



Rep. Kelly M. Burke

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1 AMENDMENT TO HOUSE BILL 2777

2 AMENDMENT NO. _____. Amend House Bill 2777 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Regulatory Sunset Act is amended by
5 changing Section 4.32 and by adding Section 4.41 as follows:

6 (5 ILCS 80/4.32)

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 Acts repealed on January 1, 2022.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8 Acts are repealed on January 1, 2022: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

1 The Illinois Health Information Exchange and Technology
2 Act.

3 The Medical Practice Act of 1987.

4 The Registered Interior Designers Act.

5 The Massage Licensing Act.

6 The Petroleum Equipment Contractors Licensing Act.

7 The Radiation Protection Act of 1990.

8 The Real Estate Appraiser Licensing Act of 2002.

9 The Water Well and Pump Installation Contractor's License
10 Act.

11 (Source: P.A. 100-920, eff. 8-17-18; 101-316, eff. 8-9-19;
12 101-614, eff. 12-20-19; 101-639, eff. 6-12-20.)

13 (5 ILCS 80/4.41 new)

14 Sec. 4.41. Act repealed on January 1, 2032. The following
15 Act is repealed on January 1, 2032:

16 The Cemetery Oversight Act.

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

20 (20 ILCS 2105/2105-35)

21 Sec. 2105-35. Prohibited uses of roster of information.
22 Notwithstanding any other provision of law to the contrary,
23 any roster of information including, but not limited to, the

1 licensee's name, address, and profession, shall not be used by
2 a third party for the purpose of marketing goods or services
3 not related to the licensee's profession. Rosters provided by
4 the Department shall comply with the requirements set forth
5 under the Freedom of Information Act.

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

7 (20 ILCS 2105/2105-120) (was 20 ILCS 2105/60g)

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

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

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

1 part of the 20 days.

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

3 Section 15. The Cemetery Oversight Act is amended by
4 changing Sections 5-15, 5-20, 5-25, 10-20, 10-21, 10-25,
5 10-40, 10-55, 20-10, 25-3, 25-5, 25-10, 25-15, 25-25, 25-30,
6 25-35, 25-90, 25-95, 25-105, 25-115, 25-125, 35-5, 35-15, and
7 75-45 and by adding Sections 5-16, 5-26, 25-26, and 25-126 as
8 follows:

9 (225 ILCS 411/5-15)

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

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

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

20 "Applicant" means a person applying for licensure under
21 this Act as a cemetery authority, cemetery manager, or
22 customer service employee. Any applicant or any person who
23 holds himself or herself out as an applicant is considered a
24 licensee for purposes of enforcement, investigation, hearings,

1 and the Illinois Administrative Procedure Act.

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

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

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

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

23 "Cemetery manager" means an individual directly
24 responsible or holding himself or herself directly responsible
25 for the operation, maintenance, development, or improvement of
26 a cemetery that is ~~or shall be~~ licensed under this Act or shall

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

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

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

26 "Cemetery Oversight Database" means a database certified

1 by the Department as effective in tracking the interment,
2 entombment, or inurnment of human remains.

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

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

11 "Comptroller" means the Comptroller of the State of
12 Illinois.

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

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

22 "Customer service employee" means an individual who has
23 direct contact with consumers to explain cemetery merchandise,
24 services, and interment rights and to execute the sale of
25 those items to consumers, whether at the cemetery or an
26 off-site location, irrespective of whether compensation is

1 paid by the cemetery authority or a third party. ~~This~~
2 ~~definition does not include a volunteer who receives no~~
3 ~~compensation, either directly or indirectly, for his or her~~
4 ~~work as a customer service employee.~~

5 "Department" means the Department of Financial and
6 Professional Regulation.

7 "Email address of record" means the designated email
8 address recorded by the Department in the applicant's
9 application file or the licensee's license file as maintained
10 by the Department's licensure maintenance unit.

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

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

20 "Family burying ground" means a cemetery in which no lots,
21 crypts, or niches are sold to the public and in which
22 interments, inurnments, and entombments are restricted to the
23 immediate family or a group of individuals related to each
24 other by blood or marriage.

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

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

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

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

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

17 "Individual" means a natural person.

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

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

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

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

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

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

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

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

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

24 "Public cemetery" means a cemetery owned, operated,
25 controlled, or managed by the federal government, by any
26 state, county, city, village, incorporated town, township,

1 multi-township, public cemetery district, or other municipal
2 corporation, political subdivision, or instrumentality thereof
3 authorized by law to own, operate, or manage a cemetery.

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

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

15 "Secretary" means the Secretary of Financial and
16 Professional Regulation or a person authorized by the
17 Secretary to act in the Secretary's stead.

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

22 "Trustee" means any person authorized to hold funds under
23 this Act.

24 "Unique personal identifier" means the parcel
25 identification number in addition to the term of burial in
26 years; the numbered level or depth in the grave, plot, crypt,

1 or niche; and the year of death for human remains interred,
2 entombed, or inurned after the effective date of this Act. The
3 unique personal identifier is assigned by the Cemetery
4 Oversight Database.

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

6 (225 ILCS 411/5-16 new)

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

9 (1) provide a valid address and email address to the
10 Department, which shall serve as the address of record and
11 email address of record, respectively, at the time of
12 application for licensure or renewal of a license; and

13 (2) inform the Department of any change of address of
14 record or email address of record within 14 days after
15 such change either through the Department's website or by
16 contacting the Department's licensure maintenance unit.

17 (225 ILCS 411/5-20)

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

19 Sec. 5-20. Exemptions.

20 (a) Full exemption. Except as provided in this subsection,
21 this Act does not apply to (1) any cemetery authority
22 operating as a family burying ground or religious burying
23 ground, (2) any cemetery authority that has not engaged in an
24 interment, inurnment, or entombment of human remains within

1 the last 10 years, or (3) any cemetery authority that is less
2 than 3 acres. For purposes of determining the applicability of
3 this subsection, the number of interments, inurnments, and
4 entombments shall be aggregated for each calendar year. A
5 cemetery authority claiming a full exemption shall apply for
6 exempt status as provided for in Section 10-20 of this Act. A
7 cemetery authority claiming a full exemption shall be subject
8 to Sections 10-40, 10-55, and 10-60 of this Act. A cemetery
9 authority that performs activities that would disqualify it
10 from a full exemption is required to apply for licensure
11 within one year following the date on which its activities
12 would disqualify it for a full exemption. A cemetery authority
13 that previously qualified for and maintained a full exemption
14 that fails to timely apply for licensure shall be deemed to
15 have engaged in unlicensed practice and shall be subject to
16 discipline in accordance with Article 25 of this Act.

17 (b) Partial exemption. If a cemetery authority does not
18 qualify for a full exemption and (1) engages in 25 or fewer
19 interments, inurnments, or entombments of human remains for
20 each of the preceding 2 calendar years, (2) operates as a
21 public cemetery, or (3) operates as a religious cemetery, then
22 the cemetery authority is partially exempt from this Act but
23 shall be required to comply with Sections 10-23, 10-40, 10-55,
24 10-60, subsections (a), (b), (b-5), (c), (d), (f), (g), and
25 (h) of Section 20-5, Sections 20-6, 20-8, 20-10, 20-12, 20-30,
26 20-35, 20-40, 25-3, and 25-120, and Article 35 of this Act.

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

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

20 (d) A cemetery authority granted an exemption under this
21 Section is prohibited from employing a cemetery manager or
22 customer service employee actively licensed under this Act
23 unless that license is placed on inactive status within 30
24 days of employment with a cemetery authority granted an
25 exemption under this Section. A cemetery manager or customer
26 service employee licensed under this Act who fails to comply

1 with this subsection shall have the manager's or employee's
2 license summarily suspended by the Department without hearing.
3 The license may not be restored pursuant to Section 25-90 of
4 this Act until the manager's or employee's employment has
5 ended with a cemetery authority granted an exemption under
6 this Section and the manager's or employee's employment has
7 commenced with a cemetery licensed under this Act.

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

9 (225 ILCS 411/5-25)

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

11 Sec. 5-25. Powers and duties of the Department. The
12 Department shall, subject ~~Subject~~ to the provisions of this
13 Act, ~~the Department may~~ exercise the following functions,
14 powers, and duties:

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

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

23 (3) Investigate any and all cemetery operations.

24 (4) Conduct hearings on proceedings to refuse to
25 issue, ~~or~~ renew, or restore licenses or to revoke,

1 suspend, place on probation, or reprimand, ~~or otherwise~~
2 ~~discipline a licensee license~~ under this Act ~~or take other~~
3 ~~non-disciplinary action.~~

4 (5) Adopt ~~reasonable~~ rules required for the
5 administration of this Act.

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

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

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

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

20 (10) Issue licenses to those who meet the requirements
21 of this Act.

22 (11) Conduct investigations related to possible
23 violations of this Act.

24 If the Department exercises its authority to conduct
25 investigations under this Section, the Department shall
26 provide the cemetery authority with information sufficient to

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

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

22 (225 ILCS 411/5-26 new)

23 Sec. 5-26. Confidentiality. All information collected by
24 the Department in the course of an examination or
25 investigation of a licensee or applicant, including, but not

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

16 (225 ILCS 411/10-20)

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

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

19 (a) Applications for original licensure as a cemetery
20 authority, cemetery manager, or customer service employee
21 authorized by this Act, or application for exemption from
22 licensure as a cemetery authority, shall be made to the
23 Department in writing on forms or electronically as prescribed
24 by the Department, ~~which shall include the applicant's Social~~
25 Security number or FEIN number, or both, and shall be

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

18 (b) (Blank).

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

25 (d) (Blank). ~~All applications shall contain the~~
26 ~~information that, in the judgment of the Department, will~~

1 ~~enable the Department to pass on the qualifications of the~~
2 ~~applicant for an exemption from licensure or for a license to~~
3 ~~practice as a cemetery authority, cemetery manager, or~~
4 ~~customer service employee as set by rule.~~

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

6 (225 ILCS 411/10-21)

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

8 Sec. 10-21. Qualifications for licensure.

9 (a) ~~A cemetery authority shall apply for licensure on~~
10 ~~forms prescribed by the Department and pay the required fee.~~

11 An applicant is qualified for licensure as a cemetery
12 authority if the applicant meets all of the following
13 qualifications:

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

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

24 (B) whether the applicant has been adjudicated,
25 civilly or criminally, to have committed fraud or to

1 have violated any law of any state involving unfair
2 trade or business practices, has been convicted of a
3 misdemeanor of which fraud is an essential element or
4 which involves any aspect of the cemetery business, or
5 has been convicted of any felony;

6 (C) whether the applicant has willfully violated
7 any provision of this Act or a predecessor law or any
8 regulations relating thereto;

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

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

19 If the applicant is a corporation, limited liability
20 company, partnership, or other entity permitted by law,
21 then the Department shall determine whether each
22 principal, owner, member, officer, and shareholder holding
23 25% or more of corporate stock has met the requirements of
24 this item (1) of subsection (a) of this Section.

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

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

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

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

25 (b) ~~The cemetery manager and customer service employees of~~
26 ~~a licensed cemetery authority shall apply for licensure as a~~

1 ~~cemetery manager or customer service employee on forms~~
2 ~~prescribed by the Department and pay the required fee.~~ A
3 person is qualified for licensure as a cemetery manager or
4 customer service employee if he or she meets all of the
5 following requirements:

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

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

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

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

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

21 (6) Submits proof of successful completion of a
22 certification course recognized by the Department for a
23 cemetery manager or customer service employee, whichever
24 the case may be.

25 (7) Has not, within the preceding 10 years, been
26 convicted of or entered a plea of guilty or nolo

1 contendere to (i) a Class X felony or (ii) a felony, an
2 essential element of which was fraud or dishonesty under
3 the laws of this State, another state, the United States,
4 or a foreign jurisdiction that is directly related to the
5 practice of cemetery operations.

6 (8) (Blank).

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

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

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

20 (225 ILCS 411/10-25)

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

22 Sec. 10-25. Certification.

23 (a) The Department shall authorize certification programs
24 for cemetery manager and customer service employee applicants.
25 The certification programs must consist of education and

1 training in cemetery ethics, cemetery law, and cemetery
2 practices. Cemetery ethics shall include, without limitation,
3 the Code of Professional Conduct and Ethics as set forth in
4 Section 10-23 of this Act. Cemetery law shall include, without
5 limitation, the Cemetery Oversight Act, the Cemetery Care Act,
6 the Disposition of Remains Act, and the Cemetery Protection
7 Act. Cemetery practices shall include, without limitation,
8 treating the dead and their family members with dignity and
9 respect. The certification program shall include an
10 examination administered by the entity providing the
11 certification.

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

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

22 (b) Cemetery manager applicants and customer service
23 employee applicants shall pay the fee for the certification
24 program directly to the entity offering the program.

25 (c) If the cemetery manager applicant or customer service
26 employee applicant neglects, fails, or refuses to become

1 certified within one year after filing an application, then
2 the application shall be denied. However, the applicant may
3 thereafter submit a new application accompanied by the
4 required fee. The applicant shall meet the requirements in
5 force at the time of making the new application.

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

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

19 (f) The Department may, without a hearing, summarily
20 withdraw its approval of a certification program that, in the
21 judgment of the Department, fails to meet the requirements of
22 this Act or the rules adopted under this Act. A certification
23 program that has had its approval withdrawn by the Department
24 may reapply for approval, but shall provide such additional
25 information as may be required by the Department, including,
26 but not limited to, evidence to the Department's satisfaction

1 that the program is in compliance with this Act and the rules
2 adopted under this Act.

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

4 (225 ILCS 411/10-40)

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

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

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

12 (b) A licensee under this Act who has permitted his or her
13 license to expire or has had his or her license placed on
14 inactive status may have his or her license restored by making
15 application to the Department and filing proof acceptable to
16 the Department of his or her fitness of having his or her
17 license restored, including, but not limited to, sworn
18 evidence certifying to active practice in another jurisdiction
19 satisfactory to the Department, and by paying the required fee
20 as determined by rule. ~~Every cemetery authority, cemetery~~
21 ~~manager, and customer service employee license shall expire~~
22 ~~every 2 years. Every registration as a fully exempt cemetery~~
23 ~~authority or partially exempt cemetery authority shall expire~~
24 ~~every 4 years. The expiration date, renewal period, and other~~
25 ~~requirements for each license and registration shall be~~

1 ~~further refined by rule.~~

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

3 (225 ILCS 411/10-55)

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

5 Sec. 10-55. Fees.

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

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

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

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

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

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

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

1 ~~fully exempt cemetery authority shall expire every 4 years.~~

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

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

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

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

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

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

24 (225 ILCS 411/20-10)

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

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

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

16 (225 ILCS 411/25-3)

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

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

22 (a) Complaints to cemetery:

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

25 (2) if the complaint is not resolved, then the

1 cemetery authority shall advise the consumer of his or
2 her right to file a complaint with ~~seek investigation~~
3 ~~and mediation by~~ the Department.

4 (b) Complaints to the Department:

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

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

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

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

21 (5) if the Department conducts an on-site
22 investigation ~~and face-to-face mediation~~ with the
23 parties, then it may charge the cemetery authority a
24 single investigation ~~and mediation~~ fee, which fee
25 shall be set by rule and shall be calculated on an
26 hourly basis; and

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

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

18 (225 ILCS 411/25-5)

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

20 Sec. 25-5. Citations.

21 (a) The Department may adopt rules to permit the issuance
22 of citations for non-frivolous complaints. The citation shall
23 be issued to the licensee and shall contain the licensee's
24 name and address, the licensee's license number, a brief
25 factual statement, the Sections of the law allegedly violated,

1 and the penalty imposed. The citation must clearly state that
2 the licensee may choose, in lieu of accepting the citation, to
3 request a hearing. If the licensee does not dispute the matter
4 in the citation with the Department within 30 days after the
5 citation is served, then the citation shall become a final
6 order and shall constitute discipline. The penalty shall be a
7 fine or other conditions as established by rule.

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

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

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

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

21 (225 ILCS 411/25-10)

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

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

24 (a) The Department may refuse to issue or renew a license
25 or may revoke, suspend, place on probation, reprimand, or take

1 other disciplinary or non-disciplinary action as the
2 Department may deem appropriate, including ~~imposing~~ fines not
3 to exceed \$10,000 ~~\$8,000~~ for each violation, with regard to
4 any license under this Act, for any one or combination of the
5 following:

6 (1) Material misstatement in furnishing information to
7 the Department.

8 (2) Violations of this Act, except for Section 20-87
9 ~~or of the rules adopted under this Act.~~

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

24 (4) Fraud or any misrepresentation in applying for or
25 procuring a license under this Act or in connection with
26 applying for renewal. ~~Making any misrepresentation for the~~

1 ~~purpose of obtaining licensure or violating any provision~~
2 ~~of this Act or the rules adopted under this Act.~~

3 (5) Incompetence or misconduct in the practice of
4 cemetery operations. ~~Professional incompetence.~~

5 (6) Gross malpractice.

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

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

11 (9) Engaging in dishonorable, unethical, or
12 unprofessional conduct of a character likely to deceive,
13 defraud, or harm the public.

14 (10) Habitual or excessive use or abuse of drugs
15 defined in law as controlled substances, alcohol,
16 narcotics, stimulants, or any other substances that
17 results in the inability to practice pursuant to the
18 provisions of this Act with reasonable judgment, skill, or
19 safety while acting under the provisions of this Act.
20 ~~Inability to practice with reasonable judgment, skill, or~~
21 ~~safety as a result of habitual or excessive use of~~
22 ~~alcohol, narcotics, stimulants, or any other chemical~~
23 ~~agent or drug.~~

24 (11) Discipline by another ~~agency,~~ state, territory,
25 foreign country, the District of Columbia, the United
26 States government territory, or any other government

1 agency ~~foreign nation~~, if at least one of the grounds for
2 the discipline is the same or substantially equivalent to
3 those set forth in this Act ~~Section~~.

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

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

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

17 (15) Inability to practice the profession with
18 reasonable judgment, skill, or safety as a result of
19 physical illness, including, but not limited to, loss of
20 motor skill, mental illness, or disability.

21 (16) Failure to comply with an order, decision, or
22 finding of the Department made pursuant to this Act.

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

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

1 (19) Using or attempting to use an expired, inactive,
2 suspended, or revoked license or impersonating another
3 licensee. Fraud or misrepresentation in applying for, or
4 ~~procuring, a license under this Act or in connection with~~
5 ~~applying for renewal of a license under this Act.~~

6 (20) A finding by the Department that an applicant or
7 licensee has failed to pay a fine imposed by the
8 Department. Cheating on or attempting to subvert the
9 ~~licensing examination administered under this Act.~~

10 (21) Unjustified failure to honor its contracts.

11 (22) Negligent supervision of a cemetery manager,
12 customer service employee, employee, or independent
13 contractor.

14 (23) (Blank). ~~A pattern of practice or other behavior~~
15 ~~which demonstrates incapacity or incompetence to practice~~
16 ~~under this Act.~~

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

20 (25) (Blank).

21 (b) No action may be taken under this Act against a person
22 licensed under this Act for an occurrence or alleged
23 occurrence that predates the enactment of this Act ~~unless the~~
24 ~~action is commenced within 5 years after the occurrence of the~~
25 ~~alleged violations, except for a violation of item (3) of~~
26 ~~subsection (a) of this Section. If a person licensed under~~

1 ~~this Act violates item (3) of subsection (a) of this Section,~~
2 ~~then the action may commence within 10 years after the~~
3 ~~occurrence of the alleged violation. A continuing violation~~
4 ~~shall be deemed to have occurred on the date when the~~
5 ~~circumstances last existed that give rise to the alleged~~
6 ~~violation.~~

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

24 (1) If the Secretary immediately suspends the license
25 of a licensee for his or her failure to submit to a mental
26 or physical examination when directed, a hearing must be

1 convened by the Department within 15 days after the
2 suspension and completed without appreciable delay.

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

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

18 (d) The determination by a circuit court that a licensee
19 is subject to involuntary admission or judicial admission, as
20 provided in the Mental Health and Developmental Disabilities
21 Code, operates as an automatic suspension. Such suspension may
22 end only upon a finding by a court that the patient is no
23 longer subject to involuntary admission or judicial admission,
24 the issuance of an order so finding and discharging the
25 patient, and the filing of a petition for restoration
26 demonstrating fitness to practice.

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

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

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

24 (225 ILCS 411/25-15)

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

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

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

20 (b) Whenever in the opinion of the Department any person
21 or entity violates any provision of this Act, the Department
22 may issue a rule to show cause why an order to cease and desist
23 should not be entered against them. The rule shall clearly set
24 forth the grounds relied upon by the Department and shall
25 provide a period of 7 days from the date of the rule to file an
26 answer to the satisfaction of the Department. Failure to

1 answer to the satisfaction of the Department shall cause an
2 order to cease and desist to be issued immediately. ~~The~~
3 ~~Secretary may issue an order to cease and desist prior to a~~
4 ~~hearing and such order shall be in full force and effect until~~
5 ~~a final administrative order is entered.~~

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

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

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

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

22 ~~(g) If, after hearing, it is determined that the Secretary~~
23 ~~has the authority to issue the order to cease and desist, he or~~
24 ~~she may issue such orders as may be reasonably necessary to~~
25 ~~correct, eliminate, or remedy such conduct.~~

26 ~~(h) The powers vested in the Secretary by this Section are~~

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

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

8 (225 ILCS 411/25-25)

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

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

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

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

13 (b) The Department shall, before disciplining an applicant
14 or licensee, at least 30 days prior to the date set for the
15 hearing: (i) notify, in writing, the accused of the charges
16 made and the time and place for the hearing on the charges,
17 (ii) direct him or her to file a written answer to the charges
18 under oath within 20 days after service of the notice, and
19 (iii) inform the applicant or licensee that failure to file an
20 answer will result in a default being entered against the
21 applicant or licensee. ~~The Secretary may, after 10 days notice~~
22 ~~by certified mail with return receipt requested to the~~
23 ~~licensee at the address of record or to the last known address~~
24 ~~of any other person stating the contemplated action and in~~
25 ~~general the grounds therefor, fine such licensee an amount not~~
26 ~~exceeding \$10,000 per violation or revoke, suspend, refuse to~~

1 ~~renew, place on probation, or reprimand any license issued~~
2 ~~under this Act if he or she finds that:~~

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

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

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

25 (d) At the time and place fixed in the notice, the hearing
26 officer appointed by the Secretary shall proceed to hear the

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

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

1 ~~Section shall be stayed until a final administrative order is~~
2 ~~entered.~~

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

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

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

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

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

18 (225 ILCS 411/25-26 new)

19 Sec. 25-26. Hearing officer. Notwithstanding any provision
20 of this Act, the Secretary has the authority to appoint an
21 attorney licensed to practice law in the State of Illinois to
22 serve as the hearing officer in any action for refusal to issue
23 or renew a license or discipline a license. The hearing
24 officer shall have full authority to conduct the hearing. The
25 hearing officer shall report his or her findings of fact,

1 conclusions of law, and recommendations to the Secretary.

2 (225 ILCS 411/25-30)

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

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

5 (a) The hearing officer appointed by the Secretary shall
6 hear evidence in support of the formal charges and evidence
7 produced by the licensee. At the conclusion of the hearing,
8 the hearing officer shall present to the Secretary a written
9 report of his or her findings of fact, conclusions of law, and
10 recommendations.

11 (b) At the conclusion of the hearing, a copy of the hearing
12 officer's report shall be served upon the applicant or
13 licensee, either personally or as provided in this Act for the
14 service of the notice of hearing. Within 20 calendar days
15 after such service, the applicant or licensee may present to
16 the Department a motion, in writing, for a rehearing which
17 shall specify the particular grounds for rehearing. The
18 Department may respond to the motion for rehearing within 20
19 calendar days after its service on the Department. If no
20 motion for rehearing is filed, then upon the expiration of the
21 time specified for filing such a motion, or upon denial of a
22 motion for rehearing, the Secretary may enter an order in
23 accordance with the recommendations of the hearing officer. If
24 the applicant or licensee orders from the reporting service
25 and pays for a transcript of the record within the time for

1 filing a motion for rehearing, the 20 calendar day period
2 within which a motion may be filed shall commence upon
3 delivery of the transcript to the applicant or licensee.

4 (c) If the Secretary disagrees in any regard with the
5 report of the hearing officer, the Secretary may issue an
6 order contrary to the report.

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

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

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

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

19 (225 ILCS 411/25-35)

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

21 Sec. 25-35. Record of proceedings, ~~transcript.~~

22 (a) The Department, at its expense, shall provide a
23 certified shorthand reporter to take down the testimony and
24 preserve a record of all proceedings at the hearing of any case
25 in which a licensee may be revoked, suspended, placed on

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

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

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

24 (225 ILCS 411/25-90)

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

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

2 (a) At any time after the successful completion of a term
3 of indefinite probation, suspension, or revocation of a
4 license under this Act, the Department may restore the license
5 to the licensee, unless after an investigation and a hearing
6 the Secretary determines that restoration is not in the public
7 interest.

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

11 (c) No person whose license has been revoked as authorized
12 in this Act may apply for restoration of that license until
13 such time as provided for in the Civil Administrative Code of
14 Illinois.

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

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

21 (225 ILCS 411/25-95)

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

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

24 (a) All final administrative decisions of the Department
25 are subject to judicial review under the Administrative Review

1 Law and its rules. The term "administrative decision" is
2 defined as in Section 3-101 of the Code of Civil Procedure.

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

7 (c) The Department shall not be required to certify any
8 record to the court or file any answer in court, or to
9 otherwise appear in any court in a judicial review proceeding,
10 unless and until the Department has received from the
11 plaintiff payment of the costs of furnishing and certifying
12 the record, which costs shall be determined by the Department.

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

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

16 (225 ILCS 411/25-105)

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

18 Sec. 25-105. Unlicensed practice; violations; civil
19 penalty ~~Violations.~~

20 (a) Any person who practices, offers to practice, attempts
21 to practice, or hold himself or herself out as a cemetery
22 manager or customer service employee as provided in this Act
23 without being licensed or exempt under this Act shall, in
24 addition to any other penalty provided by law, pay a civil
25 penalty to the Department in an amount not to exceed \$10,000

1 for each offense, as determined by the Department. The civil
2 penalty shall be assessed by the Department after a hearing is
3 held in accordance with the provision set forth in this Act
4 regarding the provision of a hearing for the discipline of a
5 licensee.

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

8 (c) The civil penalty shall be paid within 60 days after
9 the effective date of the order imposing the civil penalty.
10 The order shall constitute a judgment and may be filed and
11 execution had thereon in the same manner as any judgment from
12 any court of record.

13 (d) A person or entity not licensed under this Act who has
14 violated any provision of this Act or its rules is guilty of a
15 Class A misdemeanor for the first offense and a Class 4 felony
16 for a second and subsequent offenses.

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

20 ~~(1) the practice of or attempted practice of or~~
21 ~~holding out as available to practice as a cemetery~~
22 ~~authority, cemetery manager, or customer service employee~~
23 ~~without a license; or~~

24 ~~(2) the obtaining of or the attempt to obtain any~~
25 ~~license or authorization under this Act by fraud or~~
26 ~~misrepresentation.~~

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

2 (225 ILCS 411/25-115)

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

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

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

21 (225 ILCS 411/35-5)

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

23 Sec. 35-5. Penalties. Cemetery authorities shall respect
24 the rights of consumers of cemetery products and services as

1 put forth in this Article. Failure to abide by the cemetery
2 duties listed in this Article or to comply with a request by a
3 consumer based on a consumer's privileges under this Article
4 may activate the ~~mediation, citation, or~~ disciplinary
5 processes in Article 25 of this Act.

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

7 (225 ILCS 411/35-15)

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

9 Sec. 35-15. Cemetery duties.

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

21 (b) A contract for the interment, inurnment, or entombment
22 of human remains must be signed by both parties: the consumer
23 and the cemetery authority or its representative. Such
24 signature shall be personally signed by the signor on either
25 paper or electronic format and shall not include a stamp or

1 electronic facsimile of the signature. Before a contract is
2 signed, the prices for the purchased services and merchandise
3 must be disclosed on the contract and in plain language. If a
4 contract is for a term burial, the term, the option to extend
5 the term, and the subsequent disposition of the human remains
6 post-term must be in bold print and discussed with the
7 consumer. Any contract for the sale of a burial plot, when
8 designated, must disclose the exact location of the burial
9 plot based on the survey of the cemetery map or plat on file
10 with the cemetery authority.

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

23 (d) If any rules or regulations, including the operational
24 or maintenance requirements, of a cemetery change after the
25 date a contract is signed for the purchase of cemetery-related
26 or funeral-related products or services, the cemetery may not

1 require the consumer, purchaser, or such individual's relative
2 or representative to purchase any merchandise or service not
3 included in the original contract or in the rules and
4 regulations in existence when the contract was entered unless
5 the purchase is reasonable or required to make the cemetery
6 authority compliant with applicable law.

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

10 (f) The Department may adopt rules regarding green burial
11 certification, green cremation products and methods, and
12 consumer education.

13 (g) The contractual requirements contained in this Section
14 only apply to contracts executed after the effective date of
15 this Act.

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

17 (225 ILCS 411/75-45)

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

19 Sec. 75-45. Fees. The Department shall by rule provide for
20 fees for the administration and enforcement of this Act, and
21 those fees are nonrefundable. All of the fees, ~~and~~ and fines, and
22 all other moneys collected under this Act and fees collected
23 on behalf of the Department under subsection (1) of Section 25
24 of the Vital Records Act shall be deposited into the Cemetery
25 Oversight Licensing and Disciplinary Fund and be appropriated

1 to the Department for the ordinary and contingent expenses of
2 the Department in the administration and enforcement of this
3 Act.

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

5 (225 ILCS 411/25-1 rep.)

6 (225 ILCS 411/25-50 rep.)

7 (225 ILCS 411/25-55 rep.)

8 (225 ILCS 411/25-60 rep.)

9 (225 ILCS 411/25-100 rep.)

10 (225 ILCS 411/25-110 rep.)

11 (225 ILCS 411/25-120 rep.)

12 (225 ILCS 411/25-125 rep.)

13 (225 ILCS 411/75-20 rep.)

14 (225 ILCS 411/75-35 rep.)

15 Section 20. The Cemetery Oversight Act is amended by
16 repealing Sections 25-1, 25-50, 25-55, 25-60, 25-100, 25-110,
17 25-120, 25-125, 75-20, and 75-35.

18 Section 99. Effective date. This Act takes effect upon
19 becoming law."