



## 95TH GENERAL ASSEMBLY

### State of Illinois

2007 and 2008

HB1528

Introduced 2/22/2007, by Rep. Sara Feigenholtz

#### SYNOPSIS AS INTRODUCED:

760 ILCS 100/2b new  
760 ILCS 100/10  
765 ILCS 835/1.5 new

from Ch. 21, par. 64.10

Amends the Cemetery Care Act and Cemetery Protection Act. Provides that a license application shall not be approved if an applicant or anyone listed in the license application has been convicted of a forcible felony. Provides that it is unlawful for any person convicted of a "forcible felony" to acquire, maintain, participate in, or have whole or partial ownership of a cemetery or cemetery authority. Provides that a person convicted of a forcible felony who maintains, participates in, or has an ownership interest on the effective date of this amendatory Act of the 95th General Assembly shall cease participation in and divest himself or herself of the ownership in the cemetery authority within 6 months of the effective date of this amendatory Act of the 95th General Assembly. Amends the Cemetery Protection Act. Provides that it is unlawful for any person convicted of a "forcible felony" to acquire, maintain, participate in or have whole or partial ownership of a cemetery or cemetery authority. Provides that a person convicted of a forcible felony who maintains, participates in, or has an ownership interest on the effective date of this amendatory Act of the 95th General Assembly shall cease participation in and divest himself or herself of the ownership in the cemetery association, cemetery authority, or cemetery society within 6 months of the effective date of the amendatory Act.

LRB095 10566 AJ0 30787 b

1 AN ACT concerning civil law.

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

4 Section 5. The Cemetery Care Act is amended by adding  
5 Section 2b and by changing Section 10 as follows:

6 (760 ILCS 100/2b new)

7 Sec. 2b. It is unlawful for any person convicted of a  
8 "forcible felony", as defined in Section 2-8 of the Criminal  
9 Code of 1961 to acquire, maintain, participate in or have  
10 partial or whole ownership of a cemetery authority. Any person  
11 convicted of a forcible felony who maintains, participates in,  
12 or has an ownership interest on the effective date of this  
13 amendatory Act of the 95th General Assembly shall cease  
14 participation in and divest himself or herself of the ownership  
15 in the cemetery authority within 6 months of the effective date  
16 of this amendatory Act of the 95th General Assembly.

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

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

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

1 (b) The applicant is insolvent; or

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

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

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

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

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

15 (h) The applicant or any individual listed in the license  
16 application has conducted or is about to conduct any business  
17 on behalf of the applicant in a fraudulent manner; or has been  
18 convicted of a felony or any misdemeanor of which an essential  
19 element is fraud; or has been involved in any civil litigation  
20 in which a judgment has been entered against him or her based  
21 on fraud; or has failed to satisfy any enforceable judgment  
22 entered by the circuit court in any civil proceedings against  
23 such individual; or has been convicted of any felony of which  
24 fraud is an essential element; or has been convicted of any  
25 theft-related offense; or has been convicted of a forcible  
26 felony as defined in Section 2-8 of the Criminal Code of 1961;

1 or has failed to comply with the requirements of this Act; or  
2 has demonstrated a pattern of improperly failing to honor a  
3 contract with a consumer; or

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

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

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

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

25 Section 10. The Cemetery Protection Act is amended by

1 adding Section 1.5 as follows:

2 (765 ILCS 835/1.5 new)

3 Sec. 1.5. It is unlawful for any person convicted of a  
4 "forcible felony", as defined in Section 2-8 of the Criminal  
5 Code of 1961, to acquire, maintain, participate in or have  
6 partial or whole ownership of a cemetery association, cemetery  
7 authority, or cemetery society. Any person convicted of a  
8 forcible felony who maintains, participates in, or has an  
9 ownership interest on the effective date of this amendatory Act  
10 of the 95th General Assembly shall cease participation in and  
11 divest himself or herself of the ownership in the cemetery  
12 association, cemetery authority, or cemetery society within 6  
13 months of the effective date of this amendatory Act of the 95th  
14 General Assembly.