



State Government Administration Committee

Filed: 3/7/2007

09500HB1074ham001

LRB095 09808 RAS 32784 a

1 AMENDMENT TO HOUSE BILL 1074

2 AMENDMENT NO. _____. Amend House Bill 1074 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Cemetery Care Act is amended by adding
5 Section 12.1 and by changing Section 14 as follows:

6 (760 ILCS 100/12.1 new)

7 Sec. 12.1. Any cemetery association, as established
8 pursuant to the Cemetery Association Act, holding \$75,000 or
9 less in its care funds, in lieu of complying with the annual
10 report requirements of Section 12 of this Act, shall file with
11 the Comptroller a financial report containing information
12 required by the Comptroller. Each report shall be made under
13 oath and shall be in the form furnished by the Comptroller. The
14 report shall be filed free of cost. If any financial report
15 shows that the amount of the care funds held in trust at the
16 end of the preceding calendar year or fiscal year, as the case

1 may be, has increased in amount greater than \$75,000, then, for
2 the next calendar or fiscal year, as the case may be, the
3 cemetery association shall file an annual report as required
4 under Section 12 of this Act.

5 (760 ILCS 100/14) (from Ch. 21, par. 64.14)

6 Sec. 14. The Comptroller may at any time investigate the
7 cemetery business of every licensee with respect to its care
8 funds. The Comptroller shall examine at least annually every
9 licensee who holds \$750,000 ~~\$250,000~~ or more in its care funds.
10 For that purpose, the Comptroller shall have free access to the
11 office and places of business and to such records of all
12 licensees and of all trustees of the care funds of all
13 licensees as shall relate to the acceptance, use and investment
14 of care funds. The Comptroller may require the attendance of
15 and examine under oath all persons whose testimony he may
16 require relative to such business and in such cases the
17 Comptroller or any qualified representative of the Comptroller
18 whom the Comptroller may designate, may administer oaths to all
19 such persons called as witnesses, and the Comptroller, or any
20 such qualified representative of the Comptroller, may conduct
21 such examinations. The cost of an initial examination shall be
22 borne by the cemetery authority if it has \$10,000 or more in
23 such fund; otherwise, by the Comptroller. The charge made by
24 the Comptroller for such examination shall be based upon the
25 total amount of care funds held by the cemetery authority as of

1 the end of the calendar or fiscal year for which a report is
2 required by Section 12 of this Act and shall be in accordance
3 with the following schedule:

- 4 less than \$10,000..... no charge;
- 5 \$10,000 or more but less than
- 6 \$50,000..... \$10;
- 7 \$50,000 or more but less than
- 8 \$100,000 \$40;
- 9 \$100,000 or more but less than
- 10 \$250,000 \$80;
- 11 \$250,000 or more \$100.

12 Any licensee which is not required to be examined annually
13 shall submit an annual report to the Comptroller containing
14 such information as the Comptroller reasonably may request.

15 The Comptroller may order additional audits or
16 examinations as he or she may deem necessary or advisable to
17 ensure the safety and stability of the trust funds and to
18 ensure compliance with this Act. These additional audits or
19 examinations shall only be made after good cause is established
20 by the Comptroller in the written order. The grounds for
21 ordering these additional audits or examinations may include,
22 but shall not be limited to:

- 23 (1) material and unverified changes or fluctuations in
- 24 trust balances;
- 25 (2) the licensee changing trustees more than twice in
- 26 any 12-month period;

1 (3) any withdrawals or attempted withdrawals from the
2 trusts in violation of this Act; or

3 (4) failure to maintain or produce documentation
4 required by this Act for deposits into trust accounts or
5 trust investment activities.

6 Prior to ordering an additional audit or examination, the
7 Comptroller shall request the licensee to respond and comment
8 upon the factors identified by the Comptroller as warranting
9 the subsequent examination or audit. The licensee shall have 30
10 days to provide a response to the Comptroller. If the
11 Comptroller decides to proceed with the additional examination
12 or audit, the licensee shall bear the full cost of that
13 examination or audit, up to a maximum of \$7,500. The
14 Comptroller may elect to pay for the examination or audit and
15 receive reimbursement from the licensee. Payment of the costs
16 of the examination or audit by a licensee shall be a condition
17 of receiving or maintaining a license under this Act. All
18 moneys received by the Comptroller for examination or audit
19 fees shall be maintained in a separate account to be known as
20 the Comptroller's Administrative Fund. This Fund, subject to
21 appropriation by the General Assembly, may be utilized by the
22 Comptroller for enforcing this Act and other purposes that may
23 be authorized by law.

24 (Source: P.A. 89-615, eff. 8-9-96.)

25 Section 99. Effective date. This Act takes effect January

1 1, 2008.".