arrangements for any type of
4 viewing of the decedent before cremation, or for a
5 service with the decedent present before cremation in
6 connection with the cremation, and if so, the date and
7 time of the viewing or service and whether the
8 crematory authority is authorized to proceed with the
9 cremation upon receipt of the human remains.

10 (L) The signature of the authorizing agent,
11 attesting to the accuracy of all representations
12 contained on the cremation authorization form, except
13 as set forth in paragraph (M) of this subsection.

14 (M) If a cremation authorization form is being
15 executed on a pre-need basis, the cremation
16 authorization form shall contain the disclosure
17 required by subsection (b) of Section ~~140~~ 65.

18 (N) The cremation authorization form, other than
19 pre-need cremation forms, shall also be signed by a
20 funeral director or other representative of the
21 funeral establishment that obtained the cremation
22 authorization. That individual shall merely execute
23 the cremation authorization form as a witness and shall
24 not be responsible for any of the representations made
25 by the authorizing agent, unless the individual has
26 actual knowledge to the contrary. The information

1 requested by items (A), (B), (C) and (G) of this
2 subsection, however, shall be considered to be
3 representations of the authorizing agent. In addition,
4 the funeral director or funeral establishment shall
5 warrant to the crematory that the human remains
6 delivered to the crematory authority are the human
7 remains identified on the cremation authorization
8 form.

9 (2) A completed and executed burial transit permit
10 indicating that the human remains are to be cremated.

11 (3) Any other documentation required by this State.

12 (b) If an authorizing agent is not available to execute a
13 cremation authorization form in person, that person may
14 delegate that authority to another person in writing, or by
15 sending the crematory authority a facsimile transmission that
16 contains the name, address, and relationship of the sender to
17 the decedent and the name and address of the individual to whom
18 authority is delegated. Upon receipt of the written document,
19 or facsimile transmission, telegram, or other electronic
20 telecommunications transmission which specifies the individual
21 to whom authority has been delegated, the crematory authority
22 shall allow this individual to serve as the authorizing agent
23 and to execute the cremation authorization form. The crematory
24 authority shall be entitled to rely upon the cremation
25 authorization form without liability.

26 (c) An authorizing agent who signs a cremation

1 authorization form shall be deemed to warrant the truthfulness
2 of any facts set forth on the cremation authorization form,
3 including that person's authority to order the cremation;
4 except for the information required by items (C) and (G) of
5 paragraph (1) of subsection (a) of this Section, unless the
6 authorizing agent has actual knowledge to the contrary. An
7 authorizing agent signing a cremation authorization form shall
8 be personally and individually liable for all damages
9 occasioned by and resulting from authorizing the cremation.

10 (d) A crematory authority shall have authority to cremate
11 human remains upon the receipt of a cremation authorization
12 form signed by an authorizing agent. There shall be no
13 liability for a crematory authority that cremates human remains
14 according to an authorization, or that releases or disposes of
15 the cremated remains according to an authorization, except for
16 a crematory authority's gross negligence, provided that the
17 crematory authority performs its functions in compliance with
18 this Act.

19 (e) After an authorizing agent has executed a cremation
20 authorization form, the authorizing agent may revoke the
21 authorization and instruct the crematory authority to cancel
22 the cremation and to release or deliver the human remains to
23 another crematory authority or funeral establishment. The
24 instructions shall be provided to the crematory authority in
25 writing. A crematory authority shall honor any instructions
26 given to it by an authorizing agent under this Section if it

1 receives the instructions prior to beginning the cremation of
2 the human remains.

3 (Source: P.A. 96-863, eff. 3-1-12.)

4 (410 ILCS 18/22)

5 Sec. 22. Performance of cremation service; training. A
6 person may not perform a cremation service in this State unless
7 he or she has completed training in performing cremation
8 services and received certification by a program recognized by
9 the ~~Department~~ Comptroller. The crematory authority must
10 conspicuously display the certification at the crematory
11 authority's place of business. Any new employee shall have a
12 reasonable time period, ~~as determined by rule~~ not to exceed one
13 year, to attend a recognized training program. In the interim,
14 the new employee may perform a cremation service if he or she
15 has received training from another person who has received
16 certification by a program recognized by the ~~Department and is~~
17 ~~under the supervision of the trained person~~ Comptroller. For
18 purposes of this Act, the ~~Department may~~ Comptroller shall
19 recognize any training program that provides training in the
20 operation of a cremation device, in the maintenance of a clean
21 facility, and in the proper handling of human remains. The
22 ~~Department may~~ Comptroller shall recognize any course that is
23 conducted by a death care trade association in Illinois or the
24 United States or by a manufacturer of a cremation unit that is
25 consistent with the standards provided in this Act ~~or as~~

1 ~~otherwise determined by rule.~~

2 (Source: P.A. 96-863, eff. 3-1-12.)

3 (410 ILCS 18/25)

4 Sec. 25. Recordkeeping.

5 (a) The crematory authority shall furnish to the person who
6 delivers human remains to the crematory authority a receipt
7 signed ~~at the time of delivery~~ by both the crematory authority
8 and the person who delivers the human remains, showing the date
9 and time of the delivery, the type of casket or alternative
10 container that was delivered, the name of the person from whom
11 the human remains were received and the name of the funeral
12 establishment or other entity with whom the person is
13 affiliated, the name of the person who received the human
14 remains on behalf of the crematory authority, and the name of
15 the decedent. The crematory shall retain a copy of this receipt
16 in its permanent records.

17 (b) Upon its release of cremated remains, the crematory
18 authority shall furnish to the person who receives the cremated
19 remains from the crematory authority a receipt signed by both
20 the crematory authority and the person who receives the
21 cremated remains, showing the date and time of the release, the
22 name of the person to whom the cremated remains were released
23 and the name of the funeral establishment, cemetery, or other
24 entity with whom the person is affiliated, the name of the
25 person who released the cremated remains on behalf of the

1 crematory authority, and the name of the decedent. The
2 crematory shall retain a copy of this receipt in its permanent
3 records.

4 (c) A crematory authority shall maintain at its place of
5 business a permanent record of each cremation that took place
6 at its facility which shall contain the name of the decedent,
7 the date of the cremation, and the final disposition of the
8 cremated remains.

9 (d) The crematory authority shall maintain a record of all
10 cremated remains disposed of by the crematory authority in
11 accordance with subsection (d) of Section 40.

12 (e) Upon completion of the cremation, the crematory
13 authority shall file the burial transit permit as required by
14 ~~the Illinois Vital Records Act and rules adopted under that Act~~
15 ~~and the Illinois Counties Code~~ law, and transmit a photocopy of
16 the burial transit permit along with the cremated remains to
17 whoever receives the cremated remains from the authorizing
18 agent unless the cremated remains are to be interred, entombed,
19 inurned, or placed in a scattering area, in which case the
20 crematory authority shall retain a copy of the burial transit
21 permit and shall send the permit, along with the cremated
22 remains, to the cemetery, which shall file the permit with the
23 designated agency after the interment, entombment, inurnment,
24 or scattering has taken place.

25 (f) All cemeteries shall maintain a record of all cremated
26 remains that are disposed of on their property, provided that

1 the cremated remains were properly transferred to the cemetery
2 and the cemetery issued a receipt acknowledging the transfer of
3 the cremated remains.

4 (Source: P.A. 96-863, eff. 3-1-12.)

5 (410 ILCS 18/40)

6 Sec. 40. Disposition of cremated remains.

7 (a) The authorizing agent shall be responsible for the
8 final disposition of the cremated remains.

9 (b) Cremated remains may be disposed of by placing them in
10 a grave, crypt, or niche, by scattering them in a scattering
11 area as defined in this Act, or in any manner whatever on the
12 private property of a consenting owner.

13 (c) Upon the completion of the cremation process, and
14 except as provided for in item ~~(I)~~ (J) of paragraph (1) of
15 subsection (a) of Section 20, if the crematory authority has
16 not been instructed to arrange for the interment, entombment,
17 inurnment, or scattering of the cremated remains, the crematory
18 authority shall deliver the cremated remains to the individual
19 specified on the cremation authorization form, or if no
20 individual is specified then to the authorizing agent. The
21 delivery may be made in person or by registered mail. Upon
22 receipt of the cremated remains, the individual receiving them
23 may transport them in any manner in this State without a
24 permit, and may dispose of them in accordance with this
25 Section. After delivery, the crematory authority shall be

1 discharged from any legal obligation or liability concerning
2 the cremated remains.

3 (d) If, after a period of 60 days from the date of the
4 cremation, the authorizing agent or the agent's designee has
5 not instructed the crematory authority to arrange for the final
6 disposition of the cremated remains or claimed the cremated
7 remains, the crematory authority may dispose of the cremated
8 remains in any manner permitted by this Section. The crematory
9 authority, however, shall keep a permanent record identifying
10 the site of final disposition. The authorizing agent shall be
11 responsible for reimbursing the crematory authority for all
12 reasonable expenses incurred in disposing of the cremated
13 remains. Upon disposing of the cremated remains, the crematory
14 authority shall be discharged from any legal obligation or
15 liability concerning the cremated remains. Any person who was
16 in possession of cremated remains prior to the effective date
17 of this Act may dispose of them in accordance with this
18 Section.

19 (e) Except with the express written permission of the
20 authorizing agent, no person shall:

21 (1) Dispose of cremated remains in a manner or in a
22 location so that the cremated remains are commingled with
23 those of another person. This prohibition shall not apply
24 to the scattering of cremated remains at sea, by air, or in
25 an area located in a dedicated cemetery and used
26 exclusively for those purposes.

1 (2) Place cremated remains of more than one person in
2 the same temporary container or urn.

3 (Source: P.A. 96-863, eff. 3-1-12.)

4 (410 ILCS 18/55)

5 Sec. 55. Penalties. Violations of this Act shall be
6 punishable as follows:

7 (1) Performing a cremation without receipt of a
8 cremation authorization form signed by an authorizing
9 agent shall be a Class 4 felony.

10 (2) Signing a cremation authorization form with the
11 actual knowledge that the form contains false or incorrect
12 information shall be a Class 4 felony.

13 (3) A Violation of any cremation procedure set forth in
14 Section 35 shall be a Class 4 felony.

15 (4) Holding oneself out to the public as a crematory
16 authority, or the operation of a building or structure
17 within this State as a crematory, without being licensed
18 under this Act, shall be a Class A misdemeanor.

19 (4.5) Performance of a cremation service by a person
20 who has not completed a training program as defined in
21 Section 22 of this Act shall be a Class A misdemeanor.

22 (4.10) Any person who intentionally violates a
23 provision of this Act or a final order of the ~~Department~~
24 Comptroller is liable for a civil penalty not to exceed
25 ~~\$10,000~~ \$5,000 per violation.

1 (4.15) Any person who knowingly acts without proper
2 legal authority and who willfully and knowingly destroys or
3 damages the remains of a deceased human being or who
4 desecrates human remains is guilty of a Class 3 felony.

5 (5) A violation of any other provision of this Act
6 shall be a Class B misdemeanor.

7 (Source: P.A. 96-863, eff. 3-1-12.)

8 (410 ILCS 18/60)

9 Sec. 60. Failure to file annual report. Whenever a
10 crematory authority refuses or neglects to file its annual
11 report in violation of Section 10 of this Act, or fails to
12 otherwise comply with the requirements of this Act, the
13 ~~Department shall impose a penalty as provided for by rule for~~
14 ~~each and every day the licensee remains delinquent in~~
15 ~~submitting the annual report. Such report shall be made under~~
16 ~~oath and shall be in a form determined by the Department.~~
17 Comptroller may commence an administrative proceeding as
18 authorized by this Act or may communicate the facts to the
19 Attorney General of the State of Illinois who shall thereupon
20 institute such proceedings against the crematory authority or
21 its officers as the nature of the case may require.

22 (Source: P.A. 96-863, eff. 3-1-12.)

23 (410 ILCS 18/62)

24 Sec. 62. ~~Injunctive action; cease and desist order~~

1 Investigation of unlawful practices.

2 ~~(a) If any person violates the provisions of this Act, the~~
3 ~~Secretary, in the name of the People of the State of Illinois,~~
4 ~~through the Attorney General or the State's Attorney of the~~
5 ~~county in which the violation is alleged to have occurred, may~~
6 ~~petition for an order enjoining the violation or for an order~~
7 ~~enforcing compliance with this Act. Upon the filing of a~~
8 ~~verified petition, the court with appropriate jurisdiction may~~
9 ~~issue a temporary restraining order, without notice or bond,~~
10 ~~and may preliminarily and permanently enjoin the violation. If~~
11 ~~it is established that the person has violated or is violating~~
12 ~~the injunction, the court may punish the offender for contempt~~
13 ~~of court. Proceedings under this Section are in addition to,~~
14 ~~and not in lieu of, all other remedies and penalties provided~~
15 ~~by this Act.~~

16 ~~(b) Whenever, in the opinion of the Department, a person~~
17 ~~violates any provision of this Act, the Department may issue a~~
18 ~~rule to show cause why an order to cease and desist should not~~
19 ~~be entered against that person. The rule shall clearly set~~
20 ~~forth the grounds relied upon by the Department and shall allow~~
21 ~~at least 7 days from the date of the rule to file an answer~~
22 ~~satisfactory to the Department. Failure to answer to the~~
23 ~~satisfaction of the Department shall cause an order to cease~~
24 ~~and desist to be issued.~~

25 If the Comptroller has good cause to believe that a person has
26 engaged in, is engaging in, or is about to engage in any

1 practice in violation of this Act, the Comptroller may do any
2 one or more of the following:

3 (1) Require that person to file, on terms the
4 Comptroller prescribes, a statement or report in writing,
5 under oath or otherwise, containing all information that
6 the Comptroller considers necessary to ascertain whether a
7 licensee is in compliance with this Act, or whether an
8 unlicensed person is engaging in activities for which a
9 license is required under this Act.

10 (2) Examine under oath any person in connection with
11 the books and records required to be maintained under this
12 Act.

13 (3) Examine any books and records of a licensee that
14 the Comptroller considers necessary to ascertain
15 compliance with this Act.

16 (4) Require the production of a copy of any record,
17 book, document, account, or paper that is produced in
18 accordance with this Act and retain it in the Comptroller's
19 possession until the completion of all proceedings in
20 connection with which it is produced.

21 (Source: P.A. 96-863, eff. 3-1-12.)

22 (410 ILCS 18/62.5)

23 Sec. 62.5. Service of notice. Service by the ~~Department~~
24 Comptroller of any notice requiring a person to file a
25 statement or report under this Act shall be made: (1)

1 personally by delivery of a duly executed copy of the notice to
2 the person to be served or, if that person is not a natural
3 person, in the manner provided in the Civil Practice Law when a
4 complaint is filed; or (2) by mailing by certified mail a duly
5 executed copy of the notice to the person ~~at his or her address~~
6 ~~of record~~ to be served at his or her last known abode or
7 principal place of business within this State.

8 (Source: P.A. 96-863, eff. 3-1-12.)

9 (410 ILCS 18/62.10)

10 Sec. 62.10. ~~Investigations; notice and hearing~~
11 Investigation of actions; hearing. ~~The Department may at any~~
12 ~~time investigate the actions of any applicant or of any person,~~
13 ~~persons, or entity rendering or offering to render cremation~~
14 ~~services or any person or entity holding or claiming to hold a~~
15 ~~license as a licensed crematory. The Department shall, before~~
16 ~~revoking, suspending, placing on probation, reprimanding, or~~
17 ~~taking any other disciplinary action under Section 11 of this~~
18 ~~Act, at least 30 days before the date set for the hearing, (i)~~
19 ~~notify the accused in writing of the charges made and the time~~
20 ~~and place for the hearing on the charges, (ii) direct the~~
21 ~~accused applicant or licensee to file a written answer to the~~
22 ~~charges with the Department under oath within 20 days after the~~
23 ~~service on him or her of the notice, and (iii) inform the~~
24 ~~accused that, if he or she fails to answer, default will be~~
25 ~~taken against him or her or that his or her license may be~~

1 ~~suspended, revoked, placed on probationary status, or other~~
2 ~~disciplinary action taken with regard to the license, including~~
3 ~~limiting the scope, nature, or extent of his or her practice,~~
4 ~~as the Department may consider proper.~~

5 ~~At the time and place fixed in the notice, the Department~~
6 ~~shall proceed to hear the charges and the parties or their~~
7 ~~counsel shall be accorded ample opportunity to present any~~
8 ~~pertinent statements, testimony, evidence, and arguments. The~~
9 ~~Secretary shall have the authority to appoint an attorney duly~~
10 ~~licensed to practice law in the State of Illinois to serve as~~
11 ~~the hearing officer in any disciplinary action with regard to a~~
12 ~~license. The hearing officer shall have full authority to~~
13 ~~conduct the hearing. The Department may continue the hearing~~
14 ~~from time to time. In case the person, after receiving the~~
15 ~~notice, fails to file an answer, his or her license may, in the~~
16 ~~discretion of the Department, be suspended, revoked, placed on~~
17 ~~probationary status, or the Department may take whatever~~
18 ~~disciplinary action considered proper, including limiting the~~
19 ~~scope, nature, or extent of the person's practice or the~~
20 ~~imposition of a fine, without a hearing, if the act or acts~~
21 ~~charged constitute sufficient grounds for that action under~~
22 ~~this Act. The written notice may be served by personal delivery~~
23 ~~or by certified mail to the address specified by the accused in~~
24 ~~his or her last notification with the Department.~~

25 (a) The Comptroller shall make an investigation upon
26 discovering facts that, if proved, would constitute grounds for

1 refusal, suspension, or revocation of a license under this Act.

2 (b) Before refusing to issue, and before suspending or
3 revoking, a license under this Act, the Comptroller shall hold
4 a hearing to determine whether the applicant for a license or
5 the licensee ("the respondent") is entitled to hold such a
6 license. At least 10 days before the date set for the hearing,
7 the Comptroller shall notify the respondent in writing that (i)
8 on the designated date a hearing will be held to determine the
9 respondent's eligibility for a license and (ii) the respondent
10 may appear in person or by counsel. The written notice may be
11 served on the respondent personally, or by registered or
12 certified mail sent to the respondent's business address as
13 shown in the respondent's latest notification to the
14 Comptroller. The notice must include sufficient information to
15 inform the respondent of the general nature of the reason for
16 the Comptroller's action.

17 (c) At the hearing, both the respondent and the complainant
18 shall be accorded ample opportunity to present in person or by
19 counsel such statements, testimony, evidence, and argument as
20 may be pertinent to the charge or to any defense to the charge.
21 The Comptroller may reasonably continue the hearing from time
22 to time. The Comptroller may subpoena any person or persons in
23 this State and take testimony orally, by deposition, or by
24 exhibit, in the same manner and with the same fees and mileage
25 as prescribed in judicial proceedings in civil cases. Any
26 authorized agent of the Comptroller may administer oaths to

1 witnesses at any hearing that the Comptroller is authorized to
2 conduct.

3 (d) The Comptroller, at the Comptroller's expense, shall
4 provide a certified shorthand reporter to take down the
5 testimony and preserve a record of every proceeding at the
6 hearing of any case involving the refusal to issue a license
7 under this Act, the suspension or revocation of such a license,
8 the imposition of a monetary penalty, or the referral of a case
9 for criminal prosecution. The record of any such proceeding
10 shall consist of the notice of hearing, the complaint, all
11 other documents in the nature of pleadings and written motions
12 filed in the proceeding, the transcript of testimony, and the
13 report and orders of the Comptroller. Copies of the transcript
14 of the record may be purchased from the certified shorthand
15 reporter who prepared the record or from the Comptroller.

16 (Source: P.A. 96-863, eff. 3-1-12.)

17 (410 ILCS 18/62.15)

18 ~~Sec. 62.15. Compelling testimony Court order. Any circuit~~
19 ~~court, upon application of the Department or designated hearing~~
20 ~~officer may enter an order requiring the attendance of~~
21 ~~witnesses and their testimony, and the production of documents,~~
22 ~~papers, files, books, and records in connection with any~~
23 ~~hearing or investigation. The court may compel obedience to its~~
24 ~~order by proceedings for contempt. Upon the application of the~~
25 ~~Comptroller or of the applicant or licensee against whom~~

1 proceedings under Section 62.10 are pending, any circuit court
2 may enter an order requiring witnesses to attend and testify
3 and requiring the production of documents, papers, files,
4 books, and records in connection with any hearing in any
5 proceeding under that Section. Failure to obey such a court
6 order may result in contempt proceedings.

7 (Source: P.A. 96-863, eff. 3-1-12.)

8 (410 ILCS 18/62.20)

9 ~~Sec. 62.20. Administrative review; venue; certification of~~
10 ~~record; costs~~ Judicial review.

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

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

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

1 ~~for dismissal of the action.~~ Any person affected by a final
2 administrative decision of the Comptroller under this Act may
3 have the decision reviewed judicially by the circuit court of
4 the county where the person resides or, in the case of a
5 corporation, where the corporation's registered office is
6 located. If the plaintiff in the judicial review proceeding is
7 not a resident of this State, venue shall be in Sangamon
8 County. The provisions of the Administrative Review Law and any
9 rules adopted under it govern all proceedings for the judicial
10 review of final administrative decisions of the Comptroller
11 under this Act. The term "administrative decision" is defined
12 as in the Administrative Review Law.

13 (b) The Comptroller is not required to certify the record
14 of the proceeding unless the plaintiff in the review proceeding
15 has purchased a copy of the transcript from the certified
16 shorthand reporter who prepared the record or from the
17 Comptroller. Exhibits shall be certified without cost.

18 (Source: P.A. 96-863, eff. 3-1-12.)

19 (410 ILCS 18/65)

20 Sec. 65. Pre-need cremation arrangements.

21 (a) Any person, or anyone who has legal authority to act on
22 behalf of a person, on a pre-need basis, may authorize his or
23 her own cremation and the final disposition of his or her
24 cremated remains by executing, as the authorizing agent, a
25 cremation authorization form on a pre-need basis. A copy of

1 this form shall be provided to the person. Any person shall
2 have the right to transfer or cancel this authorization at any
3 time prior to death by destroying the executed cremation
4 authorization form and providing written notice to the
5 crematory authority.

6 (b) Any cremation authorization form that is being executed
7 by an individual as his or her own authorizing agent on a
8 pre-need basis shall contain the following disclosure, which
9 shall be completed by the authorizing agent:

10 "() I do not wish to allow any of my survivors the option
11 of cancelling my cremation and selecting alternative
12 arrangements, regardless of whether my survivors deem
13 a change to be appropriate.

14 () I wish to allow only the survivors whom I have
15 designated below the option of cancelling my cremation
16 and selecting alternative arrangements, if they deem a
17 change to be appropriate:....."

18 (c) Except as provided in subsection (b) of this Section,
19 at the time of the death of a person who has executed, as the
20 authorizing agent, a cremation authorization form on a pre-need
21 basis, any person in possession of an executed form and any
22 person charged with making arrangements for the final
23 disposition of the decedent who has knowledge of the existence
24 of an executed form, shall use their best efforts to ensure
25 that the decedent is cremated and that the final disposition of
26 the cremated remains is in accordance with the instructions

1 contained on the cremation authorization form. If a crematory
2 authority (i) is in possession of a completed cremation
3 authorization form that was executed on a pre-need basis, (ii)
4 is in possession of the designated human remains, and (iii) has
5 received payment for the cremation of the human remains and the
6 final disposition of the cremated remains or is otherwise
7 assured of payment, then the crematory authority shall be
8 required to cremate the human remains and dispose of the
9 cremated remains according to the instructions contained on the
10 cremation authorization form, and may do so without any
11 liability.

12 (d) Any pre-need contract sold by, or pre-need arrangements
13 made with, a cemetery, funeral establishment, crematory
14 authority, or any other party that includes a cremation shall
15 specify the final disposition of the cremated remains, in
16 accordance with Section 40. In the event that no different or
17 inconsistent instructions are provided to the crematory
18 authority by the authorizing agent at the time of death, the
19 crematory authority shall be authorized to release or dispose
20 of the cremated remains as indicated in the pre-need agreement.
21 Upon compliance with the terms of the pre-need agreement, the
22 crematory authority shall be discharged from any legal
23 obligation concerning the cremated remains. ~~The pre-need~~
24 ~~agreement shall be kept as a permanent record by the crematory~~
25 ~~authority.~~

26 (e) This Section shall not apply to any cremation

1 authorization form or pre-need contract executed prior to the
2 effective date of this Act. Any cemetery, funeral
3 establishment, crematory authority, or other party, however,
4 with the written approval of the authorizing agent or person
5 who executed the pre-need contract, may designate that the
6 cremation authorization form or pre-need contract shall be
7 subject to this Act.

8 (Source: P.A. 96-863, eff. 3-1-12.)

9 (410 ILCS 18/80)

10 ~~Sec. 80. Record of proceedings; transcript~~ Home Rule. The
11 ~~Department, at its expense, shall preserve a record of all~~
12 ~~proceedings at the formal hearing of any case. Any notice of~~
13 ~~hearing, complaint, all other documents in the nature of~~
14 ~~pleadings, written motions filed in the proceedings, the~~
15 ~~transcripts of testimony, the report of the hearing officer,~~
16 ~~and orders of the Department shall be in the record of the~~
17 ~~proceeding. The Department shall furnish a transcript of such~~
18 ~~record to any person interested in such hearing upon payment of~~
19 ~~the fee required under Section 2105-115 of the Department of~~
20 ~~Professional Regulation Law.~~ The regulation of crematories and
21 crematory authorities as set forth in this Act is an exclusive
22 power and function of the State. A home rule unit may not
23 regulate crematories or crematory authorities. This Section is
24 a denial and limitation of home rule powers and functions under
25 subsection (h) of Section 6 of Article VII of the Illinois

1 Constitution.

2 (Source: P.A. 96-863, eff. 3-1-12.)

3 (410 ILCS 18/7 rep.)

4 (410 ILCS 18/85 rep.)

5 (410 ILCS 18/87 rep.)

6 (410 ILCS 18/88 rep.)

7 (410 ILCS 18/89 rep.)

8 (410 ILCS 18/90 rep.)

9 (410 ILCS 18/91 rep.)

10 (410 ILCS 18/92 rep.)

11 (410 ILCS 18/93 rep.)

12 (410 ILCS 18/94 rep.)

13 (410 ILCS 18/95 rep.)

14 Section 27. The Crematory Regulation Act is amended by
15 repealing Sections 7, 85, 87, 88, 89, 90, 91, 92, 93, 94, and
16 95.

17 Section 30. The Vital Records Act is amended by changing
18 Sections 11 and 18.5 as follows:

19 (410 ILCS 535/11) (from Ch. 111 1/2, par. 73-11)

20 Sec. 11. Information required on forms.

21 (a) The form of certificates, reports, and other returns
22 required by this Act or by regulations adopted under this Act
23 shall include as a minimum the items recommended by the federal

1 agency responsible for national vital statistics, subject to
2 approval of and modification by the Department. All forms shall
3 be prescribed and furnished by the State Registrar of Vital
4 Records.

5 (b) On and after the effective date of this amendatory Act
6 of 1983, all forms used to collect information under this Act
7 which request information concerning the race or ethnicity of
8 an individual by providing spaces for the designation of that
9 individual as "white" or "black", or the semantic equivalent
10 thereof, shall provide an additional space for a designation as
11 "Hispanic".

12 (c) Effective November 1, 1990, the social security numbers
13 of the mother and father shall be collected at the time of the
14 birth of the child. These numbers shall not be recorded on the
15 certificate of live birth. The numbers may be used only for
16 those purposes allowed by Federal law.

17 (d) The social security number of a person who has died
18 shall be entered on the death certificate; however, failure to
19 enter the social security number of the person who has died on
20 the death certificate does not invalidate the death
21 certificate.

22 ~~(e) If the place of disposition of a dead human body or~~
23 ~~cremated remains is in a cemetery, the burial permit shall~~
24 ~~include the place of disposition. The place of disposition~~
25 ~~shall include the lot, block, section, and plot or niche where~~
26 ~~the dead human body or cremated remains are located. This~~

1 ~~subsection does not apply to cremated remains scattered in a~~
2 ~~cemetery.~~

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

4 (410 ILCS 535/18.5)

5 Sec. 18.5. Electronic reporting system for death
6 registrations. The State Registrar ~~shall~~ may facilitate death
7 registration by implementing an electronic reporting system.
8 The system may be used to transfer information to individuals
9 and institutions responsible for completing and filing
10 certificates and related reports for deaths that occur in the
11 State. The system shall be used to transfer information to the
12 Department of Healthcare and Family Services not less often
13 than once every 3-month period for the purpose of updating the
14 roster of Medicaid recipients. The system shall be capable of
15 storing and retrieving accurate and timely data and statistics
16 for those persons and agencies responsible for vital records
17 registration and administration. Upon establishment of such an
18 electronic reporting system, but not later than January 1,
19 2011, the county clerk in the county in which a death occurred
20 or the county clerk of the county where a decedent last
21 resided, as indicated on the decedent's death certificate,
22 shall be authorized to issue certifications of death records
23 from such system, and the State Registrar shall cause the
24 electronic reporting system to provide for such capability. ~~The~~
25 ~~Department of Financial and Professional Regulation shall have~~

1 ~~access to the system to enhance its enforcement of the Cemetery~~
2 ~~Oversight Act.~~

3 (Source: P.A. 96-327, eff. 8-11-09; 96-863, eff. 3-1-10;
4 97-111, eff. 1-1-12.)

5 Section 33. The Eminent Domain Act is amended by changing
6 Section 15-5-40 as follows:

7 (735 ILCS 30/15-5-40)

8 Sec. 15-5-40. Eminent domain powers in ILCS Chapters 705
9 through 820. The following provisions of law may include
10 express grants of the power to acquire property by condemnation
11 or eminent domain:

12 (765 ILCS 230/2); Coast and Geodetic Survey Act; United States
13 of America; for carrying out coast and geodetic surveys.

14 (765 ILCS 505/1); Mining Act of 1874; mine owners and
15 operators; for roads, railroads, and ditches.

16 (805 ILCS 25/2); Corporation Canal Construction Act; general
17 corporations; for levees, canals, or tunnels for
18 agricultural, mining, or sanitary purposes.

19 (805 ILCS 30/7); Gas Company Property Act; consolidating gas
20 companies; for acquisition of stock of dissenting
21 stockholder.

22 (805 ILCS 120/9); Merger of Not For Profit Corporations Act;
23 merging or consolidating corporations; for acquisition of

1 interest of objecting member or owner.
2 (805 ILCS 320/16 through 320/20); Cemetery Association Act;
3 cemetery associations; for cemetery purposes.
4 (Source: P.A. 96-863, eff. 1-19-10.)

5 Section 35. The Crime Victims Compensation Act is amended
6 by changing Section 2 as follows:

7 (740 ILCS 45/2) (from Ch. 70, par. 72)

8 Sec. 2. Definitions. As used in this Act, unless the
9 context otherwise requires:

10 (a) "Applicant" means any person who applies for
11 compensation under this Act or any person the Court of Claims
12 finds is entitled to compensation, including the guardian of a
13 minor or of a person under legal disability. It includes any
14 person who was a dependent of a deceased victim of a crime of
15 violence for his or her support at the time of the death of
16 that victim.

17 (b) "Court of Claims" means the Court of Claims created by
18 the Court of Claims Act.

19 (c) "Crime of violence" means and includes any offense
20 defined in Sections 9-1, 9-2, 9-3, 10-1, 10-2, 11-1.20,
21 11-1.30, 11-1.40, 11-1.50, 11-1.60, 11-11, 11-19.2, 11-20.1,
22 11-20.1B, 11-20.3, 12-1, 12-2, 12-3, 12-3.2, 12-3.3, 12-3.4,
23 12-4, 12-4.1, 12-4.2, 12-4.3, 12-5, 12-7.1, 12-7.3, 12-7.4,
24 12-13, 12-14, 12-14.1, 12-15, 12-16, ~~12-20.5~~, 12-30, 20-1 or

1 20-1.1, or Section 12-3.05 except for subdivision (a)(4) or
2 (g)(1),~~7~~ or subdivision (a)(4) of Section 11-14.4, of the
3 Criminal Code of 1961, ~~Sections 1(a) and 1(a-5) of the Cemetery~~
4 ~~Protection Act,~~ driving under the influence of intoxicating
5 liquor or narcotic drugs as defined in Section 11-501 of the
6 Illinois Vehicle Code, and a violation of Section 11-401 of the
7 Illinois Vehicle Code, provided the victim was a pedestrian or
8 was operating a vehicle moved solely by human power or a
9 mobility device at the time of contact; so long as the offense
10 did not occur during a civil riot, insurrection or rebellion.
11 "Crime of violence" does not include any other offense or
12 accident involving a motor vehicle except those vehicle
13 offenses specifically provided for in this paragraph. "Crime of
14 violence" does include all of the offenses specifically
15 provided for in this paragraph that occur within this State but
16 are subject to federal jurisdiction and crimes involving
17 terrorism as defined in 18 U.S.C. 2331.

18 (d) "Victim" means (1) a person killed or injured in this
19 State as a result of a crime of violence perpetrated or
20 attempted against him or her, (2) the parent of a person killed
21 or injured in this State as a result of a crime of violence
22 perpetrated or attempted against the person, (3) a person
23 killed or injured in this State while attempting to assist a
24 person against whom a crime of violence is being perpetrated or
25 attempted, if that attempt of assistance would be expected of a
26 reasonable ~~person~~ man under the circumstances, (4) a person

1 killed or injured in this State while assisting a law
2 enforcement official apprehend a person who has perpetrated a
3 crime of violence or prevent the perpetration of any such crime
4 if that assistance was in response to the express request of
5 the law enforcement official, (5) a person who personally
6 witnessed a violent crime, (5.1) solely for the purpose of
7 compensating for pecuniary loss incurred for psychological
8 treatment of a mental or emotional condition caused or
9 aggravated by the crime, any other person under the age of 18
10 who is the brother, sister, half brother, half sister, child,
11 or stepchild of a person killed or injured in this State as a
12 result of a crime of violence, or (6) an Illinois resident who
13 is a victim of a "crime of violence" as defined in this Act
14 except, if the crime occurred outside this State, the resident
15 has the same rights under this Act as if the crime had occurred
16 in this State upon a showing that the state, territory,
17 country, or political subdivision of a country in which the
18 crime occurred does not have a compensation of victims of
19 crimes law for which that Illinois resident is eligible, ~~(7) a~~
20 ~~deceased person whose body is dismembered or whose remains are~~
21 ~~deseccrated as the result of a crime of violence, or (8) solely~~
22 ~~for the purpose of compensating for pecuniary loss incurred for~~
23 ~~psychological treatment of a mental or emotional condition~~
24 ~~caused or aggravated by the crime, any parent, spouse, or child~~
25 ~~under the age of 18 of a deceased person whose body is~~
26 ~~dismembered or whose remains are deseccrated as the result of a~~

1 ~~erime of violence.~~

2 (e) "Dependent" means a relative of a deceased victim who
3 was wholly or partially dependent upon the victim's income at
4 the time of his or her death and shall include the child of a
5 victim born after his or her death.

6 (f) "Relative" means a spouse, parent, grandparent,
7 stepfather, stepmother, child, grandchild, brother,
8 brother-in-law, sister, sister-in-law, half brother, half
9 sister, spouse's parent, nephew, niece, uncle or aunt.

10 (g) "Child" means an unmarried son or daughter who is under
11 18 years of age and includes a stepchild, an adopted child or a
12 child born out of wedlock.

13 (h) "Pecuniary loss" means, in the case of injury,
14 appropriate medical expenses and hospital expenses including
15 expenses of medical examinations, rehabilitation, medically
16 required nursing care expenses, appropriate psychiatric care
17 or psychiatric counseling expenses, expenses for care or
18 counseling by a licensed clinical psychologist, licensed
19 clinical social worker, or licensed clinical professional
20 counselor and expenses for treatment by Christian Science
21 practitioners and nursing care appropriate thereto;
22 transportation expenses to and from medical and treatment
23 facilities; prosthetic appliances, eyeglasses, and hearing
24 aids necessary or damaged as a result of the crime; replacement
25 costs for clothing and bedding used as evidence; costs
26 associated with temporary lodging or relocation necessary as a

1 result of the crime, including, but not limited to, the first
2 month's rent and security deposit of the dwelling that the
3 claimant relocated to and other reasonable relocation expenses
4 incurred as a result of the violent crime; locks or windows
5 necessary or damaged as a result of the crime; the purchase,
6 lease, or rental of equipment necessary to create usability of
7 and accessibility to the victim's real and personal property,
8 or the real and personal property which is used by the victim,
9 necessary as a result of the crime; the costs of appropriate
10 crime scene clean-up; replacement services loss, to a maximum
11 of \$1000 per month; dependents replacement services loss, to a
12 maximum of \$1000 per month; loss of tuition paid to attend
13 grammar school or high school when the victim had been enrolled
14 as a student prior to the injury, or college or graduate school
15 when the victim had been enrolled as a day or night student
16 prior to the injury when the victim becomes unable to continue
17 attendance at school as a result of the crime of violence
18 perpetrated against him or her; loss of earnings, loss of
19 future earnings because of disability resulting from the
20 injury, and, in addition, in the case of death, expenses for
21 funeral, burial, and travel and transport for survivors of
22 homicide victims to secure bodies of deceased victims and to
23 transport bodies for burial all of which may not exceed a
24 maximum of \$5,000 and loss of support of the dependents of the
25 victim; ~~in the case of dismemberment or desecration of a body,~~
26 ~~expenses for funeral and burial, all of which may not exceed a~~

1 ~~maximum of \$5,000.~~ Loss of future earnings shall be reduced by
2 any income from substitute work actually performed by the
3 victim or by income he or she would have earned in available
4 appropriate substitute work he or she was capable of performing
5 but unreasonably failed to undertake. Loss of earnings, loss of
6 future earnings and loss of support shall be determined on the
7 basis of the victim's average net monthly earnings for the 6
8 months immediately preceding the date of the injury or on \$1000
9 per month, whichever is less. If a divorced or legally
10 separated applicant is claiming loss of support for a minor
11 child of the deceased, the amount of support for each child
12 shall be based either on the amount of support pursuant to the
13 judgment prior to the date of the deceased victim's injury or
14 death, or, if the subject of pending litigation filed by or on
15 behalf of the divorced or legally separated applicant prior to
16 the injury or death, on the result of that litigation. Real and
17 personal property includes, but is not limited to, vehicles,
18 houses, apartments, town houses, or condominiums. Pecuniary
19 loss does not include pain and suffering or property loss or
20 damage.

21 (i) "Replacement services loss" means expenses reasonably
22 incurred in obtaining ordinary and necessary services in lieu
23 of those the injured person would have performed, not for
24 income, but for the benefit of himself or herself or his or her
25 family, if he or she had not been injured.

26 (j) "Dependents replacement services loss" means loss

1 reasonably incurred by dependents or private legal guardians of
2 minor dependents after a victim's death in obtaining ordinary
3 and necessary services in lieu of those the victim would have
4 performed, not for income, but for their benefit, if he or she
5 had not been fatally injured.

6 (k) "Survivor" means immediate family including a parent,
7 step-father, step-mother, child, brother, sister, or spouse.

8 (Source: P.A. 96-267, eff. 8-11-09; 96-863, eff. 3-1-10;
9 96-1551, Article 1, Section 980, eff. 7-1-11; 96-1551, Article
10 2, Section 1090, eff. 7-1-11; revised 9-30-11.)

11 Section 40. The Burial Lot Perpetual Trust Act is amended
12 by changing Section 2 as follows:

13 (760 ILCS 90/2) (from Ch. 21, par. 32)

14 Sec. 2. Every company or association incorporated for
15 cemetery purposes under any general or special law of the State
16 of Illinois may receive, by gift, legacy, or otherwise, moneys
17 or real or personal property, or the income or avails of such
18 moneys or property, in trust, in perpetuity, for the
19 improvement, maintenance, ornamentation, repair, care and
20 preservation of any burial lot or grave, vault, tomb, or other
21 such structures, in any cemetery owned or controlled by such
22 cemetery company or association, upon such terms and in such
23 manner as may be provided by the terms of such gift, legacy or
24 other conveyance of such moneys or property in trust and

1 assented to by such company or association, and subject to the
2 rules and regulations of such company or association, and every
3 such company or association owning or controlling any such
4 cemetery may make contracts with the owner or owners or legal
5 representatives of any lot, grave, vault, tomb, or other such
6 structure in such cemetery, for the improvement, maintenance,
7 ornamentation, care, preservation and repair of any such lot,
8 grave, vault, tomb, or other such structure in such cemetery
9 owned or controlled by such cemetery company or association. ~~If~~
10 ~~the cemetery is a privately owned cemetery, as defined in~~
11 ~~Section 2 of the Cemetery Care Act, or a licensed cemetery~~
12 ~~authority under the Cemetery Oversight Act, or if the burial~~
13 ~~lot or grave, vault, tomb, or other such structures are in a~~
14 ~~privately owned cemetery, as defined in Section 2 of the~~
15 ~~Cemetery Care Act, or a licensed cemetery authority under the~~
16 ~~Cemetery Oversight Act, then such company or association shall~~
17 ~~also comply with the provisions of the Cemetery Care Act or~~
18 ~~Cemetery Oversight Act, whichever is applicable. Where the~~
19 ~~cemetery is a privately operated cemetery, as defined in~~
20 ~~section 2 of the Cemetery Care Act, approved July 21, 1947, as~~
21 ~~amended, or where the burial lot or grave, vault, tomb, or~~
22 ~~other such structures are in a privately operated cemetery, as~~
23 ~~defined in section 2 of that Act, then such company or~~
24 ~~association shall also comply with the provisions of the~~
25 ~~Cemetery Care Act.~~

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

1 Section 45. The Cemetery Perpetual Trust Authorization Act
2 is amended by changing Section 2 as follows:

3 (760 ILCS 95/2) (from Ch. 21, par. 64)

4 Sec. 2. Any incorporated cemetery association incorporated
5 not for pecuniary profit, may if it elects to do so, receive
6 and hold money, funds and property in perpetual trust pursuant
7 to the provisions of this act. Such election shall be evidenced
8 by a by-law or resolution adopted by the board of directors, or
9 board of trustees of the incorporated cemetery association. Any
10 person is authorized to give, donate or bequeath any sum of
11 money or any funds, securities, or property of any kind to the
12 cemetery association, in perpetual trust, for the maintenance,
13 care, repair, upkeep or ornamentation of the cemetery, or any
14 lot or lots, or grave or graves in the cemetery, specified in
15 the instrument making the gift, donation or legacy. The
16 cemetery association may receive and hold in perpetual trust,
17 any such money, funds, securities and property so given,
18 donated or bequeathed to it, and may convert the property,
19 funds and securities into money and shall invest and keep
20 invested the proceeds thereof and the money so given, donated
21 and bequeathed, in safe and secure income bearing investments,
22 including investments in income producing real estate,
23 provided the purchase price of the real estate shall not exceed
24 the fair market value thereof on the date of its purchase as

1 such value is determined by the board of directors or board of
2 trustees of the association. The principal of the trust fund
3 shall be kept intact and the income arising therefrom shall be
4 perpetually applied for the uses and purposes specified in the
5 instrument making the gift, donation or legacy and for no other
6 purpose.

7 The by-laws of the cemetery association shall provide for a
8 permanent committee to manage and control the trust funds so
9 given, donated and bequeathed to it. The members of the
10 committee shall be appointed by the board of directors, or
11 board of trustees of the cemetery association from among the
12 members of the board of directors or board of trustees. The
13 committee shall choose a chairman, a secretary and a treasurer
14 from among the members, and shall have the management and
15 control of the trust funds of the cemetery association so
16 given, donated and bequeathed in trust, under the supervision
17 of the board of directors or board of trustees. The treasurer
18 of the committee shall execute a bond to the People of the
19 State of Illinois for the use of the cemetery association, in a
20 penal sum of not less than double the amount of the trust funds
21 coming into his possession as treasurer, conditioned for the
22 faithful performance of his duties and the faithful accounting
23 for all money or funds which by virtue of his treasurership
24 come into his possession, and be in such form and with such
25 securities as may be prescribed and approved by the board of
26 directors, or board of trustees, and shall be approved by such

1 board of directors, or board of trustees, and filed with the
2 secretary of the cemetery association.

3 The treasurer of the committee shall have the custody of
4 all money, funds and property received in trust by the cemetery
5 association and shall invest the same in accordance with the
6 directions of the committee as approved by the board of
7 directors or board of trustees of the cemetery association, and
8 shall receive and have the custody of all of the income arising
9 from such investments and as the income is received by him, he
10 shall pay it to the treasurer of the cemetery association, and
11 he shall keep permanent books of record of all such trust funds
12 and of all receipts arising therefrom and disbursements
13 thereof, and shall annually make a written report to the board
14 of directors or board of trustees of the cemetery association,
15 under oath, showing receipts and disbursements, including a
16 statement showing the amount and principal of trust funds on
17 hand and how invested, which report shall be audited by the
18 board of directors, or board of trustees, and if found correct,
19 shall be approved, and filed with the secretary of the cemetery
20 association.

21 The secretary of the committee shall keep, in a book
22 provided for such purpose, a permanent record of the
23 proceedings of the committee, signed by the president and
24 attested by the secretary, and shall also keep a permanent
25 record of the several trust funds, the amounts thereof, and for
26 what uses and purposes, respectively, and he shall annually, at

1 the time the treasurer makes his report, make a written report
2 under oath, to the board of directors or board of trustees,
3 stating therein substantially the same matter required to be
4 reported by the treasurer of the committee, which report, if
5 found to be correct, shall be approved, and filed with the
6 secretary of the association.

7 The treasurer shall execute a bond to the People of the
8 State of Illinois, in a penal sum of not less than double the
9 amount of money or funds coming into his possession as such
10 treasurer, conditioned for the faithful performance of his
11 duties and the faithful accounting of all money or funds which
12 by virtue of his office come into his possession and be in such
13 form and with such securities as may be prescribed and approved
14 by the board of directors, or board of trustees, and shall be
15 approved by such board of directors or board of trustees and
16 filed with the secretary of the cemetery association.

17 The trust funds, gifts and legacies mentioned in this
18 section and the income arising therefrom shall be exempt from
19 taxation and from the operation of all laws of mortmain, and
20 the laws against perpetuities and accumulations.

21 ~~No loan; investment; purchase of insurance on the life of~~
22 ~~any trustee or employee; purchase of any real estate; or any~~
23 ~~other transaction using care funds by any trustee, director, or~~
24 ~~committee member shall be made to or for the benefit of any~~
25 ~~person, officer, trustee, or party having any interest, or to~~
26 ~~any firm, corporation, trade association, or partnership in~~

1 ~~which any officer, director, trustee, or party has any~~
2 ~~interest, is a member of, or serves as an officer or director.~~
3 ~~A violation of this Section shall constitute the intentional~~
4 ~~and improper withdrawal of trust funds.~~

5 ~~No loan or investment in any unproductive real estate or~~
6 ~~real estate outside of this State or in permanent improvements~~
7 ~~of the cemetery or any of its facilities shall be made, unless~~
8 ~~specifically authorized by the instrument whereby the~~
9 ~~principal fund was created. No commission or brokerage fee for~~
10 ~~the purchase or sale of any property shall be paid in excess of~~
11 ~~that usual and customary at the time and in the locality where~~
12 ~~such purchase or sale is made, and all such commissions and~~
13 ~~brokerage fees shall be fully reported in the next annual~~
14 ~~report filed by such cemetery association or trustee.~~

15 ~~If the cemetery is a privately owned cemetery, as defined~~
16 ~~in Section 2 of the Cemetery Care Act, or a licensed cemetery~~
17 ~~authority under the Cemetery Oversight Act, or if the burial~~
18 ~~lot or grave, vault, tomb, or other such structures are in a~~
19 ~~privately owned cemetery, as defined in Section 2 of the~~
20 ~~Cemetery Care Act, or a licensed cemetery authority under the~~
21 ~~Cemetery Oversight Act, then such company or association shall~~
22 ~~also comply with the provisions of the Cemetery Care Act or~~
23 ~~Cemetery Oversight Act, whichever is applicable. Where the~~
24 ~~cemetery is a privately operated cemetery, as defined in~~
25 ~~section 2 of the Cemetery Care Act, approved July 21, 1947, as~~
26 ~~amended, or where the lot or lots or grave or graves are in a~~

1 privately operated cemetery, as defined in section 2 of that
2 Act, then such cemetery association or such committee, shall
3 also comply with the provisions of the Cemetery Care Act.

4 (Source: P.A. 95-331, eff. 8-21-07; 96-863, eff. 3-1-10.)

5 Section 50. The Cemetery Protection Act is amended by
6 changing Sections .01 and 8 as follows:

7 (765 ILCS 835/.01) (from Ch. 21, par. 14.01)

8 Sec. .01. For the purposes of this Act, the term:

9 ~~"Cemetery manager" means an individual who is engaged in,~~
10 ~~or holding himself or herself out as engaged in, those~~
11 ~~activities involved in or incidental to supervising the~~
12 ~~following: the maintenance, operation, development, or~~
13 ~~improvement of a cemetery licensed under this Act; the~~
14 ~~interment of human remains; or the care, preservation, and~~
15 ~~embellishment of cemetery property. This definition also~~
16 ~~includes, without limitation, an individual that is an~~
17 ~~independent contractor or individuals employed or contracted~~
18 ~~by an independent contractor who is engaged in, or holding~~
19 ~~himself or herself out as engaged in, those activities involved~~
20 ~~in or incidental to supervising the following: the maintenance,~~
21 ~~operation, development, or improvement of a cemetery licensed~~
22 ~~under this Act; the interment of human remains; or the care,~~
23 ~~preservation, and embellishment of cemetery property.~~

24 "Cemetery authority" is defined as in Section 2 of the

1 "Cemetery Care Act", approved July 21, 1947, as now and
2 hereafter amended.

3 "Community mausoleum" means a mausoleum owned and operated
4 by a cemetery authority that contains multiple entombment
5 rights sold to the public.

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

7 (765 ILCS 835/8) (from Ch. 21, par. 21.1)

8 ~~Sec. 8. If the cemetery is a privately owned cemetery, as~~
9 ~~defined in Section 2 of the Cemetery Care Act, or a licensed~~
10 ~~cemetery authority under the Cemetery Oversight Act, or if the~~
11 ~~burial lot or grave, vault, tomb, or other such structures are~~
12 ~~in a privately owned cemetery, as defined in Section 2 of the~~
13 ~~Cemetery Care Act, or a licensed cemetery authority under the~~
14 ~~Cemetery Oversight Act, then such company or association shall~~
15 ~~also comply with the provisions of the Cemetery Care Act or~~
16 ~~Cemetery Oversight Act, whichever is applicable. Furthermore,~~
17 ~~no cemetery authority company or other legal entity may deny~~
18 ~~burial space to any person because of race, creed, marital~~
19 ~~status, sex, national origin, sexual orientation, or color. A~~
20 ~~cemetery company or other entity operating any cemetery may~~
21 ~~designate parts of cemeteries or burial grounds for the~~
22 ~~specific use of persons whose religious code requires~~
23 ~~isolation. Religious institution cemeteries may limit burials~~
24 ~~to members of the religious institution and their families.~~
25 Where the cemetery is a privately operated cemetery, as defined

1 in Section 2 of the Cemetery Care Act, enacted by the
2 Sixty-fifth General Assembly or where the interment,
3 entombment rights in a community mausoleum or lawn crypt
4 section, or inurnment rights in a community columbarium, vault
5 or vaults, tomb or tombs, or other such structures in the
6 cemetery or graveyard are in a privately operated cemetery, as
7 defined in Section 2 of that Act, then such board of directors
8 or managing officers of such cemetery, society or cemetery
9 authority, or the trustees of any public graveyard or the
10 cemetery society or cemetery association, shall also comply
11 with the provisions of the Cemetery Care Act, enacted by the
12 Sixty-fifth General Assembly.

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

14 Section 57. The Consumer Fraud and Deceptive Business
15 Practices Act is amended by changing Section 2Z as follows:

16 (815 ILCS 505/2Z) (from Ch. 121 1/2, par. 262Z)

17 Sec. 2Z. Violations of other Acts. Any person who knowingly
18 violates the Automotive Repair Act, the Automotive Collision
19 Repair Act, the Home Repair and Remodeling Act, the Dance
20 Studio Act, the Physical Fitness Services Act, the Hearing
21 Instrument Consumer Protection Act, the Illinois Union Label
22 Act, the Job Referral and Job Listing Services Consumer
23 Protection Act, the Travel Promotion Consumer Protection Act,
24 the Credit Services Organizations Act, the Automatic Telephone

1 Dialers Act, the Pay-Per-Call Services Consumer Protection
2 Act, the Telephone Solicitations Act, the Illinois Funeral or
3 Burial Funds Act, ~~the Cemetery Oversight Act,~~ the Cemetery Care
4 Act, the Safe and Hygienic Bed Act, the Pre-Need Cemetery Sales
5 Act, the High Risk Home Loan Act, the Payday Loan Reform Act,
6 the Mortgage Rescue Fraud Act, subsection (a) or (b) of Section
7 3-10 of the Cigarette Tax Act, subsection (a) or (b) of Section
8 3-10 of the Cigarette Use Tax Act, the Electronic Mail Act, the
9 Internet Caller Identification Act, paragraph (6) of
10 subsection (k) of Section 6-305 of the Illinois Vehicle Code,
11 Section 11-1431, 18d-115, 18d-120, 18d-125, 18d-135, 18d-150,
12 or 18d-153 of the Illinois Vehicle Code, Article 3 of the
13 Residential Real Property Disclosure Act, the Automatic
14 Contract Renewal Act, or the Personal Information Protection
15 Act commits an unlawful practice within the meaning of this
16 Act.

17 (Source: P.A. 96-863, eff. 1-19-10; 96-1369, eff. 1-1-11;
18 96-1376, eff. 7-29-10; 97-333, eff. 8-12-11.)

19 Section 60. The Burial Rights Act is amended by changing
20 Sections 1 and 2.3 as follows:

21 (820 ILCS 135/1) (from Ch. 21, par. 101)

22 Sec. 1. (a) Every contract, agreement or understanding
23 between a cemetery authority and a cemetery workers'
24 association which totally prohibits burials of human remains on

1 Sundays or legal holidays shall be deemed to be void as against
2 public policy and wholly unenforceable.

3 (b) Nothing in this Section shall prohibit a cemetery
4 authority and a cemetery workers' association from entering
5 into a contract, agreement or understanding which limits Sunday
6 or holiday burials of human remains to decedents who were
7 members of religious sects whose tenets or beliefs require
8 burials within a specified period of time and whose deaths
9 occurred at such times as to necessitate Sunday or holiday
10 burials. Such contract, agreement or understanding may provide
11 that a funeral director notify the cemetery authority within a
12 reasonable time when a Sunday or holiday burial is necessitated
13 by reason of the decedent's religious tenets or beliefs.

14 (c) It shall be unlawful for any person to restrain,
15 prohibit or interfere with the burial of a decedent whose time
16 of death and religious tenets or beliefs necessitate burial on
17 a Sunday or legal holiday.

18 (d) A violation of this Section is a Class A misdemeanor.

19 (e) For the purposes of this Act, "cemetery authority"
20 shall have the meaning ascribed to it in Section 2 of the
21 Cemetery Care Act ~~or the Cemetery Oversight Act, whichever is~~
22 ~~applicable~~; and "cemetery workers' association" means an
23 organization of workers who are employed by cemetery
24 authorities to perform the task of burying human remains or
25 transporting remains to cemeteries or other places of
26 interment, and who join together for collective bargaining

1 purposes or to negotiate terms and conditions of employment.

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

3 (820 ILCS 135/2.3)

4 Sec. 2.3. Sections of cemeteries. No provision of any law
5 of this State may be construed to prohibit a cemetery authority
6 from reserving, in a cemetery not owned by a religious
7 organization or institution, a section of interment rights,
8 entombment rights, or inurnment rights for sale exclusively to
9 persons of a particular religion, unless membership in the
10 religion is restricted on account of race, color, or national
11 origin. As used in this Section, "interment rights",
12 "entombment rights", and "inurnment rights" have the meanings
13 ascribed to those terms in the Cemetery Care Act ~~or the~~
14 ~~Cemetery Oversight Act, whichever is applicable.~~

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

16 Section 92. The Cemetery Association Act is amended by
17 adding Sections 16.1, 16.6, 17.1, 18.1, 19.1, and 20.1 as
18 follows:

19 (805 ILCS 320/16.1 new)

20 Sec. 16.1. That such cemetery association heretofore
21 organized or that may hereafter be organized for cemetery
22 purposes, which shall have acquired or may hereafter acquire
23 land by purchase, deed, will, or otherwise, and shall have

1 platted, mapped, and used said land for cemetery purposes, may,
2 when necessary, acquire additional land adjoining and abutting
3 on such cemetery by condemnation proceedings, as hereinafter
4 provided; Provided, however, that no such land sought to be
5 condemned shall be or lie within the corporate limits of any
6 city or village.

7 (805 ILCS 320/16.6 new)

8 Sec. 16.6. Eminent domain. Notwithstanding any other
9 provision of this Act, any power granted under this Act to
10 acquire property by condemnation or eminent domain is subject
11 to, and shall be exercised in accordance with, the Eminent
12 Domain Act.

13 (805 ILCS 320/17.1 new)

14 Sec. 17.1. The cemetery association seeking to condemn land
15 abutting and adjoining the cemetery shall first cause to be
16 filed in the office of the circuit court clerk of the county
17 where such land is situate a petition to the court, verified by
18 affidavit, for leave to begin condemnation proceedings against
19 such land sought to be condemned. The petition shall contain a
20 description of the cemetery, its location, as already
21 established and in use, a statement of the number of lots sold,
22 and the number yet unsold, a description of the land sought to
23 be acquired by condemnation, its location with regard to
24 dwelling houses in the vicinity and state the reasons for

1 filing the petition; and asking for condemnation proceedings.

2 (805 ILCS 320/18.1 new)

3 Sec. 18.1. The cemetery association by its agent or
4 attorney shall upon filing such petition, cause a notice in
5 writing to be served upon the owner or owners of such land
6 sought to be condemned for cemetery purposes, if such owners
7 are residents of this state. Such notice shall name a day at
8 least ten days after the service of notice when such petition
9 will be heard. It shall also state the court before whom the
10 case shall be heard; the description of the ground sought to be
11 condemned, and the object for which it is to be used. In case
12 such owner or owners cannot be found or are non residents of
13 the State, notice may be had by publication in some newspaper
14 of general circulation in the county, once each week, for four
15 successive weeks, or in case no such paper is published in said
16 county, then by posting four notices in four of the most public
17 places in said county, at least four weeks prior to the day of
18 hearing of said petition.

19 (805 ILCS 320/19.1 new)

20 Sec. 19.1. The owner or owners of the land sought to be
21 condemned under this act shall, if they see fit, file with the
22 clerk of such court, on or before the day designated in the
23 notice, objections to such proceedings to condemn such land
24 verified by affidavit, and in case the objections so verified

1 are filed within the time specified in the notice, the same
2 shall be considered by the court in connection with the
3 granting or refusal of prayer of the petition.

4 (805 ILCS 320/20.1 new)

5 Sec. 20.1. The judge shall examine the petition and
6 affidavits as soon as is convenient. If he finds the petition
7 should not be granted he shall mark it "not approved" and deny
8 the right to file proceedings for condemnation. If he finds
9 that the best interest of all concerned will be served by
10 granting the petition, he shall mark the petition "approved"
11 and by order of record direct the petitioner to file its
12 petition not less than 10 nor more than 60 days from the date
13 of approval. Upon the issue of the court order the petitioner
14 shall begin proceedings for condemnation within the dates
15 prescribed by the judge, and the proceedings shall be had as
16 provided by statute.

17 Section 105. The Funeral Directors and Embalmers Licensing
18 Code is amended by changing Sections 15-50, 15-60, and 15-75 as
19 follows:

20 (225 ILCS 41/15-50)

21 (Section scheduled to be repealed on January 1, 2013)

22 Sec. 15-50. Practice by corporation, partnership, or
23 association. No corporation, partnership or association of

1 individuals, as such, shall be issued a license as a licensed
2 funeral director and embalmer or licensed funeral director, nor
3 shall any corporation, partnership, firm or association of
4 individuals, or any individual connected therewith, publicly
5 advertise any corporation, partnership or association of
6 individuals as being licensed funeral directors and embalmers
7 or licensed funeral directors. Nevertheless, nothing in this
8 Act shall restrict ~~funeral director~~ licensees ~~or funeral~~
9 ~~director and embalmer licensees~~ from forming professional
10 service corporations under the Professional Service
11 Corporation Act or from having these corporations registered
12 for the practice of funeral directing.

13 No ~~funeral director~~ licensee ~~or funeral director and~~
14 ~~embalmer licensee~~, and no partnership or association of ~~these~~
15 licensees, formed since July 1, 1935, shall engage in the
16 practice of funeral directing and embalming or funeral
17 directing under a trade name or partnership or firm name unless
18 in the use and advertising of the trade name, partnership or
19 firm name there is published in connection with the advertising
20 the name of the owner or owners as the owner or owners.

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

22 (225 ILCS 41/15-60)

23 (Section scheduled to be repealed on January 1, 2013)

24 Sec. 15-60. Determination of life. Every ~~funeral director~~
25 licensee ~~or funeral director and embalmer licensee~~ under this

1 Code before proceeding to prepare or embalm a human body to
2 cremate or bury shall determine that life is extinct by
3 ascertaining that:

4 (a) pulsation has entirely ceased in the radial or other
5 arteries; and

6 (b) heart or respiratory sounds are not audible with the
7 use of a stethoscope or with the ear applied directly over the
8 heart.

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

10 (225 ILCS 41/15-75)

11 (Section scheduled to be repealed on January 1, 2013)

12 Sec. 15-75. Violations; grounds for discipline; penalties.

13 (a) Each of the following acts is a Class A misdemeanor for
14 the first offense, and a Class 4 felony for each subsequent
15 offense. These penalties shall also apply to unlicensed owners
16 of funeral homes.

17 (1) Practicing the profession of funeral directing and
18 embalming or funeral directing, or attempting to practice
19 the profession of funeral directing and embalming or
20 funeral directing without a license as a funeral director
21 and embalmer or funeral director.

22 (2) Serving as an intern under a licensed funeral
23 director and embalmer or attempting to serve as an intern
24 under a licensed funeral director and embalmer without a
25 license as a licensed funeral director and embalmer intern.

1 (3) Obtaining or attempting to obtain a license,
2 practice or business, or any other thing of value, by fraud
3 or misrepresentation.

4 (4) Permitting any person in one's employ, under one's
5 control or in or under one's service to serve as a funeral
6 director and embalmer, funeral director, or funeral
7 director and embalmer intern when the person does not have
8 the appropriate license.

9 (5) Failing to display a license as required by this
10 Code.

11 (6) Giving false information or making a false oath or
12 affidavit required by this Code.

13 (b) The Department may refuse to issue or renew a license
14 or may revoke, suspend, place on probation, reprimand, or take
15 other disciplinary action as the Department may deem
16 appropriate, including imposing fines not to exceed \$10,000 for
17 each violation, with regard to any license under the Code for
18 any one or combination of the following:

19 (1) Obtaining or attempting to obtain a license by
20 fraud or misrepresentation.

21 (2) Conviction in this State or another state of any
22 crime that is a felony or misdemeanor under the laws of
23 this State or conviction of a felony or misdemeanor in a
24 federal court.

25 (3) Violation of the laws of this State relating to the
26 funeral, burial or disposal of deceased human bodies or of

1 the rules and regulations of the Department, or the
2 Department of Public Health.

3 (4) Directly or indirectly paying or causing to be paid
4 any sum of money or other valuable consideration for the
5 securing of business or for obtaining authority to dispose
6 of any deceased human body.

7 (5) Professional incompetence, gross malpractice, or
8 untrustworthiness in the practice of funeral directing and
9 embalming or funeral directing.

10 (6) False or misleading advertising as a funeral
11 director and embalmer or funeral director, or advertising
12 or using the name of a person other than the holder of a
13 license in connection with any service being rendered in
14 the practice of funeral directing and embalming or funeral
15 directing. Nothing in this paragraph shall prevent
16 including the name of any owner, officer or corporate
17 director of a funeral business who is not a licensee in any
18 advertisement used by a funeral home with which the
19 individual is affiliated if the advertisement specifies
20 the individual's affiliation with the funeral home.

21 (7) Engaging in, promoting, selling, or issuing burial
22 contracts, burial certificates, or burial insurance
23 policies in connection with the profession as a funeral
24 director and embalmer, funeral director, or funeral
25 director and embalmer intern in violation of any laws of
26 the State of Illinois.

1 (8) Refusing, without cause, to surrender the custody
2 of a deceased human body upon the proper request of the
3 person or persons lawfully entitled to the custody of the
4 body.

5 (9) Taking undue advantage of a client or clients as to
6 amount to the perpetration of fraud.

7 (10) Engaging in funeral directing and embalming or
8 funeral directing without a license.

9 (11) Encouraging, requesting, or suggesting by a
10 licensee or some person working on his behalf and with his
11 consent for compensation that a person utilize the services
12 of a certain funeral director and embalmer, funeral
13 director, or funeral establishment unless that information
14 has been expressly requested by the person. This does not
15 prohibit general advertising or pre-need solicitation.

16 (12) Making or causing to be made any false or
17 misleading statements about the laws concerning the
18 disposal of human remains, including, but not limited to,
19 the need to embalm, the need for a casket for cremation or
20 the need for an outer burial container.

21 (13) (Blank).

22 (14) Embalming or attempting to embalm a deceased human
23 body without express prior authorization of the person
24 responsible for making the funeral arrangements for the
25 body. This does not apply to cases where embalming is
26 directed by local authorities who have jurisdiction or when

1 embalming is required by State or local law.

2 (15) Making a false statement on a Certificate of Death
3 where the person making the statement knew or should have
4 known that the statement was false.

5 (16) Soliciting human bodies after death or while death
6 is imminent.

7 (17) Performing any act or practice that is a violation
8 of this Code, the rules for the administration of this
9 Code, or any federal, State or local laws, rules, or
10 regulations governing the practice of funeral directing or
11 embalming.

12 (18) Performing any act or practice that is a violation
13 of Section 2 of the Consumer Fraud and Deceptive Business
14 Practices Act.

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

18 (20) Taking possession of a dead human body without
19 having first obtained express permission from next of kin
20 or a public agency legally authorized to direct, control or
21 permit the removal of deceased human bodies.

22 (21) Advertising in a false or misleading manner or
23 advertising using the name of an unlicensed person in
24 connection with any service being rendered in the practice
25 of funeral directing or funeral directing and embalming.
26 The use of any name of an unlicensed or unregistered person

1 in an advertisement so as to imply that the person will
2 perform services is considered misleading advertising.
3 Nothing in this paragraph shall prevent including the name
4 of any owner, officer or corporate director of a funeral
5 home, who is not a licensee, in any advertisement used by a
6 funeral home with which the individual is affiliated, if
7 the advertisement specifies the individual's affiliation
8 with the funeral home.

9 (22) Directly or indirectly receiving compensation for
10 any professional services not actually performed.

11 (23) Failing to account for or remit any monies,
12 documents, or personal property that belongs to others that
13 comes into a licensee's possession.

14 (24) Treating any person differently to his detriment
15 because of race, color, creed, gender, religion, or
16 national origin.

17 (25) Knowingly making any false statements, oral or
18 otherwise, of a character likely to influence, persuade or
19 induce others in the course of performing professional
20 services or activities.

21 (26) Knowingly making or filing false records or
22 reports in the practice of funeral directing and embalming.

23 (27) Failing to acquire continuing education required
24 under this Code.

25 (28) Violations of this Code or of the rules adopted
26 pursuant to this Code.

1 (29) Aiding or assisting another person in violating
2 any provision of this Code or rules adopted pursuant to
3 this Code.

4 (30) Failing within 10 days, to provide information in
5 response to a written request made by the Department.

6 (31) Discipline by another state, District of
7 Columbia, territory, or foreign nation, if at least one of
8 the grounds for the discipline is the same or substantially
9 equivalent to those set forth in this Section.

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

15 (33) Inability to practice the profession with
16 reasonable judgment, skill, or safety.

17 (34) Gross, willful, or continued overcharging for
18 professional services, including filing false statements
19 for collection of fees for which services are not rendered.

20 (35) A pattern of practice or other behavior that
21 demonstrates incapacity or incompetence to practice under
22 this Code.

23 (36) Failing to comply with any of the following
24 required activities:

25 (A) When reasonably possible, a ~~funeral director~~
26 licensee ~~or funeral director and embalmer licensee~~ or

1 anyone acting on his or her behalf shall obtain the
2 express authorization of the person or persons
3 responsible for making the funeral arrangements for a
4 deceased human body prior to removing a body from the
5 place of death or any place it may be or embalming or
6 attempting to embalm a deceased human body, unless
7 required by State or local law. This requirement is
8 waived whenever removal or embalming is directed by
9 local authorities who have jurisdiction. If the
10 responsibility for the handling of the remains
11 lawfully falls under the jurisdiction of a public
12 agency, then the regulations of the public agency shall
13 prevail.

14 (B) A licensee shall clearly mark the price of any
15 casket offered for sale or the price of any service
16 using the casket on or in the casket if the casket is
17 displayed at the funeral establishment. If the casket
18 is displayed at any other location, regardless of
19 whether the licensee is in control of that location,
20 the casket shall be clearly marked and the registrant
21 shall use books, catalogues, brochures, or other
22 printed display aids to show the price of each casket
23 or service.

24 (C) At the time funeral arrangements are made and
25 prior to rendering the funeral services, a licensee
26 shall furnish a written statement of services to be

1 retained by the person or persons making the funeral
2 arrangements, signed by both parties, that shall
3 contain: (i) the name, address and telephone number of
4 the funeral establishment and the date on which the
5 arrangements were made; (ii) the price of the service
6 selected and the services and merchandise included for
7 that price; (iii) a clear disclosure that the person or
8 persons making the arrangement may decline and receive
9 credit for any service or merchandise not desired and
10 not required by law or the funeral director or the
11 funeral director and embalmer; (iv) the supplemental
12 items of service and merchandise requested and the
13 price of each item; (v) the terms or method of payment
14 agreed upon; and (vi) a statement as to any monetary
15 advances made by the registrant on behalf of the
16 family. The licensee shall maintain a copy of the
17 written statement of services in its permanent
18 records. All written statements of services are
19 subject to inspection by the Department.

20 (D) In all instances where the place of final
21 disposition of a deceased human body or the cremated
22 remains of a deceased human body is a cemetery, the
23 licensed funeral director and embalmer, or licensed
24 funeral director, who has been engaged to provide
25 funeral or embalming services shall remain at the
26 cemetery and personally witness the placement of the

1 human remains in their designated grave or the sealing
2 of the above ground depository, crypt, or urn. The
3 licensed funeral director or licensed funeral director
4 and embalmer may designate a licensed funeral director
5 and embalmer intern or representative of the funeral
6 home to be his or her witness to the placement of the
7 remains. If the cemetery authority, cemetery manager,
8 or any other agent of the cemetery takes any action
9 that prevents compliance with this paragraph (D), then
10 the funeral director and embalmer or funeral director
11 shall provide written notice to the Department within 5
12 business days after failing to comply. If the
13 Department receives this notice, then the Department
14 shall not take any disciplinary action against the
15 funeral director and embalmer or funeral director for a
16 violation of this paragraph (D) unless the Department
17 finds that the cemetery authority, manager, or any
18 other agent of the cemetery did not prevent the funeral
19 director and embalmer or funeral director from
20 complying with this paragraph (D) as claimed in the
21 written notice.

22 (E) A funeral director or funeral director and
23 embalmer shall fully complete the portion of the
24 Certificate of Death under the responsibility of the
25 funeral director or funeral director and embalmer and
26 provide all required information. In the event that any

1 reported information subsequently changes or proves
2 incorrect, a funeral director or funeral director and
3 embalmer shall immediately upon learning the correct
4 information correct the Certificate of Death.

5 (37) A finding by the Department that the license,
6 after having his or her license placed on probationary
7 status or subjected to conditions or restrictions,
8 violated the terms of the probation or failed to comply
9 with such terms or conditions.

10 (38) Violation of any final administrative action of
11 the Secretary.

12 (39) Being named as a perpetrator in an indicated
13 report by the Department of Children and Family Services
14 pursuant to the Abused and Neglected Child Reporting Act
15 and, upon proof by clear and convincing evidence, being
16 found to have caused a child to be an abused child or
17 neglected child as defined in the Abused and Neglected
18 Child Reporting Act.

19 (c) The Department may refuse to issue or renew, or may
20 suspend, the license of any person who fails to file a return,
21 to pay the tax, penalty or interest shown in a filed return, or
22 to pay any final assessment of tax, penalty or interest as
23 required by any tax Act administered by the Illinois Department
24 of Revenue, until the time as the requirements of the tax Act
25 are satisfied.

26 (d) No action may be taken under this Code against a person

1 licensed under this Code unless the action is commenced within
2 5 years after the occurrence of the alleged violations. A
3 continuing violation shall be deemed to have occurred on the
4 date when the circumstances last existed that give rise to the
5 alleged violation.

6 (e) Nothing in this Section shall be construed or enforced
7 to give a funeral director and embalmer, or his or her
8 designees, authority over the operation of a cemetery or over
9 cemetery employees. Nothing in this Section shall be construed
10 or enforced to impose duties or penalties on cemeteries with
11 respect to the timing of the placement of human remains in
12 their designated grave or the sealing of the above ground
13 depository, crypt, or urn due to patron safety, the allocation
14 of cemetery staffing, liability insurance, a collective
15 bargaining agreement, or other such reasons.

16 (Source: P.A. 96-863, eff. 3-1-10; 96-1463, eff. 1-1-11.)

17 (225 ILCS 41/15-76 rep.)

18 Section 110. The Funeral Directors and Embalmers Licensing
19 Code is amended by repealing Section 15-76.

20 Section 999. Effective date. This Act takes effect upon
21 becoming law.

| | | |
|----|---|-------------------------|
| 1 | INDEX | |
| 2 | Statutes amended in order of appearance | |
| 3 | 225 ILCS 411/Act rep. | |
| 4 | P.A. 96-863, Sec. 90-90 | |
| 5 | rep. | |
| 6 | P.A. 96-863, Sec. 90-95 | |
| 7 | rep. | |
| 8 | 5 ILCS 80/4.31 | |
| 9 | 5 ILCS 140/7 | from Ch. 116, par. 207 |
| 10 | 20 ILCS 3440/1 | from Ch. 127, par. 2661 |
| 11 | 30 ILCS 105/5.775 rep. | |
| 12 | 30 ILCS 105/5.776 rep. | |
| 13 | 410 ILCS 18/5 | |
| 14 | 410 ILCS 18/10 | |
| 15 | 410 ILCS 18/11 | |
| 16 | 410 ILCS 18/11.5 | |
| 17 | 410 ILCS 18/13 | |
| 18 | 410 ILCS 18/20 | |
| 19 | 410 ILCS 18/22 | |
| 20 | 410 ILCS 18/25 | |
| 21 | 410 ILCS 18/40 | |
| 22 | 410 ILCS 18/55 | |
| 23 | 410 ILCS 18/60 | |
| 24 | 410 ILCS 18/62 | |
| 25 | 410 ILCS 18/62.5 | |

| | | |
|----|---------------------|------------------------------|
| 1 | 410 ILCS 18/62.10 | |
| 2 | 410 ILCS 18/62.15 | |
| 3 | 410 ILCS 18/62.20 | |
| 4 | 410 ILCS 18/65 | |
| 5 | 410 ILCS 18/80 | |
| 6 | 410 ILCS 18/7 rep. | |
| 7 | 410 ILCS 18/85 rep. | |
| 8 | 410 ILCS 18/87 rep. | |
| 9 | 410 ILCS 18/88 rep. | |
| 10 | 410 ILCS 18/89 rep. | |
| 11 | 410 ILCS 18/90 rep. | |
| 12 | 410 ILCS 18/91 rep. | |
| 13 | 410 ILCS 18/92 rep. | |
| 14 | 410 ILCS 18/93 rep. | |
| 15 | 410 ILCS 18/94 rep. | |
| 16 | 410 ILCS 18/95 rep. | |
| 17 | 410 ILCS 535/11 | from Ch. 111 1/2, par. 73-11 |
| 18 | 410 ILCS 535/18.5 | |
| 19 | 735 ILCS 30/15-5-40 | |
| 20 | 740 ILCS 45/2 | from Ch. 70, par. 72 |
| 21 | 740 ILCS 45/2 | from Ch. 70, par. 72 |
| 22 | 760 ILCS 90/2 | from Ch. 21, par. 32 |
| 23 | 760 ILCS 95/2 | from Ch. 21, par. 64 |
| 24 | 765 ILCS 835/.01 | from Ch. 21, par. 14.01 |
| 25 | 765 ILCS 835/8 | from Ch. 21, par. 21.1 |
| 26 | 815 ILCS 505/2Z | from Ch. 121 1/2, par. 262Z |

- 1 820 ILCS 135/1 from Ch. 21, par. 101
- 2 820 ILCS 135/2.3
- 3 805 ILCS 320/16.1 new
- 4 805 ILCS 320/16.6 new
- 5 805 ILCS 320/17.1 new
- 6 805 ILCS 320/18.1 new
- 7 805 ILCS 320/19.1 new
- 8 805 ILCS 320/20.1 new
- 9 225 ILCS 41/15-50
- 10 225 ILCS 41/15-60
- 11 225 ILCS 41/15-75
- 12 225 ILCS 41/15-76 rep.