



Sen. Debbie DeFrancesco Halvorson

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09500HB1074sam001

LRB095 09808 RAS 35617 a

1 AMENDMENT TO HOUSE BILL 1074

2 AMENDMENT NO. _____. Amend House Bill 1074 on page 1, by
3 replacing lines 4 and 5 with the following:

4 "Section 5. The Illinois Funeral or Burial Funds Act is
5 amended by changing Sections 3a, 3a-5, and 3f and by adding
6 Sections 3a-1, 3a-2, 3a-3, and 3a-4 as follows:

7 (225 ILCS 45/3a) (from Ch. 111 1/2, par. 73.103a)

8 Sec. 3a. Denial, nonrenewal, suspension, or revocation of
9 license.

10 (a) The Comptroller may refuse to issue or renew or may
11 suspend or revoke a license on any of the following grounds:

12 (1) The applicant or licensee has made any
13 misrepresentations or false statements or concealed any
14 material fact.

15 (2) The applicant or licensee is insolvent.

16 (3) The applicant or licensee has been engaged in

1 business practices that work a fraud.

2 (4) The applicant or licensee has refused to give
3 pertinent data to the Comptroller.

4 (5) The applicant or licensee has failed to satisfy any
5 enforceable judgment or decree rendered by any court of
6 competent jurisdiction against the applicant.

7 (6) The applicant or licensee has conducted or is about
8 to conduct business in a fraudulent manner.

9 (7) The trust agreement is not in compliance with State
10 or federal law.

11 (8) The fidelity bond is not satisfactory to the
12 Comptroller.

13 (9) As to any individual required to be listed in the
14 ~~license~~ application for license or license renewal, the
15 individual has conducted or is about to conduct any
16 business on behalf of the applicant in a fraudulent manner;
17 has been convicted of any felony or misdemeanor, an
18 essential element of which is fraud; has had a judgment
19 rendered against him or her based on fraud in any civil
20 litigation; has failed to satisfy any enforceable judgment
21 or decree rendered against him or her by any court of
22 competent jurisdiction; or has been convicted of any felony
23 or any theft-related offense.

24 (10) The applicant or licensee, including any member,
25 officer, or director thereof if the applicant or licensee
26 is a firm, partnership, association or corporation and any

1 shareholder holding more than 10% of the corporate stock,
2 has violated any provision of this Act or any regulation,
3 decision, order, or finding made by the Comptroller under
4 this Act.

5 (11) The Comptroller finds any fact or condition
6 existing which, if it had existed at the time of the
7 original application for such license or license renewal,
8 would have warranted the Comptroller in refusing the
9 issuance or renewal of the license.

10 (b) Before refusal to issue or renew and before suspension
11 or revocation of a license, the Comptroller shall hold a
12 hearing to determine whether the applicant or licensee,
13 hereinafter referred to as the respondent, is entitled to hold
14 such a license. At least 10 days prior to the date set for such
15 hearing, the Comptroller shall notify the respondent in writing
16 that on the date designated a hearing will be held to determine
17 his eligibility for a license and that he may appear in person
18 or by counsel. Such written notice may be served on the
19 respondent personally, or by registered or certified mail sent
20 to the respondent's business address as shown in his latest
21 notification to the Comptroller. At the hearing, both the
22 respondent and the complainant shall be accorded ample
23 opportunity to present in person or by counsel such statements,
24 testimony, evidence and argument as may be pertinent to the
25 charges or to any defense thereto. The Comptroller may
26 reasonably continue such hearing from time to time.

1 The Comptroller may subpoena any person or persons in this
2 State and take testimony orally, by deposition or by exhibit,
3 in the same manner and with the same fees and mileage
4 allowances as prescribed in judicial proceedings in civil
5 cases.

6 Any authorized agent of the Comptroller may administer
7 oaths to witnesses at any hearing which the Comptroller is
8 authorized to conduct.

9 (Source: P.A. 92-419, eff. 1-1-02.)

10 (225 ILCS 45/3a-1 new)

11 Sec. 3a-1. Term of license.

12 (a) Any license that was issued under this Act before the
13 effective date of this amendatory Act of the 95th General
14 Assembly shall expire according to a schedule developed by the
15 Comptroller pursuant to the original date of issuance and must
16 thereafter be renewed as provided in this Act. Beginning on the
17 effective date of this amendatory Act of the 95th General
18 Assembly, a license or license renewal under this Act shall be
19 issued for a 5-year term, which shall expire as provided in
20 this Act.

21 (b) The Comptroller by rule may adopt a system under which
22 licenses must be renewed by various dates during the year,
23 coinciding with the due date of the annual report of the
24 licensee or any extensions thereof.

1 (225 ILCS 45/3a-2 new)

2 Sec. 3a-2. Requirements for license renewal. In order to
3 complete the license renewal process, the licensee shall submit
4 a license renewal application to the Comptroller in writing
5 signed by the licensee and duly verified on forms furnished by
6 the Comptroller upon the date of renewal. The Comptroller may
7 prescribe abbreviated license renewal application forms for
8 persons holding multiple licenses issued by the Comptroller.
9 Each renewal application (except abbreviated applications)
10 shall contain all the following:

11 (1) An affirmative statement indicating the licensee's
12 desire for renewal and continued agreement to abide by all
13 applicable statutes and rules.

14 (2) A \$25 nonrefundable renewal fee.

15 (3) A completed annual report.

16 (4) The following information for the licensee, and
17 each partner, member of the board, officer, and director
18 thereof, if the licensee is a firm, partnership,
19 association, or corporation, and each shareholder holding
20 more than 10% of the corporate stock, if the licensee is a
21 corporation:

22 (A) His or her name and current address (both
23 residence and place of business).

24 (B) A detailed statement of the individual's
25 business experience for the 5 years immediately
26 preceding the application.

1 (C) Any present or prior connection between the
2 individual and any other person engaged in pre-need
3 sales.

4 (D) Any felony or misdemeanor convictions of which
5 fraud was an essential element and any charges or
6 complaints lodged against the individual of which
7 fraud was an essential element and that resulted in
8 civil or criminal litigation.

9 (E) Any failure of the individual to satisfy an
10 enforceable judgment entered against him or her based
11 upon fraud.

12 (F) Any other information requested by the
13 Comptroller relating to past business practices of the
14 individual.

15 Because the information required by this item (4) and item
16 (5) may be confidential or contain proprietary
17 information, this information shall not be available to
18 other licensees or the general public and shall be used
19 only for the lawful purposes of the Comptroller in
20 enforcing this Act.

21 (5) A current statement of the licensee's assets and
22 liabilities.

23 (6) The current name and address of the licensee's
24 principal place of business at which the books, accounts,
25 and records are available for examination by the
26 Comptroller as required by this Act.

1 (7) The current names and addresses of the licensee's
2 branch locations at which pre-need sales are conducted and
3 that operate under the same license number as the
4 licensee's principal place of business.

5 (8) The name of the current trustee and, if applicable,
6 the names of the advisors to the trustee, including a copy
7 of the current trust agreement under which the trust funds
8 are held as required by this Act.

9 (9) Such other information as the Comptroller may
10 reasonably require in order to determine whether the
11 licensee's renewal application qualifies under this Act.

12 (225 ILCS 45/3a-3 new)

13 Sec. 3a-3. Remedy for delinquent license renewal.

14 (a) If a licensee continues to conduct activities requiring
15 a license, but fails to submit a completed license renewal
16 application to the Comptroller within the time specified in
17 this Act, then the Comptroller shall impose upon the licensee a
18 penalty in the amount of \$5 per day for each day the renewal
19 statement is not submitted. The Comptroller may abate all or
20 part of the \$5 daily penalty for good cause shown.

21 (b) In the event the renewal application is denied by the
22 Comptroller, the renewal fee paid is not refundable.

23 (225 ILCS 45/3a-4 new)

24 Sec. 3a-4. License renewal process. Once the licensee has

1 filed for license renewal, the expiring license shall remain in
2 effect until the renewal has been issued. Upon approval of the
3 Comptroller, the Comptroller shall issue a license renewal to
4 be posted in the place of business of the licensee.

5 (225 ILCS 45/3a-5)

6 Sec. 3a-5. License requirements.

7 (a) Every license issued by the Comptroller shall state the
8 number of the license, the business name and address of the
9 licensee's principal place of business, each branch location
10 also operating under the license, and the licensee's parent
11 company, if any. The license shall be conspicuously posted in
12 each place of business operating under the license. The
13 Comptroller may issue such additional licenses as may be
14 necessary for licensee branch locations upon compliance with
15 the provisions of this Act governing an original issuance of a
16 license for each new license.

17 (b) Individual salespersons representing a licensee shall
18 not be required to obtain licenses in their individual
19 capacities, but must acknowledge, by affidavit, that they have
20 been provided with a copy of and have read this Act. The
21 licensee shall retain copies of the affidavits of its sellers
22 for its records and shall make the affidavits available to the
23 Comptroller for examination upon request.

24 (c) The licensee shall be responsible for the activities of
25 any person representing the licensee in selling or offering a

1 pre-need contract for sale.

2 (d) Any person not selling on behalf of a licensee shall
3 obtain its own license.

4 (e) No license shall be transferable or assignable without
5 the express written consent of the Comptroller. A transfer of
6 more than 50% of the ownership of any business licensed
7 hereunder shall be deemed to be an attempted assignment of the
8 license originally issued to the licensee for which consent of
9 the Comptroller shall be required.

10 (f) Every license issued hereunder shall remain in force
11 until it expires or has been suspended, surrendered, or revoked
12 in accordance with this Act. The Comptroller, upon the request
13 of an interested person or on his own motion, may issue new
14 licenses to a licensee whose license or licenses have been
15 revoked, if no factor or condition then exists which would have
16 warranted the Comptroller to originally refuse the issuance of
17 such license.

18 (Source: P.A. 92-419, eff. 1-1-02.)

19 (225 ILCS 45/3f)

20 Sec. 3f. Revocation of license.

21 (a) The Comptroller, upon determination that grounds exist
22 for the nonrenewal, revocation or suspension of a license
23 issued under this Act, may refuse to renew, revoke or suspend,
24 if appropriate, the license issued to a licensee or to a
25 particular branch office location with respect to which the

1 grounds for the nonrenewal, revocation or suspension may occur
2 or exist.

3 (b) Whenever a license is not renewed or is revoked by the
4 Comptroller, he or she shall apply to the Circuit Court of the
5 county wherein the licensee is located for a receiver to
6 administer the trust funds of the licensee or to maintain the
7 life insurance policies and tax-deferred annuities held by the
8 licensee under a pre-need contract.

9 (Source: P.A. 92-419, eff. 1-1-02.)

10 Section 10. The Crematory Regulation Act is amended by
11 changing Sections 11, 11.5, 13, and 62.10 and by adding
12 Sections 10.1, 10.2, 10.3, and 10.4 as follows:

13 (410 ILCS 18/10.1 new)

14 Sec. 10.1. Term of license.

15 (a) Any license that was issued under this Act before the
16 effective date of this amendatory Act of the 95th General
17 Assembly shall expire according to a schedule developed by the
18 Comptroller pursuant to the original date of issuance and must
19 thereafter be renewed as provided in this Act. Beginning on the
20 effective date of this amendatory Act of the 95th General
21 Assembly, a license or license renewal shall be issued for a
22 5-year term, which shall expire as provided in this Act.

23 (b) The Comptroller by rule may adopt a system under which
24 licenses must be renewed by various dates during the year,

1 coinciding with the due date of the annual report of the
2 licensee or any extensions thereof.

3 (410 ILCS 18/10.2 new)

4 Sec. 10.2. Requirements for license renewal. In order to
5 complete the license renewal process, the licensee shall submit
6 a license renewal application to the Comptroller in writing on
7 forms furnished by the Comptroller upon the date of renewal.
8 The Comptroller may prescribe abbreviated license renewal
9 application forms for persons holding multiple licenses issued
10 by the Comptroller. Each renewal application (except
11 abbreviated applications) shall contain all of the following:

12 (1) An affirmative statement indicating the licensee's
13 desire for renewal and continued agreement to abide by all
14 applicable statutes and rules.

15 (2) A \$25 nonrefundable renewal fee.

16 (3) A completed annual report.

17 (4) The current name and address (both residence and
18 business) of the licensee, if the licensee is an
19 individual; the full name and address of every member, if
20 the licensee is a partnership; the full name and address of
21 every member of the board of directors, if the licensee is
22 an association; and the name and address of every officer,
23 director, and shareholder holding more than 25% of the
24 corporate stock, if the licensee is a corporation.

25 (5) A description of the type of structure and

1 equipment used in the operation of the crematory, including
2 the operating permit number issued to the cremation device
3 by the Illinois Environmental Protection Agency.

4 (6) An updated attestation by the owner that cremation
5 services shall be by a person trained in accordance with
6 the requirements of Section 22 of this Act.

7 (7) A copy of the certifications issued by the
8 certification program to the person or persons who operate
9 the cremation device.

10 (8) Any further information that the Comptroller
11 reasonably may require.

12 (410 ILCS 18/10.3 new)

13 Sec. 10.3. Remedy for delinquent license renewal.

14 (a) If a licensee continues to conduct activities requiring
15 a license, but fails to submit a completed license renewal
16 application to the Comptroller within the time specified in
17 this Act, then the Comptroller shall impose upon the licensee a
18 penalty of \$5 for each day the licensee remains delinquent in
19 submitting the renewal application. The Comptroller may abate
20 all or part of the \$5 daily penalty for good cause shown.

21 (b) In the event the renewal application is denied by the
22 Comptroller, the renewal fee paid is not refundable.

23 (410 ILCS 18/10.4 new)

24 Sec. 10.4. License renewal process. Once the licensee has

1 filed for license renewal, the expiring license shall remain in
2 effect until the renewal has been issued. Upon approval of the
3 Comptroller, the Comptroller shall issue a license renewal to
4 be posted in the place of business of the licensee.

5 (410 ILCS 18/11)

6 Sec. 11. Grounds for refusal of license or license renewal
7 or suspension or revocation of license.

8 (a) In this Section, "applicant" means a person who has
9 applied for a license or license renewal under this Act.

10 (b) The Comptroller may refuse to issue or renew a license
11 under this Act, or may suspend or revoke a license issued under
12 this Act, on any of the following grounds:

13 (1) The applicant or licensee has made any
14 misrepresentation or false statement or concealed any
15 material fact in connection with a license application or
16 licensure under this Act.

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

19 (3) The applicant or licensee has refused to give
20 information required under this Act to be disclosed to the
21 Comptroller.

22 (4) The applicant or licensee has conducted or is about
23 to conduct cremation business in a fraudulent manner.

24 (5) As to any individual listed in the license or
25 license renewal application as required under Section 10 or

1 10.2, that individual has conducted or is about to conduct
2 any cremation business on behalf of the applicant in a
3 fraudulent manner or has been convicted of any felony or
4 misdemeanor an essential element of which is fraud.

5 (6) The applicant or licensee has failed to make the
6 annual report required by this Act or to comply with a
7 final order, decision, or finding of the Comptroller made
8 under this Act.

9 (7) The applicant or licensee, including any member,
10 officer, or director of the applicant or licensee if the
11 applicant or licensee is a firm, partnership, association,
12 or corporation and including any shareholder holding more
13 than 25% of the corporate stock of the applicant or
14 licensee, has violated any provision of this Act or any
15 regulation or order made by the Comptroller under this Act.

16 (8) The Comptroller finds any fact or condition
17 existing that, if it had existed at the time of the
18 original application for a license or license renewal under
19 this Act, would have warranted the Comptroller in refusing
20 the issuance of the license.

21 (Source: P.A. 92-675, eff. 7-1-03.)

22 (410 ILCS 18/11.5)

23 Sec. 11.5. License revocation or suspension; surrender of
24 license.

25 (a) Upon determining that grounds exist for the nonrenewal,

1 revocation, l or suspension of a license issued under this Act,
2 the Comptroller, if appropriate, may revoke, l ~~or~~ suspend, or
3 refuse to renew the license issued to the licensee.

4 (b) Upon the nonrenewal, revocation, l or suspension of a
5 license issued under this Act, the licensee must immediately
6 surrender the license to the Comptroller. If the licensee fails
7 to do so, the Comptroller may seize the license.

8 (Source: P.A. 92-675, eff. 7-1-03.)

9 (410 ILCS 18/13)

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

11 (a) Every license issued under this Act must state the
12 number of the license, the business name and address of the
13 licensee's principal place of business, and the licensee's
14 parent company, if any. The license must be conspicuously
15 posted in the place of business operating under the license.

16 (b) No license is transferable or assignable without the
17 express written consent of the Comptroller. A transfer of more
18 than 50% of the ownership of any business licensed under this
19 Act shall be deemed to be an attempted assignment of the
20 license originally issued to the licensee for whom consent of
21 the Comptroller is required.

22 (c) Every license issued under this Act shall remain in
23 force until it expires or has been surrendered, suspended, or
24 revoked in accordance with this Act. Upon the request of an
25 interested person or on the Comptroller's own motion, the

1 Comptroller may issue a new license to a licensee whose license
2 has been revoked under this Act if no factor or condition then
3 exists which would have warranted the Comptroller in originally
4 refusing the issuance of the license.

5 (Source: P.A. 92-675, eff. 7-1-03.)

6 (410 ILCS 18/62.10)

7 Sec. 62.10. Investigation of actions; hearing.

8 (a) The Comptroller shall make an investigation upon
9 discovering facts that, if proved, would constitute grounds for
10 refusal, denial, suspension, or revocation of a license under
11 this Act.

12 (b) Before refusing to issue or renew, and before
13 suspending or revoking, a license under this Act, the
14 Comptroller shall hold a hearing to determine whether the
15 applicant for a license or the licensee ("the respondent") is
16 entitled to hold such a license. At least 10 days before the
17 date set for the hearing, the Comptroller shall notify the
18 respondent in writing that (i) on the designated date a hearing
19 will be held to determine the respondent's eligibility for a
20 license and (ii) the respondent may appear in person or by
21 counsel. The written notice may be served on the respondent
22 personally, or by registered or certified mail sent to the
23 respondent's business address as shown in the respondent's
24 latest notification to the Comptroller. The notice must include
25 sufficient information to inform the respondent of the general

1 nature of the reason for the Comptroller's action.

2 (c) At the hearing, both the respondent and the complainant
3 shall be accorded ample opportunity to present in person or by
4 counsel such statements, testimony, evidence, and argument as
5 may be pertinent to the charge or to any defense to the charge.
6 The Comptroller may reasonably continue the hearing from time
7 to time. The Comptroller may subpoena any person or persons in
8 this State and take testimony orally, by deposition, or by
9 exhibit, in the same manner and with the same fees and mileage
10 as prescribed in judicial proceedings in civil cases. Any
11 authorized agent of the Comptroller may administer oaths to
12 witnesses at any hearing that the Comptroller is authorized to
13 conduct.

14 (d) The Comptroller, at the Comptroller's expense, shall
15 provide a certified shorthand reporter to take down the
16 testimony and preserve a record of every proceeding at the
17 hearing of any case involving the refusal to issue or renew a
18 license under this Act, the suspension or revocation of such a
19 license, the imposition of a monetary penalty, or the referral
20 of a case for criminal prosecution. The record of any such
21 proceeding shall consist of the notice of hearing, the
22 complaint, all other documents in the nature of pleadings and
23 written motions filed in the proceeding, the transcript of
24 testimony, and the report and orders of the Comptroller. Copies
25 of the transcript of the record may be purchased from the
26 certified shorthand reporter who prepared the record or from

1 the Comptroller.

2 (Source: P.A. 92-675, eff. 7-1-03.)

3 Section 15. The Cemetery Care Act is amended by changing
4 Sections 7, 8, 10, 11, 14, 15, 15.3, 15.4, and 18 and by adding
5 Sections 9.1, 9.2, 9.3, 9.4, and 12.1 as follows:

6 (760 ILCS 100/7) (from Ch. 21, par. 64.7)

7 Sec. 7. License to hold care funds. No cemetery authority
8 owning, operating, controlling or managing a privately
9 operated cemetery may accept the care funds authorized by the
10 provisions of Section 3 of this Act without securing from the
11 Comptroller a license to hold the funds. The license shall be
12 secured by the cemetery authority whether the cemetery
13 authority is serving as trustee of the care funds or whether
14 the care funds are held by an independent trustee.

15 All licenses issued under the provisions of this Act by the
16 Department of Financial Institutions prior to the time the
17 administration of this Act was transferred to the Comptroller
18 shall remain valid for all purposes unless such license expires
19 or is terminated, surrendered or revoked as provided in this
20 Act.

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

22 (760 ILCS 100/8) (from Ch. 21, par. 64.8)

23 Sec. 8. Every cemetery authority shall register with the

1 Comptroller upon forms furnished by him or her. Such
2 registration statement shall state whether the cemetery
3 authority claims that the cemetery owned, operated,
4 controlled, or managed by it is a fraternal cemetery,
5 municipal, State, or federal cemetery, or religious cemetery,
6 or a family burying ground, as the case may be, as defined in
7 Section 2 of this Act, and shall state the date of
8 incorporation if a corporation and whether incorporated under
9 general or private act of the legislature. Such registration
10 statement shall be accompanied by a fee of \$5. Such fee shall
11 be paid to the Comptroller and no registration statement shall
12 be accepted by him without the payment of such fee. Every
13 cemetery authority that is not required to file an annual
14 report under this Act shall bear the responsibility of
15 informing the Comptroller whenever a change takes place
16 regarding status of cemetery, name of contact person, and that
17 person's address and telephone number.

18 Upon receipt of a registration statement, if a claim is
19 made that a cemetery is a fraternal cemetery, municipal
20 cemetery, or religious cemetery, or a family burying ground, as
21 the case may be, as defined in Section 2 of this Act, and the
22 Comptroller shall determine that such cemetery is not a
23 fraternal cemetery, a municipal cemetery, or a religious
24 cemetery, or a family burying ground, as the case may be, as
25 defined in Section 2 of this Act, the Comptroller shall notify
26 the cemetery authority making the claim of such determination;

1 provided, however, that no such claim shall be denied until the
2 cemetery authority making such claim has had at least 10 days'
3 notice of a hearing thereon and an opportunity to be heard.
4 When any such claim is denied, the Comptroller shall within 20
5 days thereafter prepare and keep on file in his office the
6 transcript of the evidence taken and a written order or
7 decision of denial of such claim and shall send by United
8 States mail a copy of such order or decision of denial to the
9 cemetery authority making such claim within 5 days after the
10 filing in his office of such order, finding or decision. A
11 review of any such order, finding or decision may be had as
12 provided in the Administrative Review Law, as now or hereafter
13 amended.

14 Where no claim is made that a cemetery is a fraternal
15 cemetery, municipal cemetery or religious cemetery or family
16 burying ground, as the case may be, as defined in Section 2 of
17 this Act, the registration statement shall be accompanied by a
18 fidelity bond in the amount required by Section 9 of this Act.
19 Upon receipt of such application, statement and bond, the
20 Comptroller shall issue a license to accept the care funds
21 authorized by the provisions of Section 3 of this Act to each
22 cemetery authority owning, operating, controlling or managing
23 a privately operated cemetery. However, the Comptroller shall
24 issue a license without the filing of a bond where the filing
25 of a bond is excused by Section 18 of this Act.

26 The license issued by the Comptroller shall remain in full

1 force and effect until it expires or is surrendered by the
2 licensee or revoked by the Comptroller as hereinafter provided.
3 (Source: P.A. 88-477.)

4 (760 ILCS 100/9.1 new)

5 Sec. 9.1. Term of license.

6 (a) Any license that was issued under this Act before the
7 effective date of this amendatory Act of the 95th General
8 Assembly shall expire according to a schedule developed by the
9 Comptroller pursuant to the original date of issuance and must
10 thereafter be renewed as provided in this Act. Beginning on the
11 effective date of this amendatory Act of the 95th General
12 Assembly, a license or license renewal shall be issued for a
13 5-year term, which shall expire as provided in this Act.

14 (b) The Comptroller by rule may adopt a system under which
15 licenses must be renewed by various dates during the year,
16 coinciding with the due date of the annual report of the
17 licensee or any extensions thereof.

18 (760 ILCS 100/9.2 new)

19 Sec. 9.2. Requirements for license renewal. In order to
20 complete the license renewal process, the licensee shall submit
21 a license renewal application to the Comptroller in writing
22 signed by the licensee and on forms furnished by the
23 Comptroller upon the date of renewal. The Comptroller may
24 prescribe abbreviated license renewal forms for persons

1 holding multiple licenses issued by the Comptroller. Each
2 renewal application (except abbreviated applications) shall
3 contain all the following:

4 (1) An affirmative statement indicating the licensee's
5 desire for renewal and continued agreement to abide by all
6 applicable statutes and rules.

7 (2) A \$25 nonrefundable renewal fee.

8 (3) A completed annual report.

9 (4) The following information for the licensee; each
10 partner, if the licensee is a partnership; each officer or
11 member of the board of directors or board of trustees, if
12 the licensee is an association; each officer or director,
13 if the licensee is a corporation; and each party owning 10%
14 or more of the cemetery authority and the parent company,
15 if any:

16 (A) Name and current address (both residence and
17 place of business).

18 (B) A detailed statement of the individual's
19 business experience for the 5 years immediately
20 preceding the application.

21 (C) Any present or prior connection between the
22 individual and any other cemetery or cemetery
23 authority.

24 (D) Any felony or misdemeanor convictions of which
25 fraud was an essential element, any judgment against
26 the person in a civil suit in which the complaint is

1 based on fraud, and whether the person is, at the time
2 of application, a defendant in a civil suit in which
3 the complaint is based on fraud.

4 (E) Any failure of the individual to satisfy an
5 enforceable judgment entered against him or her based
6 upon fraud.

7 Because the information required by this item (4) and the
8 following item (5) may be confidential or contain
9 proprietary information, this information shall not be
10 available to other licensees or the general public and
11 shall be used only for the lawful purposes of the
12 Comptroller in enforcing this Act.

13 (5) A current statement of the licensee's assets and
14 liabilities.

15 (6) The current name and address of each cemetery for
16 which the care funds are entrusted and at which the books,
17 accounts, and records are available for examination by the
18 Comptroller as required by Section 13 of this Act; and the
19 legal boundaries of each cemetery for which the care funds
20 are entrusted if the boundaries have changed since the
21 license was issued.

22 (7) Any other information that the Comptroller may
23 reasonably require in order to determine whether the
24 licensee qualifies for license renewal under this Act.

1 Sec. 9.3. Remedy for delinquent renewal.

2 (a) If a licensee continues to conduct activities requiring
3 a license, but fails to submit a completed license renewal
4 application to the Comptroller within the time specified in
5 this Act, then the Comptroller shall impose upon the licensee a
6 penalty of \$5 for each day the licensee remains delinquent in
7 submitting the renewal application. The Comptroller may abate
8 all or part of the \$5 daily penalty for good cause shown.

9 (b) In the event the renewal application is denied by the
10 Comptroller, the renewal fee paid is not refundable.

11 (760 ILCS 100/9.4 new)

12 Sec. 9.4. License renewal process. Once the licensee has
13 filed for license renewal, the expiring license shall remain in
14 effect until the renewal has been issued. Upon approval of the
15 Comptroller, the Comptroller shall issue a license renewal to
16 be posted in the place of business of the licensee.

17 (760 ILCS 100/10) (from Ch. 21, par. 64.10)

18 Sec. 10. Upon receipt of such application for license or
19 license renewal, the Comptroller shall issue a license or
20 license renewal to the applicant unless the Comptroller
21 determines that:

22 (a) The applicant or licensee has made any
23 misrepresentations or false statements or has concealed any
24 essential or material fact, or

1 (b) The applicant or licensee is insolvent; or

2 (c) The applicant or licensee is or has been using
3 practices in the conducting of the cemetery business that work
4 or tend to work a fraud; or

5 (d) The applicant or licensee has refused to furnish or
6 give pertinent data to the Comptroller; or

7 (e) The applicant or licensee has failed to notify the
8 Comptroller with respect to any material facts required in the
9 application for license under the provisions of this Act; or

10 (f) The applicant or licensee has failed to satisfy any
11 enforceable judgment entered by the circuit court in any civil
12 proceedings against such applicant; or

13 (g) The applicant or licensee has conducted or is about to
14 conduct its business in a fraudulent manner; or

15 (h) The applicant or licensee or any individual listed in
16 the license or license renewal application has conducted or is
17 about to conduct any business on behalf of the applicant in a
18 fraudulent manner; or has been convicted of a felony or any
19 misdemeanor of which an essential element is fraud; or has been
20 involved in any civil litigation in which a judgment has been
21 entered against him or her based on fraud; or has failed to
22 satisfy any enforceable judgment entered by the circuit court
23 in any civil proceedings against such individual; or has been
24 convicted of any felony of which fraud is an essential element;
25 or has been convicted of any theft-related offense; or has
26 failed to comply with the requirements of this Act; or has

1 demonstrated a pattern of improperly failing to honor a
2 contract with a consumer; or

3 (i) The applicant or licensee has ever had a license
4 involving cemeteries or funeral homes revoked, suspended, or
5 refused to be issued in Illinois or elsewhere.

6 If the Comptroller so determines, then he or she shall
7 conduct a hearing to determine whether to deny the application
8 for license or license renewal. However, no application for
9 license or license renewal shall be denied unless the applicant
10 or licensee has had at least 10 days' notice of a hearing on
11 the application and an opportunity to be heard thereon. If the
12 application for license or license renewal is denied, the
13 Comptroller shall within 20 days thereafter prepare and keep on
14 file in his or her office the transcript of the evidence taken
15 and a written order of denial thereof, which shall contain his
16 or her findings with respect thereto and the reasons supporting
17 the denial, and shall send by United States mail a copy of the
18 written order of denial to the applicant at the address set
19 forth in the application for license or license renewal, within
20 5 days after the filing of such order. A review of such
21 decision may be had as provided in Section 20 of this Act.

22 The license or license renewal issued by the Comptroller
23 shall remain in full force and effect until it expires or is
24 surrendered by the licensee or revoked by the Comptroller as
25 hereinafter provided.

26 (Source: P.A. 92-419, eff. 1-1-02.)

1 (760 ILCS 100/11) (from Ch. 21, par. 64.11)

2 Sec. 11. Issuance and display of license. A license issued
3 under this Act authorizes the cemetery authority to accept care
4 funds for the cemetery identified in the license. If a license
5 application seeks licensure to accept care funds on behalf of
6 more than one cemetery location, the Comptroller, upon approval
7 of the license application, shall issue to the cemetery
8 authority a separate license for each cemetery location
9 indicated on the application. Each license issued by the
10 Comptroller under this Act is independent of any other license
11 that may be issued to a cemetery authority under a single
12 license application.

13 Every license issued by the Comptroller shall state the
14 number of the license and the address at which the business is
15 to be conducted. Such license shall be kept conspicuously
16 posted in the place of business of the licensee and shall not
17 be transferable or assignable.

18 No more than one place of business shall be maintained
19 under the same license, but the Comptroller may issue more than
20 one license to the same licensee upon compliance with the
21 provisions of this Act governing an original issuance of a
22 license, for each new license.

23 Whenever a licensee shall wish to change the name as
24 originally set forth in his license, he shall give written
25 notice thereof to the Comptroller together with the reasons for

1 the change and if the change is approved by the Comptroller he
2 shall issue a new license.

3 A license issued by the Comptroller shall remain in full
4 force and effect until it expires or is surrendered by the
5 licensee or suspended or revoked by the Comptroller as provided
6 in this Act.

7 (Source: P.A. 92-419, eff. 1-1-02.); and

8 on page 4, immediately below line 17, by inserting the
9 following:

10 "(760 ILCS 100/15) (from Ch. 21, par. 64.15)

11 Sec. 15. The Comptroller may, upon 10 days' notice to the
12 licensee, by United States mail directed to the licensee at the
13 address set forth in the license, stating the contemplated
14 action and, in general, the grounds therefor, and upon
15 reasonable opportunity to be heard prior to such action, revoke
16 or fail to renew any license issued hereunder if he finds that:

17 (a) The licensee has failed to make the annual report or to
18 maintain in effect the required bond or to comply with an
19 order, decision, or finding of the Comptroller made pursuant to
20 this Act; or that

21 (b) The licensee has violated any provision of this Act or
22 any regulation or direction made by the Comptroller under this
23 Act; or that

24 (c) Any fact or condition exists which would constitute

1 grounds for denying an application for a new license or license
2 renewal.

3 (Source: P.A. 91-7, eff. 6-1-99.)

4 (760 ILCS 100/15.3) (from Ch. 21, par. 64.15-3)

5 Sec. 15.3. Every license issued hereunder shall remain in
6 force until the same expires or has been surrendered or revoked
7 in accordance with this Act, but the Comptroller may on his own
8 motion, issue new licenses to a licensee whose license or
9 licenses have been revoked if no fact or condition then exists
10 which clearly would have warranted the Comptroller in refusing
11 originally the issuance of such license under this Act.

12 (Source: P.A. 78-592.)

13 (760 ILCS 100/15.4) (from Ch. 21, par. 64.15-4)

14 Sec. 15.4. No license shall be revoked or not renewed until
15 the licensee has had at least 10 days' notice of a hearing
16 thereon and an opportunity to be heard. When any license is so
17 revoked or not renewed, the Comptroller shall within 20 days
18 thereafter, prepare and keep on file in his office the
19 transcript of the evidence taken and a written order or
20 decision of revocation, and shall send by United States mail a
21 copy of such order or decision of revocation or failure to
22 renew to the licensee at the address set forth in the license
23 within 5 days after the filing in his office of such order,
24 finding or decision. A review of any such order, finding or

1 decision may be had as provided in Section 19 of this Act.

2 (Source: P.A. 83-333.)

3 (760 ILCS 100/18) (from Ch. 21, par. 64.18)

4 Sec. 18. Application; when bond is unnecessary. The
5 provisions of this Act as to the (a) registration, (b)
6 application for license or license renewal, (c) filing of a
7 fidelity bond, (d) filing of an annual report, and (e)
8 examination by the Comptroller, apply to a cemetery authority
9 owning, operating, controlling or managing a privately
10 operated cemetery whether the care funds are held by such
11 cemetery authority as trustee or by any independent trustee for
12 the same. However, no bond need be filed with the Comptroller
13 as to care funds of such cemetery authority held as trustee by
14 a bank or trust company authorized to do business in this State
15 as a trust company in accordance with Section 2-10 of the
16 Corporate Fiduciary Act or held by an investment company.

17 Upon application by such cemetery authority to the
18 Comptroller, and upon a showing that all of the care funds of
19 such cemetery authority are held by such bank or trust company
20 as trustee for such cemetery authority pursuant to an agreement
21 in writing approved from time to time by the Comptroller for
22 the handling and management of all of the care funds of such
23 cemetery authority, or are held by an investment company, the
24 Comptroller in writing may permit the licensee to operate
25 without the filing of any bond as to such care funds except

1 such fidelity bond as he or she may require for the protection
2 of such cemetery authority against defaults by its employees
3 engaged in the handling and collection of funds.

4 (Source: P.A. 88-477; 89-615, eff. 8-9-96.)

5 Section 20. The Illinois Pre-Need Cemetery Sales Act is
6 amended by changing Sections 7, 8, 9, and 12 and by adding
7 Sections 6a, 6b, 6c, and 6d as follows:

8 (815 ILCS 390/6a new)

9 Sec. 6a. Term of license.

10 (a) Any license that was issued under this Act before the
11 effective date of this amendatory Act of the 95th General
12 Assembly shall expire according to a schedule developed by the
13 Comptroller pursuant to the original date of issuance and must
14 thereafter be renewed as provided in this Act. Beginning on the
15 effective date of this amendatory Act of the 95th General
16 Assembly, a license or license renewal shall be issued for a
17 5-year term, which shall expire as provided in this Act.

18 (b) The Comptroller by rule may adopt a system under which
19 licenses must be renewed by various dates during the year,
20 coinciding with the due date of the annual report of the
21 licensee or any extensions thereof.

22 (815 ILCS 390/6b new)

23 Sec. 6b. Requirements for license renewal. In order to

1 complete the license renewal process, the licensee shall submit
2 a license renewal application to the Comptroller in writing
3 under oath, signed by the licensee and in the form furnished by
4 the Comptroller upon the date of renewal. The Comptroller may
5 prescribe abbreviated license renewal application forms for
6 persons holding multiple licenses issued by the Comptroller.
7 Each renewal application (except abbreviated applications)
8 shall contain all of the following:

9 (1) An affirmative statement indicating the licensee's
10 desire for renewal and continued agreement to abide by all
11 applicable statutes and rules.

12 (2) A \$25 nonrefundable renewal fee.

13 (3) A completed annual report.

14 (4) The following information for the licensee, and
15 each partner, member of the board, officer, and director
16 thereof, if the licensee is a firm, partnership,
17 association, or corporation, and each shareholder holding
18 more than 10% of the corporate stock, if the licensee is a
19 corporation:

20 (A) His or her name and current address (both
21 residence and place of business).

22 (B) A detailed statement of the individual's
23 business experience for the 5 years immediately
24 preceding the application.

25 (C) Any present or prior connection between the
26 individual and any other person engaged in pre-need

1 sales.

2 (D) Any felony or misdemeanor convictions of which
3 fraud was an essential element and any charges or
4 complaints lodged against the individual of which
5 fraud was an essential element and that resulted in
6 civil or criminal litigation.

7 (E) Any failure of the individual to satisfy an
8 enforceable judgment entered against him or her based
9 upon fraud.

10 (F) Any other information requested by the
11 Comptroller relating to past business practices of the
12 individual.

13 Because the information required by this item (4) and item
14 (5) may be confidential or contain proprietary
15 information, this information shall not be available to
16 other licensees or the general public and shall be used
17 only for the lawful purposes of the Comptroller in
18 enforcing this Act.

19 (5) A detailed statement of the licensee's current
20 assets and liabilities.

21 (6) The current name and address of the licensee's
22 principal place of business at which the books, accounts,
23 and records are available for examination by the
24 Comptroller as required by this Act.

25 (7) The current name and address of the licensee's
26 branch locations at which pre-need sales are conducted and

1 that operate under the same license number as the
2 licensee's principal place of business.

3 (8) A current copy of the trust agreement under which
4 the trust funds are to be held as required by this Act.

5 (9) Such other information as the Comptroller may
6 reasonably require in order to determine whether the
7 licensee's renewal application qualifies under this Act.

8 (815 ILCS 390/6c new)

9 Sec. 6c. Remedy for delinquent license renewal.

10 (a) If a licensee continues to conduct activities requiring
11 a license, but fails to submit a completed license renewal
12 application to the Comptroller within the time specified in
13 this Act, then the Comptroller shall impose upon the licensee a
14 penalty of \$5 for each day the licensee remains delinquent in
15 submitting the application. The Comptroller may abate all or
16 part of the \$5 daily penalty for good cause shown.

17 (b) In the event the renewal application is denied by the
18 Comptroller, the renewal fee paid is not refundable.

19 (815 ILCS 390/6d new)

20 Sec. 6d. License renewal process. Once the licensee has
21 filed for license renewal, the expiring license shall remain in
22 effect until the renewal has been issued. Upon approval of the
23 Comptroller, the Comptroller shall issue a license renewal to
24 be posted in the place of business of the licensee.

1 (815 ILCS 390/7) (from Ch. 21, par. 207)

2 Sec. 7. The Comptroller may refuse to issue or renew a
3 license or may suspend or revoke a license on any of the
4 following grounds:

5 (a) The applicant or licensee has made any
6 misrepresentations or false statements or concealed any
7 material fact;

8 (b) The applicant or licensee is insolvent;

9 (c) The applicant or licensee has been engaged in business
10 practices that work a fraud;

11 (d) The applicant or licensee has refused to give pertinent
12 data to the Comptroller;

13 (e) The applicant or licensee has failed to satisfy any
14 enforceable judgment or decree rendered by any court of
15 competent jurisdiction against the applicant;

16 (f) The applicant or licensee has conducted or is about to
17 conduct business in a fraudulent manner;

18 (g) The trust agreement is not in compliance with State or
19 federal law;

20 (h) The pre-construction performance bond, if applicable,
21 is not satisfactory to the Comptroller;

22 (i) The fidelity bond is not satisfactory to the
23 Comptroller;

24 (j) As to any individual listed in the ~~license~~ application
25 for license or license renewal as required pursuant to Section

1 6 or 6b, that individual has conducted or is about to conduct
2 any business on behalf of the applicant in a fraudulent manner,
3 has been convicted of any felony or misdemeanor an essential
4 element of which is fraud, has had a judgment rendered against
5 him or her based on fraud in any civil litigation, has failed
6 to satisfy any enforceable judgment or decree rendered against
7 him by any court of competent jurisdiction, or has been
8 convicted of any felony or any theft-related offense;

9 (k) The applicant or licensee has failed to make the annual
10 report required by this Act or to comply with a final order,
11 decision, or finding of the Comptroller made pursuant to this
12 Act;

13 (l) The applicant or licensee, including any member,
14 officer, or director thereof if the applicant or licensee is a
15 firm, partnership, association, or corporation and any
16 shareholder holding more than 10% of the corporate stock, has
17 violated any provision of this Act or any regulation or order
18 made by the Comptroller under this Act; or

19 (m) The Comptroller finds any fact or condition existing
20 which, if it had existed at the time of the original
21 application for such license or renewal of such license would
22 have warranted the Comptroller in refusing the issuance or
23 renewal of the license.

24 (Source: P.A. 92-419, eff. 1-1-02.)

1 Sec. 8. (a) Every license issued by the Comptroller shall
2 state the number of the license, the business name and address
3 of the licensee's principal place of business, each branch
4 location also operating under the license, and the licensee's
5 parent company, if any. The license shall be conspicuously
6 posted in each place of business operating under the license.
7 The Comptroller may issue additional licenses as may be
8 necessary for license branch locations upon compliance with the
9 provisions of this Act governing an original issuance of a
10 license for each new license.

11 (b) Individual salespersons representing a licensee shall
12 not be required to obtain licenses in their individual
13 capacities but must acknowledge, by affidavit, that they have
14 been provided a copy of and have read this Act. The licensee
15 must retain copies of the affidavits of its salespersons for
16 its records and must make the affidavits available to the
17 Comptroller for examination upon request.

18 (c) The licensee shall be responsible for the activities of
19 any person representing the licensee in selling or offering a
20 pre-need contract for sale.

21 (d) Any person not selling on behalf of a licensee shall be
22 required to obtain his or her own license.

23 (e) Any person engaged in pre-need sales, as defined
24 herein, prior to the effective date of this Act may continue
25 operations until the application for license under this Act is
26 denied; provided that such person shall make application for a

1 license within 60 days of the date that application forms are
2 made available by the Comptroller.

3 (f) No license shall be transferable or assignable without
4 the express written consent of the Comptroller. A transfer of
5 more than 50% of the ownership of any business licensed
6 hereunder shall be deemed to be an attempted assignment of the
7 license originally issued to the licensee for which consent of
8 the Comptroller shall be required.

9 (g) Every license issued hereunder shall remain in force
10 until the same expires or has been suspended, surrendered or
11 revoked in accordance with this Act, but the Comptroller, upon
12 the request of an interested person or on his own motion, may
13 issue new licenses to a licensee whose license or licenses have
14 been revoked, if no factor or condition then exists which would
15 have warranted the Comptroller in refusing originally the
16 issuance of such license.

17 (Source: P.A. 92-419, eff. 1-1-02.)

18 (815 ILCS 390/9) (from Ch. 21, par. 209)

19 Sec. 9. The Comptroller may upon his own motion investigate
20 the actions of any person providing, selling, or offering
21 pre-need sales contracts or of any applicant or any person or
22 persons holding or claiming to hold a license under this Act.
23 The Comptroller shall make such an investigation on receipt of
24 the verified written complaint of any person setting forth
25 facts which, if proved, would constitute grounds for refusal to

1 issue or renew, suspension, or revocation of a license. Before
2 refusing to issue or renew, and before suspension or revocation
3 of a license, the Comptroller shall hold a hearing to determine
4 whether the applicant or licensee, hereafter called the
5 respondent, is entitled to hold such a license. At least 10
6 days prior to the date set for such hearing, the Comptroller
7 shall notify the respondent in writing that on the date
8 designated a hearing will be held to determine his eligibility
9 for a license and that he may appear in person or by counsel.
10 Such written notice may be served on the respondent personally,
11 or by registered or certified mail sent to the respondent's
12 business address as shown in his latest notification to the
13 Comptroller and shall include sufficient information to inform
14 the respondent of the general nature of the charge. At the
15 hearing, both the respondent and the complainant shall be
16 accorded ample opportunity to present in person or by counsel
17 such statements, testimony, evidence and argument as may be
18 pertinent to the charges or to any defense thereto. The
19 Comptroller may reasonably continue such hearing from time to
20 time.

21 The Comptroller may subpoena any person or persons in this
22 State and take testimony orally, by deposition or by exhibit,
23 in the same manner and with the same fees and mileage as
24 prescribed in judicial proceedings in civil cases.

25 Any authorized agent of the Comptroller may administer
26 oaths to witnesses at any hearing which the Comptroller is

1 authorized to conduct.

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

15 (Source: P.A. 92-419, eff. 1-1-02.)

16 (815 ILCS 390/12) (from Ch. 21, par. 212)

17 Sec. 12. License nonrenewal, revocation, or suspension.

18 (a) The Comptroller may, upon determination that grounds
19 exist for the revocation or suspension or nonrenewal of a
20 license issued under this Act, revoke, ~~or~~ suspend, or fail to
21 renew, if appropriate, the license issued to a licensee or to a
22 particular branch office location with respect to which the
23 grounds for revocation, ~~or~~ suspension, or failure to renew may
24 occur or exist.

25 (b) Upon the nonrenewal, revocation, or suspension of any

1 license, the licensee shall immediately surrender the license
2 or licenses to the Comptroller. If the licensee fails to do so,
3 the Comptroller has the right to seize the license or licenses.
4 (Source: P.A. 92-419, eff. 1-1-02.)"