1 AN ACT concerning government.

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

4 Section 5. The Regulatory Sunset Act is amended by 5 changing Sections 4.32 and 4.37 as follows:

6 (5 ILCS 80/4.32)

Sec. 4.32. Acts repealed on January 1, 2022. The following
Acts are repealed on January 1, 2022:

9 The Boxing and Full-contact Martial Arts Act.

10 The Cemetery Oversight Act.

11 The Collateral Recovery Act.

- 12 The Community Association Manager Licensing and 13 Disciplinary Act.
- 14 The Crematory Regulation Act.

15 The Detection of Deception Examiners Act.

16 The Home Inspector License Act.

17 The Illinois Health Information Exchange and Technology18 Act.

- 19 The Medical Practice Act of 1987.
- 20 The Registered Interior Designers Act.
- 21 The Massage Licensing Act.
- 22 The Petroleum Equipment Contractors Licensing Act.
- 23 The Radiation Protection Act of 1990.

- 2 - LRB102 12074 SPS 17411 b HB2777 Engrossed The Real Estate Appraiser Licensing Act of 2002. 1 2 The Water Well and Pump Installation Contractor's License 3 Act. (Source: P.A. 100-920, eff. 8-17-18; 101-316, eff. 8-9-19; 4 5 101-614, eff. 12-20-19; 101-639, eff. 6-12-20.) (5 ILCS 80/4.37) 6 7 Sec. 4.37. Acts and Articles repealed on January 1, 2027. 8 The following are repealed on January 1, 2027: 9 The Clinical Psychologist Licensing Act. 10 The Illinois Optometric Practice Act of 1987. 11 Articles II, III, IV, V, VI, VIIA, VIIB, VIIC, XVII, XXXI, 12 XXXI 1/4, and XXXI 3/4 of the Illinois Insurance Code. 13 The Boiler and Pressure Vessel Repairer Regulation Act. 14 The Marriage and Family Therapy Licensing Act. 15 The Cemetery Oversight Act. 16 (Source: P.A. 99-572, eff. 7-15-16; 99-909, eff. 12-16-16; 99-910, eff. 12-16-16; 99-911, eff. 12-16-16; 100-201, eff. 17 8-18-17; 100-372, eff. 8-25-17.) 18 Section 10. The Department of Professional Regulation Law 19 20 of the Civil Administrative Code of Illinois is amended by changing Sections 2105-35 and 2105-120 as follows: 21 22 (20 ILCS 2105/2105-35)

23 Sec. 2105-35. Prohibited uses of roster of information.

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Notwithstanding any other provision of law to the contrary, any roster of information including, but not limited to, the licensee's name, address, and profession, shall not be used by a third party for the purpose of marketing goods or services not related to the licensee's profession. <u>Rosters provided by</u> <u>the Department shall comply with the requirements set forth</u> <u>under the Freedom of Information Act.</u>

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

9 (20 ILCS 2105/2105-120) (was 20 ILCS 2105/60g)

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

12 (a) The board shall present to the Secretary Director its 13 written report of its findings and recommendations. A copy of 14 the report shall be served upon the licensee or applicant, 15 either personally or by mail or email as provided in Section 16 2105-100 for the service of the notice. The Secretary may issue an order that deviates from the board's report and is not 17 required to provide the board with an explanation of the 18 deviation. 19

20 (b) Within 20 days after the service required under 21 subsection (a), the licensee or applicant may present to the 22 Department a motion in writing for a rehearing. The written 23 motion shall specify the particular grounds for a rehearing. 24 If the licensee or applicant orders and pays for a transcript 25 of the record as provided in Section 2105-115, the time HB2777 Engrossed - 4 - LRB102 12074 SPS 17411 b elapsing thereafter and before the transcript is ready for delivery to the licensee or applicant shall not be counted as part of the 20 days.

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

5 Section 15. The Cemetery Oversight Act is amended by 6 changing Sections 5-15, 5-20, 5-25, 10-20, 10-21, 10-25, 7 10-40, 10-55, 20-10, 25-3, 25-5, 25-10, 25-15, 25-25, 25-30, 8 25-35, 25-90, 25-95, 25-105, 25-115, 35-5, 35-15, and 75-45 9 and by adding Sections 5-16, 5-26, 25-26, and 25-126 as 10 follows:

11 (225 ILCS 411/5-15)

12 (Section scheduled to be repealed on January 1, 2022)
13 Sec. 5-15. Definitions. In this Act:

"Address of record" means the designated address recorded 14 15 by the Department in the applicant's or licensee's application file or license file. It is the duty of the applicant or 16 17 licensee to inform the Department of any change of address within 14 days either through the Department's website or by 18 19 contacting the Department's licensure maintenance unit. The 20 address of record for a cemetery authority shall be the 21 permanent street address of the cemetery.

22 "Applicant" means a person applying for licensure under 23 this Act as a cemetery authority, cemetery manager, or 24 customer service employee. Any applicant or any person who HB2777 Engrossed - 5 - LRB102 12074 SPS 17411 b

holds himself or herself out as an applicant is considered a
 licensee for purposes of enforcement, investigation, hearings,
 and the Illinois Administrative Procedure Act.

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

"Care" means the maintenance of a cemetery and of the 6 lots, graves, crypts, niches, family mausoleums, memorials, 7 8 and markers therein, including: (i) the cutting and trimming 9 of lawn, shrubs, and trees at reasonable intervals; (ii) 10 keeping in repair the drains, water lines, roads, buildings, 11 fences, and other structures, in keeping with а 12 well-maintained cemetery as provided for in Section 20-5 of this Act and otherwise as required by rule; (iii) maintenance 13 14 of machinery, tools, and equipment for such care; (iv) 15 compensation of cemetery workers, any discretionary payment of 16 insurance premiums, and any reasonable payments for workers' 17 pension and other benefits plans; and (v) the payment of expenses necessary for such purposes and for maintaining 18 19 necessary records of lot ownership, transfers, and burials.

20 "Cemetery" means any land or structure in this State 21 dedicated to and used, or intended to be used, for the 22 interment, inurnment, or entombment of human remains.

23 "Cemetery authority" means any individual or legal entity 24 that owns or controls cemetery lands or property.

25 "Cemetery manager" means an individual directly 26 responsible or holding himself or herself directly responsible HB2777 Engrossed - 6 - LRB102 12074 SPS 17411 b

for the operation, maintenance, development, or improvement of 1 2 a cemetery that is or shall be licensed under this Act or shall be licensed pursuant to Section 10-39 of this Act, 3 irrespective of whether the individual is paid by the licensed 4 5 cemetery authority or a third party. This definition does not 6 include a volunteer who receives no compensation, either 7 directly or indirectly, for his or her work as -a cemetery 8 manager.

9 "Cemetery merchandise" means items of personal property 10 normally sold by a cemetery authority not covered under the 11 Illinois Funeral or Burial Funds Act, including, but not 12 limited to: (1) memorials, (2) markers, (3) monuments, (4) 13 foundations and installations, and (5) outer burial 14 containers.

15 "Cemetery operation" means to engage in any or all of the 16 following, whether on behalf of, or in the absence of, a 17 cemetery authority: (i) the interment, entombment, or inurnment of human remains, (ii) the sale of interment, 18 entombment, or inurnment rights, cemetery merchandise, or 19 20 cemetery services, (iii) the maintenance of interment rights ownership records, (iv) the maintenance of or reporting of 21 22 interment, entombment, or inurnment records, (v) the 23 maintenance of cemetery property, (vi) the development or improvement of cemetery grounds, or (vii) the maintenance and 24 25 execution of business documents, including State and federal 26 government reporting and the payment of taxes, for a cemetery

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1 business entity.

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

5 "Cemetery services" means those services customarily 6 performed by cemetery personnel in connection with the 7 interment, entombment, or inurnment of a dead human body.

8 "Certificate of organization" means the document received 9 by a cemetery association from the Secretary of State that 10 indicates that the cemetery association shall be deemed fully 11 organized as a body corporate under the name adopted and in its 12 corporate name may sue and be sued.

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

15 "Confidential information" means unique identifiers, 16 including a person's Social Security number, home address, 17 home phone number, personal phone number, personal email 18 address, personal financial information, and any other 19 information protected by law.

20 "Consumer" means an individual who purchases or who is 21 considering purchasing cemetery, burial, or cremation products 22 or services from a cemetery authority, whether for themselves 23 or for another person.

"Customer service employee" means an individual who has direct contact with consumers to explain cemetery merchandise, services, and interment rights and to execute the sale of HB2777 Engrossed - 8 - LRB102 12074 SPS 17411 b

those items to consumers, whether at the cemetery or an off-site location, irrespective of whether compensation is paid by the cemetery authority or a third party. This definition does not include a volunteer who receives no compensation, either directly or indirectly, for his or her work as a customer service employee.

7 "Department" means the Department of Financial and8 Professional Regulation.

9 <u>"Email address of record" means the designated email</u> 10 <u>address recorded by the Department in the applicant's</u> 11 <u>application file or the licensee's license file as maintained</u> 12 <u>by the Department's licensure maintenance unit.</u>

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

18 "Entombment right" means the right to place individual 19 human remains or individual cremated human remains in a 20 specific mausoleum crypt or lawn crypt selected by a consumer 21 for use as a final resting place.

"Family burying ground" means a cemetery in which no lots, crypts, or niches are sold to the public and in which interments, inurnments, and entombments are restricted to the immediate family or a group of individuals related to each other by blood or marriage. HB2777 Engrossed - 9 - LRB102 12074 SPS 17411 b

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

3 "Funeral director" means a funeral director as defined by4 the Funeral Directors and Embalmers Licensing Code.

5 "Grave" means a space of ground in a cemetery used or 6 intended to be used for burial.

7 "Green burial or cremation disposition" means burial or 8 cremation practices that reduce the greenhouse gas emissions, 9 waste, and toxic chemicals ordinarily created in burial or 10 cremation or, in the case of greenhouse gas emissions, 11 mitigate or offset emissions. Such practices include any 12 standards or method for burial or cremation that the 13 Department may name by rule.

14 "Immediate family" means the designated agent of a person 15 or the persons given priority for the disposition of a 16 person's remains under the Disposition of Remains Act and 17 shall include a person's spouse, parents, grandparents, 18 children, grandchildren and siblings.

19 "Individual" means a natural person.

20 "Interment right" means the right to place individual 21 human remains or cremated human remains in a specific 22 underground location selected by a consumer for use as a final 23 resting place.

24 "Inurnment right" means the right to place individual 25 cremated human remains in a specific niche selected by the 26 consumer for use as a final resting place. HB2777 Engrossed - 10 - LRB102 12074 SPS 17411 b

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

"Licensee" means a person licensed under this Act as a 3 cemetery authority, cemetery manager, or customer service 4 5 employee. Anyone who holds himself or herself out as a 6 licensee or who is accused of unlicensed practice is 7 considered a licensee for purposes of enforcement, 8 investigation, hearings, and the Illinois Administrative 9 Procedure Act.

10 "Mausoleum crypt" means a grouping of spaces constructed 11 of reinforced concrete or similar material constructed or 12 assembled above the ground for entombing remains.

13 "Niche" means a space in a columbarium or mausoleum used, 14 or intended to be used, for inurnment of cremated human 15 remains.

16 "Partial exemption" means an exemption granted to a 17 cemetery authority pursuant to subsection (b) of Section 5-20.

18 "Parcel identification number" means a unique number 19 assigned by the Cemetery Oversight Database to a grave, plot, 20 crypt, or niche that enables the Department to ascertain the 21 precise location of a decedent's remains interred, entombed, 22 or inurned after the effective date of this Act.

23 "Person" means any individual, firm, partnership, 24 association, corporation, limited liability company, trustee, 25 government or political subdivision, or other entity.

26 "Public cemetery" means a cemetery owned, operated,

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1 controlled, or managed by the federal government, by any 2 state, county, city, village, incorporated town, township, 3 multi-township, public cemetery district, or other municipal 4 corporation, political subdivision, or instrumentality thereof 5 authorized by law to own, operate, or manage a cemetery.

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

11 "Religious cemetery" means a cemetery owned, operated, 12 controlled, and managed by any recognized church, religious 13 society, association, or denomination, or by any cemetery 14 authority or any corporation administering, or through which 15 is administered, the temporalities of any recognized church, 16 religious society, association, or denomination.

17 "Secretary" means the Secretary of Financial and
18 Professional Regulation <u>or a person authorized by the</u>
19 <u>Secretary to act in the Secretary's stead</u>.

20 "Term burial" means a right of interment sold to a 21 consumer in which the cemetery authority retains the right to 22 disinter and relocate the remains, subject to the provisions 23 of subsection (d) of Section 35-15 of this Act.

24 "Trustee" means any person authorized to hold funds under 25 this Act.

26 "Unique personal identifier" means the parcel

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

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

8 (225 ILCS 411/5-16 new)

9 <u>Sec. 5-16. Address of record; email address of record. All</u>
 10 applicants and licensees shall:

11 (1) provide a valid address and email address to the 12 Department, which shall serve as the address of record and email address of record, respectively, at the time of 13 application for licensure or renewal of a license; and 14 15 (2) inform the Department of any change of address of 16 record or email address of record within 14 days after such change either through the Department's website or by 17 18 contacting the Department's licensure maintenance unit.

19 (225 ILCS 411/5-20)

20 (Section scheduled to be repealed on January 1, 2022)
21 Sec. 5-20. Exemptions.

(a) Full exemption. Except as provided in this subsection,
this Act does not apply to (1) any cemetery authority
operating as a family burying ground or religious burying

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ground, (2) any cemetery authority that has not engaged in an 1 2 interment, inurnment, or entombment of human remains within the last 10 years, or (3) any cemetery authority that is less 3 than 3 acres. For purposes of determining the applicability of 4 5 this subsection, the number of interments, inurnments, and 6 entombments shall be aggregated for each calendar year. A 7 cemetery authority claiming a full exemption shall apply for exempt status as provided for in Section 10-20 of this Act. A 8 9 cemetery authority claiming a full exemption shall be subject to Sections 10-40, 10-55, and 10-60 of this Act. A cemetery 10 11 authority that performs activities that would disqualify it 12 from a full exemption is required to apply for licensure within one year following the date on which its activities 13 14 would disqualify it for a full exemption. A cemetery authority 15 that previously qualified for and maintained a full exemption 16 that fails to timely apply for licensure shall be deemed to 17 have engaged in unlicensed practice and shall be subject to discipline in accordance with Article 25 of this Act. 18

(b) Partial exemption. If a cemetery authority does not 19 20 qualify for a full exemption and (1) engages in 25 or fewer interments, inurnments, or entombments of human remains for 21 22 each of the preceding 2 calendar years, (2) operates as a 23 public cemetery, or (3) operates as a religious cemetery, then the cemetery authority is partially exempt from this Act but 24 shall be required to comply with Sections 10-23, 10-40, 10-55, 25 10-60, subsections (a), (b), (b-5), (c), (d), (f), (g), and 26

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(h) of Section 20-5, Sections 20-6, 20-8, 20-10, 20-12, 20-30, 1 2 20-35, 20-40, 25-3, and 25-120, and Article 35 of this Act. Cemetery authorities claiming a partial exemption shall apply 3 for the partial exemption as provided in Section 10-20 of this 4 5 Act. A cemetery authority that changes to a status that would disqualify it from a partial exemption is required to apply 6 7 for licensure within one year following the date on which it changes its status. A cemetery authority that maintains a 8 9 partial exemption that fails to timely apply for licensure 10 shall be deemed to have engaged in unlicensed practice and 11 shall be subject to discipline in accordance with Article 25 12 of this Act.

13 (c) Nothing in this Act applies to the City of Chicago in its exercise of its powers under the O'Hare Modernization Act 14 15 or limits the authority of the City of Chicago to acquire 16 property or otherwise exercise its powers under the O'Hare 17 Modernization Act, or requires the City of Chicago, or any person acting on behalf of the City of Chicago, to comply with 18 the licensing, regulation, or investigation, or mediation 19 20 requirements of this Act in exercising its powers under the O'Hare Modernization Act. 21

(d) A cemetery manager and customer service employee
license may be in active status only during the period that
such a licensee is employed by a cemetery authority that is
licensed under this Act. In the event that a cemetery manager
or customer service employee commences work for a cemetery

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1 granted an exemption under this Section, it shall be a duty of 2 both the cemetery authority and the individual licensee to 3 immediately notify the Department so that the license may be placed on inactive status. During the period that a license is 4 5 in inactive status, the involved person may not hold himself or herself out as licensed. Upon returning to employment by a 6 cemetery licensed under this Act, such a cemetery manager or 7 8 customer service employee may reinstate the license to active 9 status simply by notifying the Department and paying the 10 applicable fee.

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

12 (225 ILCS 411/5-25)

13 (Section scheduled to be repealed on January 1, 2022)
14 Sec. 5-25. Powers <u>and duties</u> of the Department. <u>The</u>
15 <u>Department shall, subject</u> Subject to the provisions of this
16 Act, the Department may exercise the following <u>functions</u>,
17 powers, <u>and duties</u>:

18 (1) Authorize certification programs to ascertain the
19 qualifications and fitness of applicants for licensing as
20 a licensed cemetery manager or as a customer service
21 employee to ascertain whether they possess the requisite
22 level of knowledge for such position.

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

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(3) Investigate any and all cemetery operations.

2 (4) Conduct hearings on proceedings to refuse to
3 issue, or renew, or restore licenses or to revoke,
4 suspend, place on probation, or reprimand, or otherwise
5 discipline a licensee license under this Act or take other
6 non disciplinary action.

7 (5) Adopt reasonable rules required for the
8 administration of this Act.

9 (6) Prescribe forms to be issued for the 10 administration and enforcement of this Act.

11 (7) <u>(Blank).</u> Maintain rosters of the names and 12 addresses of all licensees and all persons whose licenses 13 have been suspended, revoked, denied renewal, or otherwise 14 disciplined within the previous calendar year. These 15 rosters shall be available upon written request and 16 payment of the required fee as established by rule.

17 (8) Work with the Office of the Comptroller and the 18 Department of Public Health, Division of Vital Records to 19 exchange information and request additional information 20 relating to a licensed cemetery authority.

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

23 (10) Issue licenses to those who meet the requirements
 24 of this Act.

25 <u>(11) Conduct investigations related to possible</u>
26 <u>violations of this Act.</u>

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If the Department exercises its authority to conduct 1 2 investigations under this Section, the Department shall 3 provide the cemetery authority with information sufficient to challenge the allegation. If the complainant consents, then 4 5 the Department shall provide the cemetery authority with the identity of and contact information for the complainant so as 6 7 to allow the cemetery authority and the complainant to resolve the complaint directly. Except as otherwise provided in this 8 9 Act, any complaint received by the Department and any 10 information collected to investigate the complaint shall be maintained by the Department for the confidential use of the 11 12 Department and shall not be disclosed. The Department may not 13 disclose the information to anyone other than law enforcement 14 officials or other regulatory agencies or persons that have an 15 appropriate regulatory interest, as determined by the 16 Secretary, or to a party presenting a lawful subpoena to the 17 Department. Information and documents disclosed to a federal, state, county, or local law enforcement agency shall not be 18 19 disclosed by the agency for any purpose to any other agency or 20 person. A formal complaint filed against a licensee by the Department or any order issued by the Department against a 21 22 licensee or applicant shall be a public record, except as 23 otherwise prohibited by law.

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

25

(225 ILCS 411/5-26 new)

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1	Sec. 5-26. Confidentiality. All information collected by
2	the Department in the course of an examination or
3	investigation of a licensee or applicant, including, but not
4	limited to, any complaint against a licensee filed with the
5	Department and information collected to investigate any such
6	complaint, shall be maintained for the confidential use of the
7	Department and shall not be disclosed. The Department may not
8	disclose the information to anyone other than law enforcement
9	officials, other regulatory agencies that have an appropriate
10	regulatory interest as determined by the Secretary, or a party
11	presenting a lawful subpoena to the Department. Information
12	and documents disclosed to a federal, State, county, or local
13	law enforcement agency shall not be disclosed by the agency
14	for any purpose to any other agency or person. A formal
15	complaint filed against a licensee by the Department or any
16	order issued by the Department against a licensee or applicant
17	shall be a public record, except as otherwise prohibited by
18	law.

19 (225 ILCS 411/10-20)

20 (Section scheduled to be repealed on January 1, 2022)

21

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

(a) Applications for original licensure as a cemetery
authority, cemetery manager, or customer service employee
authorized by this Act, or application for exemption from
licensure as a cemetery authority, shall be made to the

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Department in writing on forms or electronically as prescribed 1 2 by the Department, which shall include the applicant's Social Security number or FEIN number, or both, and shall be 3 accompanied by the required fee that shall not be refundable. 4 5 as set by Section 10 55 of this Act and further refined by rule. Applications for partial or full exemption from 6 7 licensure as a cemetery authority shall be submitted to the 8 Department within 6 months after the Department adopts rules 9 under this Act. If the person fails to submit the application 10 for partial or full exemption within this period, the person 11 shall be subject to discipline in accordance with Article 25 12 of this Act. The process for renewing a full or partial exemption shall be set by rule. If a cemetery authority seeks 13 to practice at more than one location, it shall meet all 14 licensure requirements at each location as required by this 15 16 Act and by rule, including submission of an application and 17 fee. All applications shall contain information that, in the judgment of the Department, will enable the Department to pass 18 on the qualifications of the applicant for a license under 19 this Act. 20

21 (b) (Blank).

(c) After initial licensure, if any person comes to obtain at least 51% of the ownership over the licensed cemetery authority, then the cemetery authority shall have to apply for a new license and receive licensure in the required time as set by rule. The current license remains in effect until the HB2777 Engrossed - 20 - LRB102 12074 SPS 17411 b

1 Department takes action on the application for a new license.

2 (d) <u>(Blank).</u> All applications shall contain the 3 information that, in the judgment of the Department, will 4 enable the Department to pass on the qualifications of the 5 applicant for an exemption from licensure or for a license to 6 practice as a cemetery authority, cemetery manager, or 7 customer service employee as set by rule.

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

9 (225 ILCS 411/10-21)

10 (Section scheduled to be repealed on January 1, 2022)
11 Sec. 10-21. Qualifications for licensure.

12 (a) A cemetery authority shall apply for licensure on 13 forms prescribed by the Department and pay the required fee. 14 An applicant is qualified for licensure as a cemetery 15 authority if the applicant meets all of the following 16 qualifications:

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

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

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1 business;

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

9 (C) whether the applicant has willfully violated 10 any provision of this Act or a predecessor law or any 11 regulations relating thereto;

12 (D) whether the applicant has been permanently or 13 temporarily suspended, enjoined, or barred by any 14 court of competent jurisdiction in any state from 15 engaging in or continuing any conduct or practice 16 involving any aspect of the cemetery or funeral 17 business; and

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

If the applicant is a corporation, limited liability company, partnership, or other entity permitted by law, then the Department shall determine whether each principal, owner, member, officer, and shareholder holding 26 25% or more of corporate stock has met the requirements of 1

this item (1) of subsection (a) of this Section.

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

(3) The applicant has not, within the preceding 10 4 5 years, been convicted of or entered a plea of guilty or nolo contendere to (i) a Class X felony or (ii) a felony, 6 7 an essential element of which was fraud or dishonesty under the laws of this State, another state, the United 8 9 States, or a foreign jurisdiction that is directly related 10 to the practice of cemetery operations. If the applicant 11 is a corporation, limited liability company, partnership, 12 or other entity permitted by law, then each principal, owner, member, officer, and shareholder holding 25% or 13 14 more of corporate stock has not, within the preceding 10 15 years, been convicted of or entered a plea of guilty or 16 nolo contendere to (i) a Class X felony or (ii) a felony, 17 an essential element of which was fraud or dishonesty under the laws of this State, another state, the United 18 19 States, or a foreign jurisdiction that is directly related 20 to the practice of cemetery operations.

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

(5) In the case of a person or entity applying for
 renewal of his, her, or its license, the applicant has
 complied with all other requirements of this Act and the

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rules adopted for the implementation of this Act.

2 (b) The cemetery manager and customer service employees of 3 a licensed cemetery authority shall apply for licensure as a 4 cemetery manager or customer service employee on forms 5 prescribed by the Department and pay the required fee. A 6 person is qualified for licensure as a cemetery manager or 7 customer service employee if he or she meets all of the 8 following requirements:

9

(1) Is at least 18 years of age.

10 (2) Has acted in an ethical manner as set forth in 11 Section 10-23 of this Act. In determining qualifications 12 of licensure, the Department shall take into consideration 13 the factors outlined in item (1) of subsection (a) of this 14 Section.

15 (3) Submits proof of successful completion of a high16 school education or its equivalent as established by rule.

17 (4) The applicant shall authorize the Department to
18 conduct a criminal background check that does not involve
19 fingerprinting.

20 (5) Has not committed a violation of this Act or any 21 rules adopted under this Act that, in the opinion of the 22 Department, renders the applicant unqualified to be a 23 cemetery manager.

(6) Submits proof of successful completion of a
 certification course recognized by the Department for a
 cemetery manager or customer service employee, whichever

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1 the case may be.

2 (7) Has not, within the preceding 10 years, been 3 convicted of or entered a plea of guilty or nolo contendere to (i) a Class X felony or (ii) a felony, an 4 5 essential element of which was fraud or dishonesty under the laws of this State, another state, the United States, 6 or a foreign jurisdiction that is directly related to the 7 8 practice of cemetery operations.

9 (8) (Blank).

10 (9) In the case of a person applying for renewal of his 11 or her license, has complied with all other requirements 12 of this Act and the rules adopted for implementation of 13 this Act.

14 (c) Each applicant for a cemetery authority, cemetery 15 manager, or customer service employee license shall authorize 16 the Department to conduct a criminal background check that 17 does not involve fingerprinting. The Department must, in turn, conduct the criminal background check on each applicant. The 18 19 Department shall adopt rules to implement this subsection (c), 20 but in no event shall the Department impose a fee upon the 21 applicant for the background check.

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

23 (225 ILCS 411/10-25)

24 (Section scheduled to be repealed on January 1, 2022)
25 Sec. 10-25. Certification.

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(a) The Department shall authorize certification programs 1 2 for cemetery manager and customer service employee applicants. 3 The certification programs must consist of education and training in cemetery ethics, cemetery law, and cemetery 4 5 practices. Cemetery ethics shall include, without limitation, 6 the Code of Professional Conduct and Ethics as set forth in 7 Section 10-23 of this Act. Cemetery law shall include, without 8 limitation, the Cemetery Oversight Act, the Cemetery Care Act, 9 the Disposition of Remains Act, and the Cemetery Protection 10 Act. Cemetery practices shall include, without limitation, 11 treating the dead and their family members with dignity and 12 respect. The certification program shall include an the 13 administered by examination entity providing the 14 certification.

(a-5) An entity seeking to offer a certification program to cemetery manager applicants and customer service employee applicants must receive approval of its program from the Department in a manner and form prescribed by the Department by rule. As part of this process, the entity must submit to the Department the examination it offers or intends to offer as part of its certification program.

(a-10) A cemetery manager applicant or customer service employee applicant may choose any entity that has been approved by the Department from which to obtain certification.

(b) Cemetery manager applicants and customer serviceemployee applicants shall pay the fee for the certification

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1 program directly to the entity offering the program.

2 (c) If the cemetery manager applicant or customer service 3 employee applicant neglects, fails, or refuses to become 4 certified within one year after filing an application, then 5 the application shall be denied. However, the applicant may 6 thereafter submit a new application accompanied by the 7 required fee. The applicant shall meet the requirements in 8 force at the time of making the new application.

9 (d) A cemetery manager applicant or customer service 10 employee applicant who has completed a certification program 11 offered by an entity that has not received the Department's 12 approval as required by this Section has not met the 13 qualifications for licensure as set forth in Section 10-21 of 14 this Act.

15 (e) The Department may approve shall recognize any 16 certification program that is conducted by a death care trade 17 association in Illinois that has been in existence for more than 5 years that, in the determination of the Department, 18 19 provides adequate education and training in cemetery law, 20 cemetery ethics, and cemetery practices and administers an examination covering the same. 21

(f) The Department may, without a hearing, summarily withdraw its approval of a certification program that, in the judgment of the Department, fails to meet the requirements of this Act or the rules adopted under this Act. A certification program that has had its approval withdrawn by the Department HB2777 Engrossed - 27 - LRB102 12074 SPS 17411 b

1	may reapply for approval, but shall provide such additional
2	information as may be required by the Department, including,
3	but not limited to, evidence to the Department's satisfaction
4	that the program is in compliance with this Act and the rules
5	adopted under this Act.
6	(Source: P.A. 96-863, eff. 3-1-10; 97-679, eff. 2-6-12.)
7	(225 ILCS 411/10-40)
8	(Section scheduled to be repealed on January 1, 2022)
9	Sec. 10-40. <u>Renewal, reinstatement, or restoration of</u>
10	license Expiration and renewal of license.
11	(a) The expiration date and renewal period for each
12	license issued under this Act shall be set by rule. The holder
13	of a license may renew such license during the month preceding
14	the expiration date thereof by paying the required fee.
15	(b) A licensee under this Act who has permitted his or her
16	license to expire or has had his or her license placed on
17	inactive status may have his or her license restored by making
18	application to the Department and filing proof acceptable to
19	the Department of his or her fitness of having his or her
20	license restored, including, but not limited to, sworn
21	evidence certifying to active practice in another jurisdiction
22	satisfactory to the Department, and by paying the required fee
23	as determined by rule. Every cemetery authority, cemetery
24	manager, and customer service employee license shall expire

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1 authority or partially exempt cemetery authority shall expire 2 every 4 years. The expiration date, renewal period, and other 3 requirements for each license and registration shall be 4 further refined by rule. 5 (Source: P.A. 96-863, eff. 3-1-10; 97-679, eff. 2-6-12.) 6 (225 ILCS 411/10-55) 7 (Section scheduled to be repealed on January 1, 2022)

8 Sec. 10-55. Fees.

9 (a) Except as provided in this Section, the fees for the 10 administration and enforcement of this Act shall be set by the 11 Department by rule. The fees shall be reasonable and shall not 12 be refundable.

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

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(c) The Department may waive fees based upon hardship.

(d) Nothing shall prohibit a cemetery authority from
paying, on behalf of its cemetery managers or customer service
employees, their application, renewal, or restoration fees.

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

24 (f) The fee for application as a cemetery authority25 seeking a full exemption is \$0.

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

5 (h) The fee for application as a cemetery authority6 seeking a partial exemption is \$150.

7 (i) The fee to renew registration as a partially exempt 8 cemetery authority is \$150. As provided in Section 10 40 of 9 this Act and as further refined by rule, each registration as a 10 partially exempt cemetery authority shall expire every 4 11 years.

12 (j) The fee for original licensure, renewal, and 13 restoration as a cemetery authority not seeking a full or 14 partial exemption is \$75. As provided in Section 10-40 of this 15 Act and as further refined by rule, each cemetery authority 16 license shall expire every 2 years.

17 (k) The fee for original licensure, renewal, and 18 restoration as a cemetery manager is \$25. As provided in 19 Section 10 40 of this Act and as further refined by rule, each 20 cemetery manager license shall expire every 2 years.

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

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

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(225 ILCS 411/20-10)

2 (Section scheduled to be repealed on January 1, 2022) 3 Sec. 20-10. Contract. At the time cemetery arrangements 4 are made and prior to rendering the cemetery services, a 5 cemetery authority shall create a completed written contract to be provided to the consumer, signed by both parties by their 6 actual written signatures on either paper or electronic form, 7 that shall contain: (i) the date on which the arrangements 8 9 were made; (ii) the price of the service selected and the 10 services and merchandise included for that price; (iii) the 11 supplemental items of service and merchandise requested and 12 the price of each item; (iv) the terms or method of payment 13 agreed upon; and (v) a statement as to any monetary advances made on behalf of the family. The cemetery authority shall 14 15 maintain a copy of such written contract in its permanent 16 records.

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

18

(225 ILCS 411/25-3)

19 (Section scheduled to be repealed on January 1, 2022)

20 Sec. 25-3. Exemption, investigation, mediation. All 21 cemetery authorities maintaining a partial exemption must 22 submit to the following investigation and mediation procedure 23 by the Department in the event of a consumer complaint:

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(a) Complaints to cemetery:

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

3 (2) if the complaint is not resolved, then the
4 cemetery authority shall advise the consumer of his or
5 her right to <u>file a complaint with</u> seek investigation
6 and mediation by the Department.

(b) Complaints to the Department:

8 (1) if the Department receives a complaint, the 9 Department shall make an initial determination as to 10 whether the complaint has a reasonable basis and 11 pertains to this Act;

12 (2) if the Department determines that the 13 complaint has a reasonable basis and pertains to this 14 Act, it shall inform the cemetery authority of the 15 complaint and give it 30 days to tender a response;

16 (3) upon receiving the cemetery authority's
17 response, or after the 30 days provided in subsection
18 (2) of this subsection, whichever comes first, the
19 Department shall attempt to resolve the complaint
20 telephonically with the parties involved;

(4) if the complaint still is not resolved, then
the Department shall conduct an investigation and
mediate the complaint as provided for by rule;

(5) if the Department conducts an on-site
 investigation and face-to-face mediation with the
 parties, then it may charge the cemetery authority a

single investigation and mediation fee, which fee shall be set by rule and shall be calculated on an hourly basis; and

(6) if all attempts to resolve the consumer 4 5 complaint as provided for in paragraphs (1) through (5) fail, then the cemetery authority may be subject 6 to proceedings for penalties and discipline under this 7 Article when it is determined by the Department that 8 9 the cemetery authority may have engaged in any of the 10 following: (i) gross malpractice; (ii) dishonorable, 11 unethical, or unprofessional conduct of a character 12 likely to deceive, defraud, or harm the public; (iii) 13 gross, willful, or continued overcharging for 14 services; (iv) incompetence; (v) unjustified failure 15 to honor its contracts; or (vi) failure to adequately 16 maintain its premises. The Department may issue a 17 citation or institute disciplinary action and cause the matter to be prosecuted and may thereafter issue 18 and enforce its final order as provided in this Act. 19 (Source: P.A. 96-863, eff. 3-1-10.) 20

21 (225 ILCS 411/25-5)
22 (Section scheduled to be repealed on January 1, 2022)
23 Sec. 25-5. Citations.

(a) The Department may adopt rules to permit the issuanceof citations for non-frivolous complaints. The citation shall

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be issued to the licensee and shall contain the licensee's 1 2 name and address, the licensee's license number, a brief 3 factual statement, the Sections of the law allegedly violated, and the penalty imposed. The citation must clearly state that 4 5 the licensee may choose, in lieu of accepting the citation, to request a hearing. If the licensee does not dispute the matter 6 7 in the citation with the Department within 30 days after the citation is served, then the citation shall become a final 8 9 order and shall constitute discipline. The penalty shall be a 10 fine or other conditions as established by rule.

11 (b) The Department shall adopt rules designating 12 violations for which a citation may be issued. Such rules shall designate as citation violations those violations for 13 which there is no substantial threat to the public health, 14 15 safety, and welfare. Citations shall not be utilized if there 16 was any significant consumer harm resulting from the 17 violation.

18 (c) A citation must be issued within 6 months after the19 reporting of a violation that is the basis for the citation.

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

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

24 (225 ILCS 411/25-10)

25 (Section scheduled to be repealed on January 1, 2022)

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Sec. 25-10. Grounds for disciplinary action.

(a) The Department may refuse to issue or renew a license 2 3 or may revoke, suspend, place on probation, reprimand, or take disciplinary or non-disciplinary 4 other action as the 5 Department may deem appropriate, including imposing fines not to exceed \$10,000 $\frac{$8,000}{100}$ for each violation, with regard to 6 7 any license under this Act, for any one or combination of the 8 following:

9 (1) Material misstatement in furnishing information to 10 the Department.

11

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(2) Violations of this Act, except for Section $20-8\frac{1}{7}$

13 (3) Conviction of or entry of a plea of guilty or nolo 14 contendere, finding of guilt, jury verdict, or entry of 15 judgment or sentencing, including, but not limited to, convictions, preceding sentences of supervision, 16 17 conditional discharge, or first offender probation under the law of any jurisdiction of the United States that is 18 19 (i) a Class X felony or (ii) a felony, an essential element 20 of which is fraud or dishonesty that is directly related to the practice of cemetery operations. Conviction of, or 21 22 entry of a plea of quilty or nolo contendere to, any crime 23 within the last 10 years that is a Class X felony or higher or is a felony involving fraud and dishonesty under 24 25 laws of the United States or any state or territory 26 thereof.

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1 (4) Fraud or any misrepresentation in applying for or 2 procuring a license under this Act or in connection with applying for renewal. Making any misrepresentation for the 3 purpose of obtaining licensure or violating any provision 4 5 of this Act or the rules adopted under this Act. 6 (5) Incompetence or misconduct in the practice of 7 cemetery operations. Professional incompetence. 8 (6) Gross malpractice. 9 (7) Aiding or assisting another person in violating 10 any provision of this Act or rules adopted under this Act. 11 (8) Failing, within 10 business days, to provide 12 information in response to a written request made by the 13 Department. 14 (9) Engaging in dishonorable, unethical, or 15 unprofessional conduct of a character likely to deceive, 16 defraud, or harm the public. 17 (10) Habitual or excessive use or abuse of drugs defined in law as controlled substances, alcohol, 18 19 narcotics, stimulants, or any other substances that 20 results in the inability to practice pursuant to the 21 provisions of this Act with reasonable judgment, skill, or 22 safety while acting under the provisions of this Act. 23 Inability to practice with reasonable judgment, skill, 24 safety as a result of habitual or excessive use 25 alcohol, narcotics, stimulants, or any other chemical 26 agent or drug.

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

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

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

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

(15) Inability to practice the profession with
 reasonable judgment, skill, or safety <u>as a result of</u>
 <u>physical illness, including, but not limited to, loss of</u>
 <u>motor skill, mental illness, or disability</u>.

(16) Failure to comply with an order, decision, orfinding of the Department made pursuant to this Act.

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(17) Directly or indirectly receiving compensation for

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any professional services not actually performed.

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

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

9 (20) <u>A finding by the Department that an applicant or</u> 10 <u>licensee has failed to pay a fine imposed by the</u> 11 <u>Department.</u> Cheating on or attempting to subvert the 12 licensing examination administered under this Act.

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(21) Unjustified failure to honor its contracts.

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

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

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

23 (25) (Blank).

(b) No action may be taken under this Act against a person
 licensed under this Act <u>for an occurrence or alleged</u>
 <u>occurrence that predates the enactment of this Act</u> unless the

1	action is commenced within 5 years after the occurrence of the
2	alleged violations, except for a violation of item (3) of
3	subsection (a) of this Section. If a person licensed under
4	this Act violates item (3) of subsection (a) of this Section,
5	then the action may commence within 10 years after the
6	occurrence of the alleged violation. A continuing violation
7	shall be deemed to have occurred on the date when the
8	circumstances last existed that give rise to the alleged
9	violation.
10	(c) In enforcing this Section, the Department, upon a
11	showing of a possible violation, may order a licensee or
12	applicant to submit to a mental or physical examination, or
13	both, at the expense of the Department. The Department may
14	order the examining physician to present testimony concerning
15	his or her examination of the licensee or applicant. No
16	information shall be excluded by reason of any common law or
17	statutory privilege relating to communications between the
18	licensee or applicant and the examining physician. The
19	examining physicians shall be specifically designated by the
20	Department. The licensee or applicant may have, at his or her
21	own expense, another physician of his or her choice present
22	during all aspects of the examination. Failure of a licensee
23	or applicant to submit to any such examination when directed,
24	without reasonable cause, shall be grounds for either
25	immediate suspending of his or her license or immediate denial
26	of his or her application.

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

15 confidentiality of medical records.

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

(d) The determination by a circuit court that a licensee is subject to involuntary admission or judicial admission, as provided in the Mental Health and Developmental Disabilities Code, operates as an automatic suspension. Such suspension may end only upon a finding by a court that the patient is no longer subject to involuntary admission or judicial admission, HB2777 Engrossed - 40 - LRB102 12074 SPS 17411 b

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

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

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

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

(225 ILCS 411/25-15) 1 (Section scheduled to be repealed on January 1, 2022) 2 3 Sec. 25-15. Injunction; cease Cease and desist order. 4 (a) If any person or entity violates a provision of this 5 Act, the Secretary may, in the name of the People of the State 6 of Illinois, through the Attorney General of the State of Illinois, petition for an order enjoining such violation or 7 8 for an order enforcing compliance with this Act. Upon the filing of a verified petition in such court, the court may 9 10 issue a temporary restraining order, without notice or bond, 11 and may preliminarily and permanently enjoin such violation. 12 If it is established that such person or entity has violated or is violating the injunction, the court may punish the offender 13 for contempt of court. Proceedings under this Section are in 14 15 addition to, and not in lieu of, all other remedies and 16 penalties provided by this Act. The Secretary may issue an order to cease and desist to any licensee or other person doing 17 18 business without the required license when, in the opinion of 19 the Secretary, the licensee or other person is violating or is 20 about to violate any provision of this Act or any rule or 21 requirement imposed in writing by the Department. 22 (b) Whenever in the opinion of the Department any person

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

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

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

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

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

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

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

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

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

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

11 (225 ILCS 411/25-25)

12 (Section scheduled to be repealed on January 1, 2022)

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

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

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

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

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

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

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

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

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discipline every license to which such grounds apply.

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

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

1	upon service of the order unless the licensee requests, in
2	writing, within 20 days after the date of service, a hearing.
3	In the event a hearing is requested, an order issued under this
4	Section shall be stayed until a final administrative order is
5	entered.
6	(f) If the licensee requests a hearing, then the Secretary
7	shall schedule a hearing within 30 days after the request for a
8	hearing unless otherwise agreed to by the parties. 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
12	a license. The hearing officer shall have full authority to
13	conduct the hearing.
14	(g) The hearing shall be held at the time and place
15	designated by the Secretary.
16	(h) The Secretary shall have the authority to prescribe
17	rules for the administration of this Section.
18	(i) Fines imposed and any costs assessed shall be paid
19	within 60 days.
20	(Source: P.A. 96-863, eff. 3-1-10; 97-679, eff. 2-6-12.)
21	(225 ILCS 411/25-26 new)
22	Sec. 25-26. Hearing officer. Notwithstanding any provision
23	of this Act, the Secretary has the authority to appoint an
24	attorney licensed to practice law in the State of Illinois to
25	serve as the hearing officer in any action for refusal to issue

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or renew a license or discipline a license. The hearing officer shall have full authority to conduct the hearing. The hearing officer shall report his or her findings of fact, conclusions of law, and recommendations to the Secretary.

5 (225 ILCS 411/25-30)

6 (Section scheduled to be repealed on January 1, 2022) 7 Sec. 25-30. Hearing; motion for rehearing Consent order. 8 (a) The hearing officer appointed by the Secretary shall hear evidence in support of the formal charges and evidence 9 10 produced by the licensee. At the conclusion of the hearing, 11 the hearing officer shall present to the Secretary a written 12 report of his or her findings of fact, conclusions of law, and 13 recommendations. (b) At the conclusion of the hearing, a copy of the hearing 14 officer's report shall be served upon the applicant or 15

16 licensee, either personally or as provided in this Act for the service of the notice of hearing. Within 20 calendar days 17 after such service, the applicant or licensee may present to 18 the Department a motion, in writing, for a rehearing which 19 20 shall specify the particular grounds for rehearing. The 21 Department may respond to the motion for rehearing within 20 22 calendar days after its service on the Department. If no motion for rehearing is filed, then upon the expiration of the 23 24 time specified for filing such a motion, or upon denial of a motion for rehearing, the Secretary <u>may enter an order in</u> 25

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1 accordance with the recommendations of the hearing officer. If
2 the applicant or licensee orders from the reporting service
3 and pays for a transcript of the record within the time for
4 filing a motion for rehearing, the 20 calendar day period
5 within which a motion may be filed shall commence upon
6 delivery of the transcript to the applicant or licensee.

7 (c) If the Secretary disagrees in any regard with the
8 report of the hearing officer, the Secretary may issue an
9 order contrary to the report.

10 (d) Whenever the Secretary is not satisfied that 11 substantial justice has been done, the Secretary may order a 12 hearing by the same or another hearing officer.

13 (e) At any point in any investigation or disciplinary 14 proceeding provided for in this Act, both parties may agree to 15 a negotiated consent order. The consent order shall be final 16 upon signature of the Secretary.

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

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

22 (225 ILCS 411/25-35)

23 (Section scheduled to be repealed on January 1, 2022)

24 Sec. 25-35. Record of proceedings; transcript.

25 <u>(a)</u> The Department, at its expense, <u>shall provide a</u>

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certified shorthand reporter to take down the testimony and 1 2 preserve a record of all proceedings at the hearing of any case 3 in which a licensee may be revoked, suspended, placed on probationary status, reprimanded, fined, or subjected to other 4 5 disciplinary action with reference to the license when a disciplinary action is authorized under this Act and rules. 6 The notice of hearing, complaint, and all other documents in 7 the nature of pleadings and written portions filed in the 8 9 proceedings, the transcript of the testimony, the report of the hearing officer, and the orders of the Department shall be 10 11 the record of the proceedings. The record may be made 12 available to any person interested in the hearing upon payment of the fee required by Section 2105-115 of the Department of 13 14 Professional Regulation Law shall preserve a record of all 15 proceedings at the formal hearing of any case. Any notice, all 16 documents in the nature of pleadings, written motions filed in 17 the proceedings, the transcripts of testimony, and orders of the Department shall be in the record of the proceeding. 18

19 (b) The Department may contract for court reporting 20 services, and, if it does so, the Department shall provide the 21 name and contact information for the certified shorthand 22 reporter who transcribed the testimony at a hearing to any 23 person interested, who may obtain a copy of the transcript of 24 any proceedings at a hearing upon payment of the fee specified 25 by the certified shorthand reporter.

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

1	(225 ILCS 411/25-90)
2	(Section scheduled to be repealed on January 1, 2022)
3	Sec. 25-90. Restoration of license from discipline.
4	(a) At any time after the successful completion of a term
5	of indefinite probation, suspension, or revocation of a
6	license <u>under this Act</u> , the Department may restore the license
7	to the licensee, unless after an investigation and a hearing
8	the Secretary determines that restoration is not in the public
9	interest.
10	(b) Where circumstances of suspension or revocation so
11	indicate, the Department may require an examination of the
12	licensee prior to restoring his or her license.
13	(c) No person whose license has been revoked as authorized
14	in this Act may apply for restoration of that license until
15	such time as provided for in the Civil Administrative Code of
16	<u>Illinois.</u>
17	(d) A license that has been suspended or revoked shall be

Ll be considered non-renewed for purposes of restoration and a 18 licensee restoring his or her license from suspension or 19 20 revocation must comply with the requirements for restoration 21 as set forth in Section 10-40.

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

23 (225 ILCS 411/25-95)

24 (Section scheduled to be repealed on January 1, 2022) HB2777 Engrossed - 52 - LRB102 12074 SPS 17411 b

1

Sec. 25-95. Administrative review; venue.

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

6 (b) Proceedings for judicial review shall be commenced in 7 the circuit court of the county in which the party applying for 8 review resides, but if the party is not a resident of Illinois, 9 the venue shall be in Sangamon County.

10 (c) The Department shall not be required to certify any 11 record to the court or file any answer in court, or to 12 otherwise appear in any court in a judicial review proceeding, 13 unless and until the Department has received from the 14 plaintiff payment of the costs of furnishing and certifying 15 the record, which costs shall be determined by the Department. 16 (d) Failure on the part of the plaintiff to file a receipt 17 in court shall be grounds for dismissal of the action. (Source: P.A. 96-863, eff. 3-1-10.) 18

19

(225 ILCS 411/25-105)

20 (Section scheduled to be repealed on January 1, 2022)

Sec. 25-105. <u>Unlicensed practice; violations; civil</u>
 <u>penalty</u> Violations.

(a) Any person who practices, offers to practice, attempts
 to practice, or hold himself or herself out as a cemetery
 manager or customer service employee as provided in this Act

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1	without being licensed or exempt under this Act shall, in
2	addition to any other penalty provided by law, pay a civil
3	penalty to the Department in an amount not to exceed \$10,000
4	for each offense, as determined by the Department. The civil
5	penalty shall be assessed by the Department after a hearing is
6	held in accordance with the provision set forth in this Act
7	regarding the provision of a hearing for the discipline of a
8	licensee.
9	(b) The Department may investigate any actual, alleged, or
10	suspected unlicensed activity.
11	(c) The civil penalty shall be paid within 60 days after
12	the effective date of the order imposing the civil penalty.
13	The order shall constitute a judgment and may be filed and
14	execution had thereon in the same manner as any judgment from
15	any court of record.
16	(d) A person or entity not licensed under this Act who has
17	violated any provision of this Act or its rules is guilty of a
18	Class A misdemeanor for the first offense and a Class 4 felony
19	for a second and subsequent offenses.
20	Each of the following acts is a Class A misdemeanor for the
21	first offense and a Class 4 felony for each subsequent
22	offense:
23	(1) the practice of or attempted practice of or
24	holding out as available to practice as a cemetery
25	authority, cemetery manager, or customer service employee
26	without a license; or

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1	(2)	the	-obtaining	of	or t	he att	empt-	to	obtain	any
2	license	or	authorizat	ion	unde	er this	- Act	-by	fraud	or
3	misrepresentation.									

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

5 (225 ILCS 411/25-115)

6 (Section scheduled to be repealed on January 1, 2022) 25-115. Illinois Administrative Procedure Act; 7 Sec. application. The Illinois Administrative Procedure Act is 8 9 expressly adopted and incorporated in this Act as if all of the 10 provisions of that Act were included in this Act, except that 11 the provision of paragraph (d) of Section 10-65 of the 12 Illinois Administrative Procedure Act, which provides that at hearings the licensee has the right to show compliance with 13 14 all lawful requirements for retention or continuation or 15 renewal of the license, is specifically excluded. The 16 Department shall not be required to annually verify email addresses as specified in paragraph (a) of subsection (2) of 17 18 Section 10-75 of the Illinois Administrative Procedure Act. For the purpose of this Act, the notice required under Section 19 20 10-25 of Illinois Administrative Procedure Act the is 21 considered sufficient when mailed to the address of record or 22 emailed to the email address of record.

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

24 (225 ILCS 411/35-5)

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(Section scheduled to be repealed on January 1, 2022) 1 2 Sec. 35-5. Penalties. Cemetery authorities shall respect 3 the rights of consumers of cemetery products and services as put forth in this Article. Failure to abide by the cemetery 4 5 duties listed in this Article or to comply with a request by a consumer based on a consumer's privileges under this Article 6 7 the mediation, citation, or disciplinary mav activate 8 processes in Article 25 of this Act.

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

10 (225 ILCS 411/35-15)

11 (Section scheduled to be repealed on January 1, 2022) 12 Sec. 35-15. Cemetery duties.

(a) Prices for all cemetery-related products offered for 13 14 sale by the cemetery authority must be disclosed to the 15 consumer in writing on а standardized price list. 16 Memorialization pricing may be disclosed in price ranges. The price list shall include the effective dates of the prices. 17 The price list shall include not only the range of interment, 18 19 inurnment, and entombment rights, and the cost of extending the term of any term burial, but also any related merchandise 20 21 or services offered by the cemetery authority. Charges for 22 installation of markers, monuments, and vaults in cemeteries 23 must be the same without regard to where the item is purchased.

24 (b) A contract for the interment, inurnment, or entombment 25 of human remains must be signed by both parties: the consumer HB2777 Engrossed - 56 - LRB102 12074 SPS 17411 b

and the cemetery authority or its representative. 1 Such 2 signature shall be personally signed by the signor on either 3 paper or electronic format and shall not include a stamp or electronic facsimile of the signature. Before a contract is 4 5 signed, the prices for the purchased services and merchandise must be disclosed on the contract and in plain language. If a 6 contract is for a term burial, the term, the option to extend 7 8 the term, and the subsequent disposition of the human remains 9 post-term must be in bold print and discussed with the 10 consumer. Any contract for the sale of a burial plot, when 11 designated, must disclose the exact location of the burial 12 plot based on the survey of the cemetery map or plat on file 13 with the cemetery authority.

14 (c) A cemetery authority that has the legal right to 15 extend a term burial shall, prior to disinterment, provide the 16 family or other authorized agent under the Disposition of 17 Remains Act the opportunity to extend the term of a term burial for the cost as stated on the cemetery authority's current 18 19 price list. Regardless of whether the family or other authorized agent chooses to extend the term burial, the 20 cemetery authority shall, prior to disinterment, provide 21 22 notice to the family or other authorized agent under the 23 Disposition of Remains Act of the cemetery authority's intention to disinter the remains and to inter different human 24 25 remains in that space.

26

(d) If any rules or regulations, including the operational

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or maintenance requirements, of a cemetery change after the 1 2 date a contract is signed for the purchase of cemetery-related or funeral-related products or services, the cemetery may not 3 require the consumer, purchaser, or such individual's relative 4 5 or representative to purchase any merchandise or service not included in the original contract or in the rules 6 and 7 regulations in existence when the contract was entered unless 8 the purchase is reasonable or required to make the cemetery 9 authority compliant with applicable law.

(e) No cemetery authority or its agent may engage in
 deceptive or unfair practices. The cemetery authority and its
 agents may not misrepresent legal or cemetery requirements.

13 (f) The Department may adopt rules regarding green burial 14 certification, green cremation products and methods, and 15 consumer education.

16 (g) The contractual requirements contained in this Section 17 only apply to contracts executed after the effective date of 18 this Act.

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

20 (225 ILCS 411/75-45)

(Section scheduled to be repealed on January 1, 2022)
Sec. 75-45. Fees. The Department shall by rule provide for
fees for the administration and enforcement of this Act, and
those fees are nonrefundable. All of the fees, and fines, and
all other moneys collected under this Act and fees collected

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on behalf of the Department under subsection (1) of Section 25 of the Vital Records Act shall be deposited into the Cemetery Oversight Licensing and Disciplinary Fund and be appropriated to the Department for the ordinary and contingent expenses of the Department in the administration and enforcement of this Act.

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

8 (225 ILCS 411/25-1 rep.)

- 9 (225 ILCS 411/25-50 rep.)
- 10 (225 ILCS 411/25-55 rep.)
- 11 (225 ILCS 411/25-60 rep.)
- 12 (225 ILCS 411/25-100 rep.)
- 13 (225 ILCS 411/25-110 rep.)
- 14 (225 ILCS 411/25-120 rep.)
- 15 (225 ILCS 411/25-125 rep.)
- 16 (225 ILCS 411/75-20 rep.)
- 17 (225 ILCS 411/75-35 rep.)

Section 20. The Cemetery Oversight Act is amended by repealing Sections 25-1, 25-50, 25-55, 25-60, 25-100, 25-110, 25-120, 25-125, 75-20, and 75-35.

21 Section 99. Effective date. This Act takes effect upon 22 becoming law.