



Rep. Michael J. Madigan

Filed: 10/29/2009

09600SB1471ham003

LRB096 06292 AMC 30671 a

1 AMENDMENT TO SENATE BILL 1471

2 AMENDMENT NO. _____. Amend Senate Bill 1471, AS AMENDED,
3 by replacing everything after the enacting clause with the
4 following:

5 "Article 5.
6 General Provisions

7 Section 5-1. Short title. This Act may be cited as the
8 Cemetery Oversight Act.

9 Section 5-5. Findings and purpose. The citizens of
10 Illinois have a compelling interest in the expectation that
11 their loved ones will be treated with the same dignity and
12 respect in death as they are entitled to be treated in life.
13 The laws of the State should provide adequate protection in
14 upholding the sanctity of the handling and disposition of human
15 remains and the preservation of final resting places, but

1 without unduly restricting family, ethnic, cultural, and
2 religious traditions. The purpose of this Act is to ensure that
3 the deceased be accorded equal treatment and respect for human
4 dignity without reference to ethnic origins, cultural
5 backgrounds, or religious affiliations.

6 Section 5-10. Declaration of public policy. The practice
7 of cemetery operation in the State of Illinois is hereby
8 declared to affect the public health, safety, and well-being of
9 its citizens and to be subject to regulation and control in the
10 public interest. It is further declared that cemetery
11 operation, as defined in this Act, should merit the confidence
12 of the public and that only qualified persons shall be
13 authorized to own, operate, manage, or otherwise control a
14 cemetery in the State of Illinois. This Act shall be liberally
15 construed to best carry out this purpose.

16 Section 5-15. Definitions. In this Act:

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

1 "Applicant" means a person applying for licensure under
2 this Act as a cemetery authority, cemetery manager, or customer
3 service employee. Any applicant or any person who holds himself
4 or herself out as an applicant is considered a licensee for
5 purposes of enforcement, investigation, hearings, and the
6 Illinois Administrative Procedure Act.

7 "Burial permit" means a permit for the disposition of a
8 dead human body that is filed with the Illinois Department of
9 Public Health.

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

24 "Care funds", as distinguished from receipts from annual
25 charges or gifts for current or annual care, means any realty
26 or personalty impressed with a trust by the terms of any gift,

1 grant, contribution, payment, legacy, or pursuant to contract,
2 accepted by any cemetery authority or by any trustee, licensee,
3 agent, or custodian for the same, under Article 15 of this Act,
4 and any income accumulated therefrom, where legally so directed
5 by the terms of the transaction by which the principal was
6 established.

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

10 "Cemetery association" means an association of 6 or more
11 persons, and their successors in trust, who have received
12 articles of organization from the Secretary of State to operate
13 a cemetery; the articles of organization shall be in perpetuity
14 and in trust for the use and benefit of all persons who may
15 acquire burial lots in a cemetery.

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

18 "Cemetery manager" means an individual who is engaged in,
19 or holding himself or herself out as engaged in, those
20 activities involved in or incidental to supervising the
21 following: the maintenance, operation, development, or
22 improvement of a cemetery licensed under this Act; the
23 interment of human remains; or the care, preservation, and
24 embellishment of cemetery property. This definition also
25 includes, without limitation, an individual that is an
26 independent contractor or individual employed or contracted by

1 an independent contractor who is engaged in, or holding himself
2 or herself out as engaged in, those activities involved in or
3 incidental to supervising the following: the maintenance,
4 operation, development, or improvement of a cemetery licensed
5 under this Act; the interment of human remains; or the care,
6 preservation, and embellishment of cemetery property.

7 "Cemetery operation" means to engage or attempt to engage
8 in the interment, inurnment, or entombment of human remains or
9 to engage in or attempt to engage in the care of a cemetery.

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

13 "Certificate of organization" means the document received
14 by a cemetery association from the Secretary of State that
15 indicates that the cemetery association shall be deemed fully
16 organized as a body corporate under the name adopted and in its
17 corporate name may sue and be sued.

18 "Comptroller" means the Comptroller of the State of
19 Illinois.

20 "Consumer" means a person, or the persons given priority
21 for the disposition of an individual's remains under the
22 Disposition of Remains Act, who purchases or is considering
23 purchasing cemetery, burial, or cremation products or services
24 from a cemetery authority or crematory authority, whether for
25 themselves or for another person.

26 "Customer service employee" means a cemetery employee who

1 has direct contact with consumers and explains cemetery
2 merchandise or services or negotiates, develops, or finalizes
3 contracts with consumers. This definition includes, without
4 limitation, an individual that is an independent contractor or
5 an individual employed or contracted by an independent
6 contractor who has direct contact with consumers and explains
7 cemetery merchandise or services or negotiates, develops, or
8 finalizes contracts with consumers. This definition does not
9 include a cemetery employee, an individual that is an
10 independent contractor, or an individual employed or
11 contracted by an independent contractor who merely provides a
12 printed cemetery list to a consumer, processes payment from a
13 consumer, or performs sales functions related solely to
14 incidental merchandise like flowers, souvenirs, or other
15 similar items.

16 "Department" means the Department of Financial and
17 Professional Regulation.

18 "Employee" means an individual who works for a cemetery
19 authority where the cemetery authority has the right to control
20 what work is performed and the details of how the work is
21 performed regardless of whether federal or State payroll taxes
22 are withheld. This definition also includes, without
23 limitation, an individual who is an independent contractor, or
24 an individual employed or contracted by an independent
25 contractor.

26 "Entombment right" means the right to place individual

1 human remains or individual cremated human remains in a
2 specific mausoleum crypt or lawn crypt selected by a consumer
3 for use as a final resting place.

4 "Family burying ground" means a cemetery in which no lots
5 are sold to the public and in which interments are restricted
6 to the immediate family or a group of individuals related to
7 each other by blood or marriage.

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

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

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

14 "Green burial or cremation disposition" means burial or
15 cremation practices that reduce the greenhouse gas emissions,
16 waste, and toxic chemicals ordinarily created in burial or
17 cremation or, in the case of greenhouse gas emissions, mitigate
18 or offset emissions. Such practices include standards for
19 burial or cremation certified by the Green Burial Council or
20 any other organization or method that the Department may name
21 by rule.

22 "Immediate family" means the designated agent of a person
23 or the persons given priority for the disposition of a person's
24 remains under the Disposition of Remains Act.

25 "Imputed value" means the retail price of comparable rights
26 within the same or similar area of the cemetery.

1 "Independent contractor" means a person who works for a
2 cemetery authority where the cemetery authority has the right
3 to control or direct only the result of the work and not the
4 means and methods of accomplishing the result.

5 "Individual" means a natural person.

6 "Interment right" means the right to place individual human
7 remains or cremated human remains in a specific underground
8 location selected by a consumer for use as a final resting
9 place.

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

13 "Investment Company Act of 1940" means Title 15 of the
14 United States Code, Sections 80a-1 to 80a-64, inclusive, as
15 amended.

16 "Investment company" means any issuer (a) whose securities
17 are purchasable only with care funds or trust funds, or both;
18 (b) that is an open and diversified management company as
19 defined in and registered under the Investment Company Act of
20 1940; and (c) that has entered into an agreement with the
21 Department containing such provisions as the Department by
22 regulation requires for the proper administration of this Act.

23 "Lawn crypt" means a permanent underground crypt usually
24 constructed of reinforced concrete or similar material
25 installed in multiple units for the entombment of human
26 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 licensee
4 or who is accused of unlicensed practice is considered a
5 licensee for purposes of enforcement, investigation, hearings,
6 and the Illinois Administrative Procedure Act. This definition
7 does not include a registered cemetery employee.

8 "Mausoleum crypt" means a space in a mausoleum used or
9 intended to be used, above or under ground, to entomb human
10 remains.

11 "Municipal cemetery" means a cemetery owned, operated,
12 controlled, or managed by any city, village, incorporated town,
13 township, county, or other municipal corporation, political
14 subdivision, or instrumentality thereof authorized by law to
15 own, operate, or manage a cemetery.

16 "Niche" means a space in a columbarium used, or intended to
17 be used, for inurnment of cremated human remains.

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

20 "Permanent parcel identification number" means a unique
21 and permanent number assigned to a grave, plot, crypt, or niche
22 that enables the Department to ascertain the precise location
23 of a decedent's remains interred, entombed, or inurned after
24 the effective date of this Act.

25 "Person" means any individual, firm, partnership,
26 association, corporation, limited liability company, trustee,

1 government or political subdivision, or other entity.

2 "Registered cemetery employee card" means a card issued by
3 the Department to an individual who has applied to the
4 Department for registration as a registered cemetery employee
5 and meets the requirements for employment by a licensed
6 cemetery authority.

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

13 "Secretary" means the Secretary of Financial and
14 Professional Regulation.

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

19 "Trustee" means any person authorized to hold funds under
20 this Act.

21 "Unique personal identifier" means the permanent parcel
22 identification number in addition to the term of burial in
23 years; the numbered level or depth in the grave, plot, crypt,
24 or niche; and the year of death for human remains interred,
25 entombed, or inurned after the effective date of this Act.

1 Section 5-20. Exemptions.

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

22 (b) Notwithstanding any provision of law to the contrary, a
23 cemetery authority that does not qualify for a full exemption
24 that is operating as a cemetery authority (i) that engages in
25 25 or fewer interments, inurnments, or entombments of human
26 remains for each of the preceding 2 calendar years and does not

1 accept or maintain care funds, (ii) that is operating as a
2 municipal cemetery, or (iii) that is operating as a religious
3 cemetery is exempt from this Act, but is required to comply
4 with Sections 20-5(a), 20-5(b), 20-5(c), 20-5(d), 20-6, 25-3,
5 and 25-120 of this Act. Cemetery authorities claiming a partial
6 exemption shall apply for the partial exemption as provided in
7 Article 10 of this Act. A cemetery authority that changes to a
8 status that would disqualify it from a partial exemption is
9 required to apply for licensure within the calendar year
10 following the date on which it changes its status. A cemetery
11 authority that maintains a partial exemption that fails to
12 timely apply for licensure shall be deemed to have engaged in
13 unlicensed practice and shall be subject to discipline in
14 accordance with Article 25 of this Act.

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

24 Section 5-25. Powers of the Department. Subject to the
25 provisions of this Act, the Department may exercise the

1 following powers:

2 (1) Authorize examinations to ascertain the qualifications
3 and fitness of applicants for licensing as a licensed cemetery
4 manager or as a customer service employee and pass upon the
5 qualifications of applicants for licensure.

6 (2) Examine and audit a licensed cemetery authority's
7 records from any year, care funds from any year, or any other
8 aspects of cemetery operation as the Department deems
9 appropriate.

10 (3) Investigate any and all cemetery-related activity.

11 (4) Conduct hearings on proceedings to refuse to issue or
12 renew licenses or to revoke, suspend, place on probation,
13 reprimand, or otherwise discipline a license under this Act or
14 take other non-disciplinary action.

15 (5) Adopt rules required for the administration of this
16 Act.

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

19 (7) Maintain rosters of the names and addresses of all
20 licensees and all persons whose licenses have been suspended,
21 revoked, denied renewal, or otherwise disciplined within the
22 previous calendar year. These rosters shall be available upon
23 written request and payment of the required fee as established
24 by rule.

25

Article 10.

1 Licensing and Registration Provisions

2 Section 10-5. Restrictions and limitations. No person
3 shall, without a valid license issued by the Department, (i)
4 hold himself or herself out in any manner to the public as a
5 licensed cemetery authority, licensed cemetery manager, or
6 customer service employee; (ii) attach the title "licensed
7 cemetery authority", "licensed cemetery manager", or "licensed
8 customer service employee" to his or her name; (iii) render or
9 offer to render services constituting the practice of cemetery
10 operation; or (iv) accept care funds within the meaning of this
11 Act or otherwise hold funds for care and maintenance unless
12 such person is holding and managing funds on behalf of a
13 cemetery authority and is authorized to conduct a trust
14 business under the Corporate Fiduciary Act or the federal
15 National Bank Act.

16 Section 10-10. Current licensees. A person acting as a
17 cemetery authority that is licensed on the effective date of
18 this Act under the Cemetery Care Act or Cemetery Association
19 Act need not comply with the licensure requirement in this
20 Article until the Department takes action on the person's
21 application for a cemetery authority license. The application
22 for a cemetery authority license must be submitted to the
23 Department within 9 months after the effective date of this
24 Act. If the person fails to submit the application within 9

1 months after the effective date of this Act, the person shall
2 be considered to be engaged in unlicensed practice and shall be
3 subject to discipline in accordance with Article 25 of this
4 Act.

5 Section 10-15. Persons formerly unregulated.

6 (a) A person acting as a cemetery authority, cemetery
7 manager, or customer service employee who, prior to the
8 effective date of this Act, was not required to obtain
9 licensure need not comply with the licensure requirement in
10 this Article until the Department takes action on the person's
11 application for a license. The application for a cemetery
12 authority, cemetery manager, or customer service employee
13 license must be submitted to the Department within 6 months
14 after the effective date of this Act. If the person fails to
15 submit the application within 6 months after the effective date
16 of this Act, the person shall be considered to be engaged in
17 unlicensed practice and shall be subject to discipline in
18 accordance with Article 25 of this Act.

19 (b) Persons who are cemetery employees on the effective
20 date of this Act must comply with the registration and
21 Employee's Statement requirements in Section 10-22 of this Act.

22 (c) Persons who become cemetery employees after the
23 effective date of this Act must comply with the registration
24 and Employee's Statement requirements in Section 10-22 of this
25 Act.

1 Section 10-20. Application for original license or
2 exemption.

3 (a) Applications for original licensure as a cemetery
4 authority, cemetery manager, or customer service employee
5 authorized by this Act, or application for exemption from
6 licensure as a cemetery authority, shall be made to the
7 Department on forms prescribed by the Department, which shall
8 include the applicant's Social Security number or FEIN number,
9 or both, and shall be accompanied by the required fee as set by
10 rule. If a cemetery authority seeks to practice at more than
11 one location, it shall meet all licensure requirements at each
12 location as required by this Act and by rule, including
13 submission of application and fee. A person licensed as a
14 cemetery manager or customer service employee need not register
15 as an employee of the cemetery authority.

16 (b) If the application for licensure as a cemetery
17 authority does not claim a full exemption or partial exemption,
18 then the cemetery authority license application shall be
19 accompanied by a fidelity bond or letter of credit in the
20 amount required by rule. If care funds of a cemetery authority
21 are held by any entity authorized to do a trust business under
22 the Corporate Fiduciary Act or held by an investment company,
23 then the Department may waive the requirement of a bond or
24 letter of credit as established by rule. If the Department
25 finds at any time that the bond or letter of credit is insecure

1 or exhausted or otherwise doubtful, then an additional bond or
2 letter of credit in like amount to be approved by the
3 Department shall be filed by the cemetery authority applicant
4 or licensee within 30 days after written demand is served upon
5 the applicant or licensee by the Department. In addition, if
6 the cemetery authority application does not claim a full
7 exemption or partial exemption, then the license application
8 shall be accompanied by proof of liability insurance or a
9 letter of credit in the amount required by rule. The proof of
10 liability insurance or letter of credit shall run to the
11 Secretary and shall be for the benefit of any consumer of such
12 cemetery authority for any liability incurred by the cemetery
13 authority related to the rendering of any of the services
14 referred to in this Act. The procedure by which claims on the
15 liability insurance or letter of credit are made and paid shall
16 be determined by rule. The fidelity bond shall be issued by a
17 bonding company authorized to do business in this State, and
18 the liability insurance shall be issued by an insurance company
19 authorized to do business in this State. The letter of credit
20 shall be issued by a financial institution authorized to do
21 business in this State. Maintaining the bonds or letters of
22 credit required under this subsection is a continuing
23 obligation for licensure. A bonding company may terminate a
24 bond, a financial institution may terminate a letter of credit,
25 or an insurance company may terminate liability insurance and
26 avoid further liability by filing a 60-day notice of

1 termination with the Department and at the same time sending
2 the same notice to the cemetery authority.

3 (c) After initial licensure, if any person comes to obtain
4 at least 25% of the ownership over the licensed cemetery
5 authority, then the cemetery authority shall have to apply for
6 a new license and receive licensure in the required time as set
7 by rule. The current license remains in effect until the
8 Department takes action on the application for a new license.

9 (d) All applications shall contain the information that, in
10 the judgment of the Department, will enable the Department to
11 pass on the qualifications of the applicant for an exemption
12 from licensure or for a license to practice as a cemetery
13 authority, cemetery manager, or customer service employee as
14 set by rule.

15 Section 10-21. Qualifications for licensure.

16 (a) An applicant is qualified for licensure as a cemetery
17 authority if the applicant meets all of the following
18 qualifications:

19 (1) The applicant is of good moral character, including
20 compliance with the Code of Professional Conduct and Ethics
21 as provided for by rule, and has not committed any act or
22 offense in any jurisdiction that would constitute the basis
23 for discipline under this Act. In determining good moral
24 character, the Department may take into consideration
25 conviction of any crime under the laws of any jurisdiction.

1 If the applicant is a corporation, limited liability
2 company, partnership, or other entity permitted by law,
3 then each principal, owner, member, officer, and
4 shareholder holding 25% or more of corporate stock is to be
5 of good moral character. Good moral character is a
6 continuing requirement of licensure.

7 (2) The applicant provides evidence satisfactory to
8 the Department that the applicant has sufficient financial
9 resources to operate a cemetery as established by rule.
10 Maintaining sufficient financial resources is a continuing
11 requirement for licensure.

12 (3) The applicant has complied with all other
13 requirements of this Act and rules adopted for the
14 implementation of this Act.

15 (b) The cemetery manager and customer service employees of
16 a licensed cemetery authority shall apply for licensure as a
17 cemetery manager or customer service employee on forms
18 prescribed by the Department and pay the required fee. A person
19 is qualified for licensure as a cemetery manager or customer
20 service employee if he or she meets all of the following
21 requirements:

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

23 (2) Is of good moral character, including compliance
24 with the Code of Professional Conduct and Ethics as
25 provided for by rule. Good moral character is a continuing
26 requirement of licensure. In determining good moral

1 character, the Department may take into consideration
2 conviction of any crime under the laws of any jurisdiction.

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

5 (4) Submits his or her fingerprints in accordance with
6 subsection (c) of this Section.

7 (5) Has not committed a violation of this Act or any
8 rules adopted under this Act that, in the opinion of the
9 Department, renders the applicant unqualified to be a
10 cemetery manager.

11 (6) Successfully passes the examination authorized by
12 the Department for cemetery manager or customer service
13 employee, whichever is applicable.

14 (7) Has complied with all other requirements of this
15 Act and rules adopted for the implementation of this Act.

16 (8) In the case of a customer service employee, can be
17 reasonably expected to treat consumers professionally,
18 fairly, and ethically.

19 (c) Each applicant for a cemetery manager or customer
20 service employee license shall have his or her fingerprints
21 submitted to the Department of State Police in an electronic
22 format that complies with the form and manner for requesting
23 and furnishing criminal history record information that is
24 prescribed by the Department of State Police. These
25 fingerprints shall be checked against the Department of State
26 Police and Federal Bureau of Investigation criminal history

1 record databases. The Department of State Police shall charge
2 applicants a fee for conducting the criminal history records
3 check, which shall be deposited in the State Police Services
4 Fund and shall not exceed the actual cost of the records check.
5 The Department of State Police shall furnish, pursuant to
6 positive identification, records of Illinois convictions to
7 the Department. The Department may require applicants to pay a
8 separate fingerprinting fee, either to the Department or
9 directly to a designated fingerprint vendor. The Department, in
10 its discretion, may allow an applicant who does not have
11 reasonable access to a designated fingerprint vendor to provide
12 his or her fingerprints in an alternative manner. The
13 Department, in its discretion, may also use other procedures in
14 performing or obtaining criminal background checks of
15 applicants. Instead of submitting his or her fingerprints, an
16 individual may submit proof that is satisfactory to the
17 Department that an equivalent security clearance has been
18 conducted.

19 Section 10-22. Employee registration.

20 (a) All employees shall apply for registration as a
21 registered cemetery employee on forms prescribed by the
22 Department, meet all requirements contained in this Section,
23 and pay the required fee.

24 The holder of a cemetery authority license issued under
25 this Act may employ or contract with employees who are not

1 licensed cemetery managers or customer service employees, in
2 the conduct of the licensee's business under the following
3 circumstances:

4 (1) No individual that fails to obtain a registered
5 cemetery employee card may be employed by or contracted to
6 do work for a cemetery authority under this Section.

7 (2) No individual may be employed by or contracted to
8 do work for a cemetery authority or cemetery manager under
9 this Section until he or she has executed and furnished to
10 the cemetery authority, on forms furnished by the
11 Department, a verified statement to be known as "Employee's
12 Statement" setting forth all of the following:

13 (i) The individual's full name, age, and residence
14 address.

15 (ii) The individual's work history for the 5 years
16 immediately before the date of the execution of the
17 statement, the place where the business or occupation
18 was engaged in, and the names of employers, if any.

19 (iii) That the individual has not had licensure as
20 a cemetery authority, cemetery manager, or customer
21 service employee denied, revoked, or suspended under
22 this Act within one year before the date the
23 individual's application for registration as a
24 registered cemetery employee is received by the
25 Department.

26 (iv) Any declaration of incompetence by a court of

1 competent jurisdiction that has not been restored.

2 (v) Any other information as may be required by any
3 rule of the Department to show the good character,
4 competency, and integrity of the individual executing
5 the statement.

6 (3) The Department shall issue a registered cemetery
7 employee card, in a form the Department prescribes, to an
8 individual who applies within 90 days after receipt of an
9 application.

10 (4) Notwithstanding the other provisions of this
11 subsection, a cemetery authority may employ or contract
12 with an individual without a registered cemetery employee
13 card if the individual applies for a registered cemetery
14 employee card on the first day of his or her employment.

15 (4.5) Notwithstanding the other provisions of this
16 subsection, a cemetery authority may continue to employ or
17 contract with an individual under its employ or with which
18 it has a contract on the effective date of this Act if the
19 individual applies for a registered cemetery employee card
20 within 10 days after the effective date of this Act.

21 (5) The holder of a registered cemetery employee card
22 shall carry the card at all times while engaged in the
23 performance of the duties of his or her employment or
24 contract. Expiration and requirements for renewal of
25 registered cemetery employee cards shall be established by
26 rule of the Department. Possession of a registered cemetery

1 employee card does not in any way imply that the holder of
2 the card is employed or contracted by a cemetery authority
3 unless the registered cemetery employee card is
4 accompanied by the employee identification card required
5 by subsection (f) of this Section.

6 (b) Each cemetery authority shall maintain a record of each
7 employee that is accessible to the Department. The record shall
8 contain the following information:

9 (1) A photograph taken within 10 days of the date that
10 the employee begins employment with the cemetery
11 authority. The photograph shall be replaced with a current
12 photograph no later than 4 calendar years after the date of
13 employment and every 4 years thereafter. The photo may
14 consist of the employee's driver's license.

15 (2) The Employee's Statement specified in subsection
16 (b) of this Section.

17 (3) A copy of the employee's registered cemetery
18 employee card.

19 (4) All correspondence or documents relating to the
20 character and integrity of the employee received by the
21 cemetery authority from any former employer, cemetery
22 association, government agency, or law enforcement agency.

23 (5) The Department may, by rule, prescribe further
24 record requirements.

25 (c) Every cemetery authority shall furnish an employee
26 identification card to each employee. This employee

1 identification card shall contain a recent photograph of the
2 employee, the employee's name, the name and cemetery authority
3 license number of the cemetery authority, the employee's
4 physical description, the signature of an authorized
5 individual on behalf of the cemetery authority, the signature
6 of that employee, the date of issuance, and an employee
7 identification card number.

8 (d) No cemetery authority may issue an employee
9 identification card to any individual who is not employed by
10 the cemetery authority in accordance with this Section or
11 falsely state or represent that a person is or has been in his
12 or her employ.

13 (e) Every cemetery authority shall confiscate the employee
14 identification card of any employee whose employment is
15 terminated.

16 Section 10-25. Examination; failure or refusal to take the
17 examination.

18 (a) The Department shall authorize examinations of
19 cemetery manager and customer service employee applicants at
20 such times and places as it may determine. The examinations
21 shall fairly test an applicant's qualifications to practice as
22 cemetery manager or customer service employee, whatever the
23 case may be, and knowledge of the theory and practice of
24 cemetery operation and management or cemetery customer
25 service, whichever is applicable. The examination shall

1 further test the extent to which the applicant understands and
2 appreciates that the final disposal of a deceased human body
3 should be attended with appropriate observance and
4 understanding, having due regard and respect for the reverent
5 care of the human body and for those bereaved and for the
6 overall spiritual dignity of an individual.

7 (a-5) The examinations for cemetery manager and customer
8 service employee shall be appropriate for cemetery
9 professionals and shall not cover mortuary science.

10 (b) Applicants for examinations shall pay, either to the
11 Department or to the designated testing service, a fee covering
12 the cost of providing the examination. Failure to appear for
13 the examination on the scheduled date at the time and place
14 specified after the application for examination has been
15 received and acknowledged by the Department or the designated
16 testing service shall result in forfeiture of the examination
17 fee.

18 (c) If the applicant neglects, fails, or refuses to take an
19 examination or fails to pass an examination for a license under
20 this Act within one year after filing an application, then the
21 application shall be denied. However, the applicant may
22 thereafter submit a new application accompanied by the required
23 fee. The applicant shall meet the requirements in force at the
24 time of making the new application.

25 (d) The Department may employ consultants for the purpose
26 of preparing and conducting examinations.

1 (e) The Department shall have the authority to adopt or
2 recognize, in part or in whole, examinations prepared,
3 administered, or graded by other organizations in the cemetery
4 industry that are determined appropriate to measure the
5 qualifications of an applicant for licensure.

6 Section 10-30. Continuing education. The Department shall
7 adopt rules for continuing education of cemetery managers and
8 customer service employees. The requirements of this Section
9 apply to any person seeking renewal or restoration under
10 Section 10-40 of this Act.

11 Section 10-40. Expiration and renewal of license. The
12 expiration date, renewal period, and other requirements for
13 each license or registration shall be set by rule.

14 Section 10-45. Transfer or sale, preservation of license,
15 liability for shortage.

16 (a) In the case of a sale of any cemetery or any part
17 thereof or of any related personal property by a cemetery
18 authority to a purchaser or pursuant to foreclosure
19 proceedings, except the sale of burial rights, services, or
20 merchandise to a person for his or her personal or family
21 burial or interment, the purchaser is liable for any shortages
22 existing before or after the sale in the care funds required to
23 be maintained in a trust pursuant to this Act and shall honor

1 all instruments issued under Article 15 of this Act for that
2 cemetery. Any shortages existing in the care funds constitute a
3 prior lien in favor of the trust for the total value of the
4 shortages and notice of such lien shall be provided in all
5 sales instruments.

6 (b) In the event of a sale or transfer of all or
7 substantially all of the assets of the cemetery authority, the
8 sale or transfer of the controlling interest of the corporate
9 stock of the cemetery authority, if the cemetery authority is a
10 corporation, or the sale or transfer of the controlling
11 interest of the partnership, if the cemetery authority is a
12 partnership, or the sale or transfer of the controlling
13 membership, if the cemetery authority is a limited liability
14 company, the cemetery authority shall, at least 30 days prior
15 to the sale or transfer, notify the Department, in writing, of
16 the pending date of sale or transfer so as to permit the
17 Department to audit the books and records of the cemetery
18 authority. The audit must be commenced within 10 business days
19 of the receipt of the notification and completed within the
20 30-day notification period unless the Department notifies the
21 cemetery authority during that period that there is a basis for
22 determining a deficiency that will require additional time to
23 finalize. The sale or transfer may not be completed by the
24 cemetery authority unless and until:

25 (1) the Department has completed the audit of the
26 cemetery authority's books and records;

1 (2) any delinquency existing in the care funds has been
2 paid by the cemetery authority or arrangements
3 satisfactory to the Department have been made by the
4 cemetery authority on the sale or transfer for the payment
5 of any delinquency; and

6 (3) the Department issues a new cemetery authority
7 license upon application of the newly controlled
8 corporation or partnership, which license must be applied
9 for at least 30 days prior to the anticipated date of the
10 sale or transfer, subject to the payment of any
11 delinquencies, if any, as stated in item (2) of this
12 subsection (b).

13 (c) In the event of a sale or transfer of any cemetery
14 land, including any portion of cemetery land in which no human
15 remains have been interred, a licensee shall, at least 45 days
16 prior to the sale or transfer, notify the Department, in
17 writing, of the pending sale or transfer. The cemetery
18 authority shall submit a current survey of the land within 30
19 days after the transfer or sale.

20 (d) For purposes of this Section, a person who acquires the
21 cemetery through a real estate foreclosure shall be subject to
22 the provisions of this Section pertaining to the purchaser,
23 including licensure.

24 Section 10-50. Dissolution. Where any licensed cemetery
25 authority or any trustee thereof has accepted care funds within

1 the meaning of this Act, and dissolution is sought by such
2 cemetery authority in any manner, by resolution of such
3 cemetery authority, or the trustees thereof, notice shall be
4 given to the Department of such intention to dissolve and
5 proper disposition shall be made of the care funds so held for
6 the general benefit of such lot owners by or for the benefit of
7 such cemetery authority, as provided by law, or in accordance
8 with the trust provisions of any gift, grant, contribution,
9 payment, legacy, or pursuant to any contract whereby such funds
10 were created. The Department, represented by the Attorney
11 General, may apply to the circuit court for the appointment of
12 a receiver, trustee, successor in trust, or for directions of
13 such court as to the proper disposition to be made of such care
14 funds, to the end that the uses and purposes for which such
15 trust or care funds were created may be accomplished, and for
16 proper continued operation of the cemetery.

17 Section 10-55. Fees.

18 (a) Except as provided in subsection (b) of this Section,
19 the fees for the administration and enforcement of this Act,
20 including, but not limited to, original licensure, renewal, and
21 restoration fees, shall be set by the Department by rule. The
22 fees shall not be refundable.

23 (b) Applicants for examination shall be required to pay,
24 either to the Department or the designated testing service, a
25 fee covering the cost of providing the examination.

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

4 Section 10-60. Returned checks; fines. Any person who
5 delivers a check or other payment to the Department that is
6 returned to the Department unpaid by the financial institution
7 upon which it is drawn shall pay to the Department, in addition
8 to the amount already owed to the Department, a fine of \$50.
9 The fines imposed by this Section are in addition to any other
10 discipline provided under this Act for unlicensed practice or
11 practice on a non-renewed license. The Department shall notify
12 the person that payment of fees and fines shall be paid to the
13 Department by certified check or money order within 30 calendar
14 days of the notification. If, after the expiration of 30 days
15 from the date of the notification, the person has failed to
16 submit the necessary remittance, the Department shall
17 automatically terminate the license or deny the application,
18 without hearing.

19 If, after termination or denial, the person seeks a
20 license, then he or she shall apply to the Department for
21 restoration or issuance of the license and pay all fees and
22 fines due to the Department. The Department may establish a fee
23 for the processing of an application for restoration of a
24 license to pay all expenses of processing this application. The
25 Secretary may waive the fines due under this Section in

1 individual cases where the Secretary finds that the fines would
2 be unreasonable or unnecessarily burdensome.

3 Article 15.

4 Trust Funds

5 Section 15-5. Gifts and contributions; trust funds.

6 (a) A licensed cemetery authority is hereby authorized and
7 empowered to accept any gift, grant, contribution, payment,
8 legacy, or pursuant to contract, any sum of money, funds,
9 securities, or property of any kind, or the income or avails
10 thereof, and to establish a trust fund to hold the same in
11 perpetuity for the care of its cemetery, or for the care of any
12 lot, grave, crypt, or niche in its cemetery, or for the special
13 care of any lot, grave, crypt, or niche or of any family
14 mausoleum or memorial, marker, or monument in its cemetery. Not
15 less than the following amounts will be set aside and deposited
16 in trust:

17 (1) For interment rights, \$1 per square foot of the
18 space sold or 15% of the sales price or imputed value,
19 whichever is the greater, with a minimum of \$25 for each
20 individual interment right.

21 (2) For entombment rights, not less than 10% of the
22 sales price or imputed value with a minimum of \$25 for each
23 individual entombment right.

24 (3) For inurnment rights, not less than 10% of the

1 sales price or imputed value with a minimum of \$15 for each
2 individual inurnment right.

3 (4) For any transfer of interment rights, entombment
4 rights, or inurnment rights recorded in the records of the
5 cemetery authority, excepting only transfers between
6 members of the immediate family of the transferor, a
7 minimum of \$25 for each such right transferred.

8 (5) Upon an interment, entombment, or inurnment in a
9 grave, crypt, or niche in which rights of interment,
10 entombment, or inurnment were originally acquired from a
11 cemetery authority prior to January 1, 1948, a minimum of
12 \$25 for each such right exercised.

13 (6) For the special care of any lot, grave, crypt, or
14 niche or of a family mausoleum, memorial, marker, or
15 monument, the full amount received.

16 (b) The cemetery authority shall act as trustee of all
17 amounts received for care until they have been deposited with a
18 corporate fiduciary as defined in Section 1-5.05 of the
19 Corporate Fiduciary Act. All trust deposits shall be made
20 within 30 days after receipt.

21 (c) No gift, grant, legacy, payment, or other contribution
22 shall be invalid by reason of any indefiniteness or uncertainty
23 as to the beneficiary designated in the instrument creating the
24 gift, grant, legacy, payment, or other contribution. If any
25 gift, grant, legacy, payment, or other contribution consists of
26 non-income producing property, then the cemetery authority

1 accepting it is authorized and empowered to sell such property
2 and to invest the funds obtained in accordance with subsection
3 (d) of this Section.

4 (d) The care funds authorized by this Section and provided
5 for in this Article shall be held intact and, unless otherwise
6 restricted by the terms of the gift, grant, legacy,
7 contribution, payment, contract, or other payment, as to
8 investments made after June 11, 1951, the trustee of the care
9 funds of the cemetery authority, in acquiring, investing,
10 reinvesting, exchanging, retaining, selling, and managing
11 property for any such trust, shall act in accordance with the
12 duties for trustees set forth in the Illinois Trusts and
13 Trustees Act. Within the limitations of the foregoing standard,
14 the trustee of the care funds of the cemetery authority is
15 authorized to acquire and retain every kind of property, real,
16 personal, or mixed, and every kind of investment, including
17 specifically, but without limiting the generality of the
18 foregoing, bonds, debentures and other corporate obligations,
19 preferred or common stocks and real estate mortgages, which
20 persons of prudence, discretion, and intelligence acquire or
21 retain for their own account. Within the limitations of the
22 foregoing standard, the trustee is authorized to retain
23 property properly acquired, without limitation as to time and
24 without regard to its suitability for original purchase. The
25 care funds authorized by this Section may be commingled with
26 other trust funds received by such cemetery authority for the

1 care of its cemetery or for the care or special care of any
2 lot, grave, crypt, niche, private mausoleum, memorial, marker,
3 or monument in its cemetery, whether received by gift, grant,
4 legacy, contribution, payment, contract, or other conveyance
5 made to such cemetery authority. Such care funds may be
6 invested with common trust funds as provided in the Common
7 Trust Fund Act. The net income only from the investment of such
8 care funds shall be allocated and used for the purposes
9 specified in the transaction by which the principal was
10 established in the proportion that each contribution bears to
11 the entire sum invested.

12 Section 15-10. Restrictions on loans, gifts, and
13 investments.

14 (a) No loan; investment; purchase of insurance on the life
15 of any trustee, cemetery owner, or employee; purchase of any
16 real estate; or any other transaction using care funds by any
17 trustee, licensee, cemetery manager, or any other cemetery
18 employee shall be made to or for the benefit of any person,
19 officer, director, trustee, or party owning or having any
20 interest in any licensee, or to any firm, corporation, trade
21 association or partnership in which any officer, director,
22 trustee, or party has any interest, is a member of, or serves
23 as an officer or director. A violation of this Section shall
24 constitute the intentional and improper withdrawal of trust
25 funds under Section 25-105 of this Act.

1 (b) No loan or investment in any unproductive real estate
2 or real estate outside of this State or in permanent
3 improvements of the cemetery or any of its facilities shall be
4 made, unless specifically authorized by the instrument whereby
5 the principal fund was created. No commission or brokerage fee
6 for the purchase or sale of any property shall be paid in
7 excess of that usual and customary at the time and in the
8 locality where such purchase or sale is made, and all such
9 commissions and brokerage fees shall be fully reported in the
10 next annual statement of such cemetery authority or trustee.

11 (c) The prohibitions provided for in this Section apply to
12 and include the spouse of and immediate family living with the
13 officer, member, director, trustee, party owning any portion of
14 such cemetery authority, or licensee under this Act.

15 Section 15-15. Care funds; deposits; investments.

16 (a) Whenever a cemetery authority accepts care funds,
17 either in connection with the sale or giving away at an imputed
18 value of an interment right, entombment right, or inurnment
19 right, or in pursuance of a contract, or whenever, as a
20 condition precedent to the purchase or acceptance of an
21 interment right, entombment right, or inurnment right, such
22 cemetery authority shall establish a care fund or deposit the
23 funds in an already existing care fund.

24 (b) The cemetery authority shall execute and deliver to the
25 person from whom it received the care funds an instrument in

1 writing that shall specifically state: (i) the nature and
2 extent of the care to be furnished and (ii) that such care
3 shall be furnished only in so far as net income derived from
4 the amount deposited in trust will permit (the income from the
5 amount so deposited, less necessary expenditures of
6 administering the trust, shall be deemed the net income).

7 (c) The setting-aside and deposit of care funds shall be
8 made by such cemetery authority no later than 30 days after the
9 close of the month in which the cemetery authority gave away
10 for an imputed value or received the final payment on the
11 purchase price of interment rights, entombment rights, or
12 inurnment rights, or received the final payment for the general
13 or special care of a lot, grave, crypt, or niche or of a family
14 mausoleum, memorial, marker, or monument, and such amounts
15 shall be held by the trustee of the care funds of such cemetery
16 authority in trust in perpetuity for the specific purposes
17 stated in the written instrument described in subsection (b).
18 For all care funds received by a cemetery authority, except for
19 care funds received by a cemetery authority pursuant to a
20 specific gift, grant, contribution, payment, legacy, or
21 contract that are subject to investment restrictions more
22 restrictive than the investment provisions set forth in this
23 Act, and except for care funds otherwise subject to a trust
24 agreement executed by a person or persons responsible for
25 transferring the specific gift, grant, contribution, payment,
26 or legacy to the cemetery authority that contains investment

1 restrictions more restrictive than the investment provisions
2 set forth in this Act, the cemetery authority may, without the
3 necessity of having to obtain prior approval from any court in
4 this State, designate a new trustee in accordance with this Act
5 and invest the care funds in accordance with this Section,
6 notwithstanding any contrary limitation contained in the trust
7 agreement.

8 (d) Any cemetery authority engaged in selling or giving
9 away at an imputed value interment rights, entombment rights,
10 or inurnment rights, in conjunction with the selling or giving
11 away at an imputed value any other merchandise or services not
12 covered by this Act, shall be prohibited from increasing the
13 sales price or imputed value of those items not requiring a
14 care fund deposit under this Act with the purpose of allocating
15 a lesser sales price or imputed value to items that require a
16 care fund deposit.

17 (e) If any sale that requires a deposit to a cemetery
18 authority's care fund is made by a cemetery authority on an
19 installment basis, and the installment contract is factored,
20 discounted, or sold to a third party, then the cemetery
21 authority shall deposit the amount due to the care fund within
22 30 days after the close of the month in which the installment
23 contract was factored, discounted, or sold. If, subsequent to
24 such deposit, the purchaser defaults on the contract such that
25 no care fund deposit on that contract would have been required,
26 then the cemetery authority may apply the amount deposited as a

1 credit against future required deposits.

2 (f) The trust authorized by this Section shall be a single
3 purpose trust fund. In the event of the cemetery authority's
4 bankruptcy, insolvency, or assignment for the benefit of
5 creditors, or an adverse judgment, the trust funds shall not be
6 available to any creditor as assets of the cemetery authority
7 or to pay any expenses of any bankruptcy or similar proceeding,
8 but shall be retained intact to provide for the future
9 maintenance of the cemetery. Except in an action by the
10 Department to revoke a license issued pursuant to this Act and
11 for creation of a receivership as provided in this Act, the
12 trust shall not be subject to judgment, execution, garnishment,
13 attachment, or other seizure by process in bankruptcy or
14 otherwise, nor to sale, pledge, mortgage, or other alienation,
15 and shall not be assignable except as approved by the
16 Department.

17 Section 15-25. Funds purpose and exemptions. The trust
18 funds authorized by this Article, and the income therefrom, and
19 any funds received under a contract to furnish care of a burial
20 space for a definite number of years, shall be held for the
21 general benefit of the lot owners and are exempt from taxation.
22 The trust funds authorized by the provisions of this Article,
23 and the income therefrom, are exempt from the operation of all
24 laws of mortmain and the laws against perpetuities and
25 accumulations.

1 Section 15-40. Trust examinations and audits.

2 (a) The Department shall examine at least annually every
3 licensee who holds \$250,000 or more in its care funds. For that
4 purpose, the Department shall have free access to the office
5 and places of business and to such records of all licensees and
6 of all trustees of the care funds of all licensees as shall
7 relate to the acceptance, use, and investment of care funds.
8 The Department may require the attendance of and examine under
9 oath all persons whose testimony may be required relative to
10 such business. In such cases the Department, or any qualified
11 representative of the Department whom the Department may
12 designate, may administer oaths to all such persons called as
13 witnesses, and the Department, or any such qualified
14 representative of the Department, may conduct such
15 examinations. The cost of an initial examination shall be
16 determined by rule.

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

25 (1) material and unverified changes or fluctuations in

1 trust balances;

2 (2) the licensee changing trustees more than twice in
3 any 12-month period;

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

6 (4) failure to maintain or produce documentation
7 required by this Act.

8 Article 20.

9 Business Practice Provisions

10 Section 20-5. Maintenance and records.

11 (a) A cemetery authority shall provide reasonable
12 maintenance of the cemetery property and of all lots, graves,
13 crypts, and columbariums in the cemetery based on the type and
14 size of the cemetery, topographic limitations, and contractual
15 commitments with consumers. Subject to the provision of this
16 subsection (a), reasonable maintenance includes:

17 (1) the laying of seed, sod, or other suitable ground
18 cover as soon as practical following an interment given the
19 weather conditions, climate, and season and the
20 interment's proximity to ongoing burial activity;

21 (2) the cutting of lawn throughout the cemetery at
22 reasonable intervals to prevent an overgrowth of grass and
23 weeds given the weather conditions, climate, and season;

24 (3) the trimming of shrubs to prevent excessive

1 overgrowth;

2 (4) the trimming of trees to remove dead limbs;

3 (5) keeping in repair the drains, water lines, roads,
4 buildings, fences, and other structures; and

5 (6) keeping the cemetery premises free of trash and
6 debris.

7 Reasonable maintenance by the cemetery authority shall not
8 preclude the exercise of lawful rights by the owner of an
9 interment, inurnment, or entombment right, or by the decedent's
10 immediate family or other heirs, in accordance with reasonable
11 rules and regulations of the cemetery or other agreement of the
12 cemetery authority. In the case of a cemetery dedicated as a
13 nature preserve under the Illinois Natural Areas Preservation
14 Act, reasonable maintenance by the cemetery authority shall be
15 in accordance with the rules and master plan governing the
16 dedicated nature preserve.

17 The Department shall adopt rules to provide greater detail
18 as to what constitutes the reasonable maintenance required
19 under this Section. The rules shall differentiate between
20 cemeteries based on, among other things, the size and financial
21 strength of the cemeteries. The rules shall also provide a
22 reasonable opportunity for a cemetery to cure any violation of
23 the reasonable maintenance standard in a timely manner given
24 the weather conditions, climate, and season before the
25 Department initiates formal proceedings.

26 (b) A cemetery authority, before commencing cemetery

1 operations or within 6 months after the effective date of this
2 Act, shall cause an overall map of its cemetery property,
3 delineating all lots or plots, blocks, sections, avenues,
4 walks, alleys, and paths and their respective designations, to
5 be filed at its on-site office, or if it does not maintain an
6 on-site office, at its principal place of business, and
7 recorded in the recorder's office of the county where the
8 cemetery land is situated. A cemetery manager's certificate
9 acknowledging, accepting, and adopting the map shall also be
10 included on the map. If the Department has reasonable suspicion
11 to believe that one or more violations of this Act have
12 occurred or are occurring, the Department may order that the
13 cemetery authority obtain a cemetery plat and that it be filed
14 at its on-site office, or if it does not maintain an on-site
15 office, at its principal place of business, and recorded in the
16 recorder's office of the county where the cemetery land is
17 situated. In exercising this discretion, the Department shall
18 consider whether the cemetery authority would experience an
19 undue hardship as a result of obtaining the plat. The cemetery
20 plat shall be surveyed by and prepared under the direct
21 supervision of an Illinois professional land surveyor licensed
22 pursuant to the Illinois Professional Land Surveyor Act of 1989
23 and shall delineate, describe, and set forth all lots or plots,
24 blocks, sections, avenues, walks, alleys, and paths and their
25 respective designations. A cemetery manager's certificate
26 acknowledging, accepting, and adopting the plat shall also be

1 included on the plat.

2 (b-5) A cemetery authority shall maintain an index that
3 associates the identity of deceased persons interred,
4 entombed, or inurned after the effective date of this Act with
5 their respective place of interment, entombment, or inurnment.

6 (c) The cemetery authority shall open the cemetery map or
7 plat to public inspection. The cemetery authority shall make
8 available a copy of the overall cemetery map or plat upon
9 written request and shall, if practical, provide a copy of a
10 segment of the cemetery plat where interment rights are located
11 upon the payment of reasonable photocopy fees. Any unsold lots,
12 plots, or parts thereof, in which there are not human remains,
13 may be resurveyed and altered in shape or size and properly
14 designated on the cemetery map or plat. However, sold lots,
15 plots, or parts thereof in which there are human remains may
16 not be renumbered or renamed. Nothing contained in this
17 subsection, however, shall prevent the cemetery authority from
18 enlarging an interment right by selling to its owner the excess
19 space next to the interment right and permitting interments
20 therein, provided reasonable access to the interment right and
21 to adjoining interment rights is not thereby eliminated.

22 (d) A cemetery authority shall keep a record of every
23 interment, entombment, and inurnment completed after the
24 effective date of this Act. The record shall include the
25 deceased's name, age, date of burial, and permanent parcel
26 identification number identifying where the human remains are

1 interred, entombed, or inurned. The record shall also include
2 the unique personal identifier as may be further defined by
3 rule, which is the permanent parcel identification number in
4 addition to the term of burial in years; the numbered level or
5 depth in the grave, plot, crypt, or niche; and the year of
6 death.

7 (e) (Blank).

8 (f) A cemetery authority shall make available for
9 inspection and, upon reasonable request and the payment of a
10 reasonable copying fee, provide a copy of its rules and
11 regulations and its current prices of interment, inurnment, or
12 entombment rights.

13 (g) A cemetery authority shall provide access to the
14 cemetery under the cemetery authority's reasonable rules and
15 regulations.

16 (h) A cemetery authority shall be responsible for the
17 proper opening and closing of all graves, crypts, or niches for
18 human remains in any cemetery property it owns.

19 (i) Any corporate or other business organization trustee of
20 the care funds of every licensed cemetery authority shall be
21 located in or a resident of this State. The licensed cemetery
22 authority and the trustee of care funds shall keep in this
23 State and use in its business such books, accounts, and records
24 as will enable the Department to determine whether such
25 licensee or trustee is complying with the provisions of this
26 Act and with the rules, regulations, and directions made by the

1 Department under this Act. The licensed cemetery authority
2 shall keep the books, accounts, and records at the location
3 identified in the license issued by the Department or as
4 otherwise agreed by the Department in writing. The books,
5 accounts, and records shall be accessible for review upon
6 demand of the Department.

7 Section 20-6. Cemetery Oversight Database.

8 (a) Within 72 hours after an interment, entombment, or
9 inurnment of human remains, or within 10 business days for a
10 partially exempt cemetery, the cemetery manager shall cause a
11 record of the interment, entombment, or inurnment to be entered
12 into the Cemetery Oversight Database. The requirement of this
13 subsection (a) also applies in any instance in which human
14 remains are relocated.

15 (b) Within 9 months after the effective date of this Act,
16 the Department shall certify a database as the Cemetery
17 Oversight Database. Upon certifying the database, the
18 Department shall:

19 (1) provide reasonable notice to cemetery authorities
20 identifying the database; and

21 (2) immediately upon certification, require each
22 cemetery authority to use the Cemetery Oversight Database
23 as a means of complying with subsection (a).

24 (c) In certifying the Cemetery Oversight Database, the
25 Department shall ensure that the database:

1 (1) provides real-time access through an Internet
2 connection or, if real-time access through an Internet
3 connection becomes unavailable due to technical problems
4 with the Cemetery Oversight Database incurred by the
5 database provider, through alternative mechanisms,
6 including, but not limited to, telephone;

7 (2) is accessible to the Department and to cemetery
8 managers in order to ensure compliance with this Act and in
9 order to provide any other information that the Department
10 deems necessary;

11 (3) requires cemetery authorities to input whatever
12 information required by the Department;

13 (4) maintains a real-time copy of the required
14 reporting information that is available to the Department
15 at all times and is the property of the Department; and

16 (5) contains safeguards to ensure that all information
17 contained in the Cemetery Oversight Database is secure.

18 (d) A cemetery authority may rely on the information
19 contained in the Cemetery Oversight Database as accurate and is
20 not subject to any administrative penalty or liability as a
21 result of relying on inaccurate information contained in the
22 database.

23 (e) The Cemetery Oversight Database provider shall
24 indemnify cemetery authorities against all claims and actions
25 arising from illegal, willful, or wanton acts on the part of
26 the Database provider.

1 Section 20-8. Vehicle traffic control. A cemetery
2 authority shall make reasonable best efforts to ensure that
3 funeral processions enter and exit the cemetery grounds with
4 minimal disruption to vehicle traffic on the streets and
5 roadways surrounding the cemetery. The cemetery authority and
6 funeral directors arranging funeral processions to the
7 cemetery are both under a duty to exercise their best efforts
8 to help prevent multiple funeral processions from arriving at
9 the cemetery simultaneously.

10 Section 20-10. Statement of services. At the time cemetery
11 arrangements are made and prior to rendering the cemetery
12 services, a licensed cemetery authority shall furnish a written
13 statement, in a form to be determined by the Department, to be
14 provided to the consumer, signed by both parties, that shall
15 contain: (i) contact information, as set out in Section 20-11,
16 and the date on which the arrangements were made; (ii) the
17 price of the service selected and the services and merchandise
18 included for that price; (iii) a clear disclosure that the
19 person or persons making the arrangement may decline and
20 receive credit for any service or merchandise that is not
21 desired or specified by the original interment right owner and
22 is not required by law or by the cemetery authority's rules and
23 regulations; (iv) the supplemental items of service and
24 merchandise requested and the price of each item; (v) the terms

1 or method of payment agreed upon; and (vi) a statement as to
2 any monetary advances made on behalf of the family. The
3 cemetery authority shall maintain a copy of such written
4 statement of services in its permanent records.

5 Section 20-11. Contact information in statement of
6 services. All licensed cemetery authorities shall include in
7 the statement of services described in Section 20-10 the name,
8 address, and telephone number of the cemetery authority. Upon
9 written request to a cemetery authority by a consumer, the
10 cemetery authority shall provide: (1) the cemetery authority's
11 registered agent, if any; (2) the cemetery authority's
12 proprietor, if the cemetery authority is an individual; (3)
13 every partner, if the cemetery authority is a partnership; (4)
14 the president, secretary, executive and senior vice
15 presidents, directors, and individuals owning 25% or more of
16 the corporate stock, if the cemetery authority is a
17 corporation; and (5) the manager, if the cemetery authority is
18 a limited liability company.

19 Section 20-12. Method of payment; receipt. No licensed
20 cemetery authority shall require payment for any goods,
21 services, or easement by cash only. Each cemetery authority
22 subject to this Section shall permit payment by at least one
23 other option, including, but not limited to, personal check,
24 cashier's check, money order, or credit or debit card. In

1 addition to the statement of services for the sale of cemetery
2 goods, services, or easements, the cemetery authority shall
3 provide a receipt to the consumer upon payment in part or full,
4 whatever the case may be.

5 Section 20-15. Interment or inurnment in cemetery. After
6 the effective date of this Act, for interments and inurnments
7 at cemeteries, the cemetery authority shall place on the outer
8 burial container, cremation inurnment container, or other
9 container or on the inside of a crypt or niche a tag or
10 permanent identifying marker listing the name of the decedent,
11 the date of birth, and the date of death. The materials and the
12 location of the tag or marker may be more specifically
13 described by rule. No cemetery authority shall interfere with a
14 licensed funeral director or his or her designated agent
15 observing the final burial or disposition of a body for which
16 the funeral director has a contract for services related to
17 that deceased individual. No funeral director or his or her
18 designated agent shall interfere with a licensed cemetery
19 authority or its designated agent's rendering of burial or
20 other disposition services for a body for which the cemetery
21 authority has a contract for goods, services, or property
22 related to that deceased individual.

23 Section 20-20. Display of license. Every cemetery
24 authority, cemetery manager, and customer service employee

1 license issued by the Department shall state the number of the
2 license and the address at which the business is to be
3 conducted. Such license shall be kept conspicuously posted in
4 the place of business of the licensee and shall not be
5 transferable or assignable.

6 Section 20-25. Annual report. Each licensed cemetery
7 authority shall annually, on or before April 15, file a report
8 with the Department giving such information as the Department
9 may reasonably require concerning the business and operations
10 during the preceding calendar year as provided for by rule. The
11 report must be received by the Department on or before April
12 15, unless such date is extended for reasonable cause up to 90
13 days by the Department. The report shall be made under oath and
14 in a form prescribed by the Department. The Department may fine
15 each licensee an amount as determine by rule for each day
16 beyond April 15 the report is filed.

17 Section 20-30. Signage. Cemetery authorities shall
18 conspicuously post signs in English and Spanish in the cemetery
19 office, in a form provided by the Department, that contain the
20 Department's consumer hotline number, information on how to
21 file a complaint, and whatever other information that the
22 Department deems appropriate.

23

Article 22.

1 Cemetery Associations

2 Section 22-1. Cemetery association requirements. The
3 requirements of this Article apply to those entities formed as
4 and acting as cemetery associations that act as a cemetery and
5 are otherwise exempt from this Act pursuant to Section 5-20 of
6 this Act. A cemetery association offering or providing services
7 as a cemetery that is exempt pursuant to Section 5-20 of this
8 Act shall remain subject to the provisions of this Article and
9 its requirements, mandates, and discipline in accordance with
10 the provisions of this Act. Any cemetery association not exempt
11 in accordance with Section 5-20 of this Act shall obtain a
12 license from the Department in accordance with the provisions
13 of this Act and shall remain subject to all provisions of this
14 Act.

15 Section 22-2. Cemetery association formation.

16 (a) Any 6 or more persons may organize a cemetery
17 association, to be owned, managed, and controlled in the manner
18 provided in this Article.

19 (b) Whenever 6 or more persons shall present to the
20 Secretary of State a petition setting forth that they desire to
21 organize a cemetery association under this Act, which shall
22 specify the county in which the cemetery association will be
23 located and the name and style of the cemetery association, the
24 Secretary of State shall issue to such persons and their

1 successors in trust, a certificate of organization, which shall
2 be in perpetuity and in trust for the use and benefit of all
3 persons who may acquire burial lots in the cemetery.

4 Section 22-3. Certificate of organization. Any person who
5 has received a certificate of organization from the Secretary
6 of State must record the certificate of organization with the
7 recorder's office of the county in which the cemetery is
8 situated, and when so recorded, the association shall be deemed
9 fully organized as a body corporate under the name adopted and
10 in its corporate name may sue and be sued. Whenever two-thirds
11 of the trustees of the cemetery association approve a
12 resolution to change the name of the cemetery association, a
13 copy of such resolution and approval thereof duly certified by
14 the President and Secretary of the association shall be filed
15 with the Department and upon approval thereof shall be filed in
16 the Office of the Secretary of State. Whenever two-thirds of
17 the trustees of a cemetery association approve a resolution to
18 dissolve the association, a copy of such resolution and
19 approval of the trustees of the cemetery association duly
20 certified by the President and Secretary shall be submitted to
21 the Department, and if approved by the Department, a copy of
22 such resolution and approval of the Department shall be duly
23 filed by the Department in the Office of the Secretary of
24 State. If the association has care funds as defined in this
25 Act, the Department shall not approve the dissolution of any

1 cemetery association unless proper disposition has been made of
2 such care funds, as provided by law, and in accordance with
3 this Act. Upon the filing of the resolution of either change of
4 name or dissolution of such cemetery association in the Office
5 of the Secretary of State, such change of name or dissolution
6 of such cemetery association shall be complete. The Department
7 shall so notify the trustees of such cemetery association.
8 Thereupon the trustees shall cause a copy of such resolution of
9 either change of name or dissolution to be recorded in the
10 recorder's office of the county where the cemetery is situated.

11 Section 22-4. Cemetery association composition; board of
12 trustees. A cemetery association meeting the requirements set
13 forth in Section 22-3 of this Act shall proceed to elect from
14 their own number a board of trustees for the association. The
15 board shall consist of not less than 6 and not more than 10
16 members. The trustees, once elected, shall immediately
17 organize by electing from their own membership a president,
18 vice president, and treasurer, and shall also elect a
19 secretary, who may or may not be a member of the board of
20 trustees. The officers shall hold their respective offices for
21 and during the period of one year, and until their successors
22 are duly elected and qualified. Trustees, once elected, shall
23 divide themselves by lot into 2 classes, the first of which
24 shall hold their offices for a period of 3 years, and the
25 second of which shall hold their offices for a period of 6

1 years. Thereafter the term of office of the trustees shall be 6
2 years. Upon the expiration of the term of office of any of the
3 trustees, or the resignation or death or removal from the State
4 of Illinois of any trustees, or their removal from office as
5 provided in this Act, the remaining trustees shall fill the
6 vacancy by electing a person residing in the county where the
7 cemetery is located for a new 6-year term or, if no one can be
8 nominated, the President of the cemetery association shall
9 notify the Department of such vacancy or vacancies in writing.
10 Thereafter the Department shall fill the vacancy or vacancies
11 by appointing a suitable person or persons as trustees. In
12 making such appointments, the Department shall exercise its
13 power such that at least two-thirds of the trustees shall be
14 selected from suitable persons residing within 15 miles of the
15 cemetery, or some part thereof, and the other appointees may be
16 suitable persons interested in said cemetery association
17 through family interments or otherwise who are citizens of the
18 State of Illinois.

19 Section 22-5. Right to acquire land. Any cemetery
20 association shall have the right to acquire the necessary
21 amount of land for the use of the cemetery association. Land
22 may be acquired by purchase or by gift, and the association is
23 authorized to receive by gift or legacy any property, either
24 real, personal, or mixed, which may be donated to the
25 association to hold and keep inviolate any such property for

1 the uses of the cemetery association. A cemetery association
2 may receive and administer endowments for the care and
3 oversight of such cemetery or any part thereof. All cemetery
4 associations shall be subject to and shall comply with the
5 provisions of the other Articles of this Act unless otherwise
6 exempted by the provisions of this Act.

7 Section 22-6. Plat; plots; recordation. All cemetery
8 associations may divide and lay out into lots any real estate
9 that it may acquire. When such division takes place, the lots
10 shall be of suitable size for burial lots. A plat of any land
11 that is laid out into lots as provided in this Section shall be
12 surveyed by a licensed Illinois professional land surveyor and
13 recorded by the cemetery association in the recorder's office
14 of the county in which the cemetery association is located. The
15 cemetery association shall have the right to sell to any person
16 or persons a lot or lots in the cemetery for burial purposes
17 only, and to convey to such person or persons a lot by a proper
18 deed of conveyance. A person or persons purchasing a lot or
19 lots shall have the right to use the same for burial purposes
20 as limited by the reasonable rules of the cemetery association;
21 but no cemetery association shall make or enforce any rule
22 prohibiting the erection of any monument or headstone on any
23 lot or lots as may be prescribed or provided by the United
24 States or the State of Illinois for a soldier, sailor, or
25 marine having served and been honorably discharged from the

1 Army or Navy or Air Force of the United States or the State of
2 Illinois according to the established and written rules and
3 regulations of the cemetery.

4 Section 22-7. Funds; loans. The treasurer of a cemetery
5 association may from time to time loan money that the
6 association may have that is not needed for the immediate use
7 of the association by taking proper security for the loan, and
8 the loan and the security for the loan shall, before the loan
9 becomes effective, be approved by the board of trustees of the
10 cemetery association.

11 Section 22-8. Officer trustee compensation; salary. No
12 officer or trustee of a cemetery association shall receive any
13 compensation of any kind for any services rendered by him or
14 her on behalf of the association, except that officers and
15 trustees may be reimbursed for reasonable expenses, and the
16 secretary and treasurer of the association may receive such
17 salary as may be fixed by the board of trustees.

18 Section 22-9. Payment of earnings or dividends. No earnings
19 or dividends shall be declared or paid to any officer or other
20 person from the funds of a cemetery association. Such earnings
21 and dividends shall be kept inviolate and be used only for
22 purposes of the association and the care, preservation, and
23 ornamentation of the cemetery.

1 Section 22-10. Annual reports. The board of trustees for
2 any cemetery association that is exempt in accordance with the
3 provisions of this Act and subject to the provisions of this
4 Article shall annually prepare and file with the Department the
5 report required to be filed by a licensee under Section 20-25.
6 The Department shall examine such report to determine whether
7 the association has fully complied with the requirements of
8 this Act. If a cemetery association fails to submit an annual
9 report to the Department within the time specified in Section
10 20-25, the Department shall impose upon the cemetery
11 association a fine as provided for by rule for each and every
12 day the cemetery licensee remains delinquent in submitting the
13 report. Any fine established pursuant to this Section shall be
14 paid within 60 days after the effective date of the order
15 imposing the fine unless such time is extended, the fine is
16 reduced, or the fine is otherwise waived. The order shall
17 constitute a judgment and may be filed and execution had
18 thereon in the same manner as any judgment from any court of
19 record.

20 Section 22-11. Fees; fines. Except as otherwise provided in
21 this Act, the fees for the administration and enforcement of
22 this Article shall be set by rule of the Department. The fees
23 shall be nonrefundable.

1 Section 22-12. Deposit of fees and fines. All of the fees,
2 fines, or other moneys collected by the Department from
3 cemetery associations under this Article shall be deposited
4 into the Cemetery Oversight Licensing and Disciplinary Fund.

5 Section 22-13. Injunctive relief.

6 (a) If any cemetery association otherwise exempted under
7 the provisions of this Act violates any of the provisions of
8 this Article, the Department, any interested party, any person
9 injured thereby, the Attorney General of the State of Illinois,
10 or the State's Attorney in the county in which the offense
11 occurs may petition to the circuit court of the county in which
12 the violation or some part thereof occurred or of the county
13 where the association has its principal place of business for
14 an order enjoining the violation or for an order enforcing
15 compliance with this Act. Upon the filing of a verified
16 petition in court, the court may issue a temporary restraining
17 order, without notice or bond, and may preliminarily and
18 permanently enjoin the violation. If it is established that the
19 person has violated or is violating the injunction, the court
20 may punish the offender for contempt of court. Proceedings
21 under this Section shall be in addition to, and not in lieu of,
22 all other remedies and penalties provided by this Article.

23 (b) For misconduct in office any trustee of a cemetery
24 association may be removed from office by a court of competent
25 jurisdiction. Any trustee of an association who converts any

1 funds of an association to his or her own use or to a use other
2 than that intended shall be guilty of embezzlement as provided
3 by State law.

4 (c) All cemetery associations shall remain subject to the
5 duties, obligations, and requirements of this Act unless
6 otherwise exempted by this Act. Those cemetery associations
7 exempted under this Act shall comply with the provisions of
8 this Article.

9 Section 22-14. Rules; bond requirement.

10 (a) The board of trustees of the cemetery association may
11 make any and all rules and regulations for the management of
12 the association not inconsistent with this Article or this Act.

13 (b) The trustees of any cemetery association exempted under
14 the provisions of this Act shall obtain and maintain a bond or
15 letter of credit on behalf of the cemetery association in those
16 amounts as required for a licensee under this Act.

17 (c) Each cemetery association exempted under the
18 provisions of this Act shall maintain in force a surety bond,
19 issued by an insurance company authorized to transact fidelity
20 and surety business in the State of Illinois, or a letter of
21 credit, issued by a financial institution authorized to do
22 business in the State of Illinois. The bond or letter of credit
23 shall be for the benefit of any individual who obtains a
24 judgment from a court of competent jurisdiction based on the
25 failure of the cemetery association to fulfill the terms of any

1 contractual agreement entered into between the association and
2 any person. No action on the bond or letter of credit shall be
3 commenced more than one year after a judgment has been obtained
4 against the cemetery association from a court of competent
5 jurisdiction. The bond or letter of credit shall be in the form
6 and amount as is required from a licensee under this Act. The
7 bond or letter of credit shall be continuous in form, unless
8 terminated by the insurance company or financial institution
9 respectively. An insurance company may terminate a bond or a
10 financial institution may terminate a letter of credit and
11 avoid further liability by filing a 60-day notice of
12 termination with the Department and at the same time sending
13 the same notice to the cemetery association. The requirement to
14 maintain a bond or letter of credit by the cemetery association
15 shall be a continuing requirement while operating a cemetery by
16 the cemetery association.

17 (d) All members of the board of trustees of a cemetery
18 association which fails to maintain the bond or letter of
19 credit as required in this section shall remain jointly and
20 severally liable for damages and each shall be guilty of a
21 Class A misdemeanor for the first offense and a Class 4 felony
22 for second and subsequent offenses.

23 Section 22-15. Conveyance of property. Any cemetery
24 association organized under this Act may convey any property
25 that it may hold within a city, village, incorporated town,

1 county not under township organization, or town, to the city,
2 village, incorporated town, county, or town within which this
3 property is located and may convey any property that it may
4 hold within one mile of any city, village, or incorporated town
5 to such city, village, or incorporated town. If the city,
6 village, incorporated town, county, or town accepts the
7 conveyance, then such property shall thereafter be under the
8 control, management, maintenance, and ownership of the city,
9 village, incorporated town, county, or town.

10 Section 22-16. Grants. Any cemetery association organized
11 under this Article shall be authorized to obtain a grant or
12 grants of federal funds from the United States Government, or
13 from any proper agency thereof, for the construction of a
14 memorial gateway and entrance on property of a cemetery
15 association that is maintained as a national cemetery. Any
16 cemetery association organized under this Act shall be
17 authorized to convey in fee simple to the United States
18 Government, or to any proper agency thereof, such portion of
19 property of such cemetery as is now or may hereafter be
20 maintained as a national cemetery.

21 Section 22-17. Taxable property. The property, both real
22 and personal, of any cemetery association organized under this
23 Act shall be forever exempt from taxation for any and all
24 purposes.

1 Section 22-18. Additional property. A cemetery association
2 organized under this Act that has acquired or may hereafter
3 acquire land by purchase, deed, will, or otherwise, and has
4 platted, mapped, and used the land for cemetery purposes, may,
5 when necessary, acquire additional land adjoining or abutting
6 the cemetery.

7 Section 22-21. Administrative rules. The Department shall
8 have authority to promulgate and implement administrative
9 rules relating to all Sections under this Article. The rules
10 may include, but shall not be limited to, rules in those areas
11 relating to forms, fees, requirements, notices, discipline,
12 and any other rule necessary to properly implement the intent
13 of this Article.

14 Article 25.

15 Administration and Enforcement

16 Section 25-1. Denial of license or exemption from
17 licensure. If the Department determines that an application for
18 licensure or exemption from licensure should be denied pursuant
19 to Section 25-10, then the applicant shall be sent a notice of
20 intent to deny license or exemption from licensure and the
21 applicant shall be given the opportunity to request, within 20
22 days of the notice, a hearing on the denial. If the applicant

1 requests a hearing, then the Secretary shall schedule a hearing
2 within 30 days after the request for a hearing, unless
3 otherwise agreed to by the parties. The Secretary shall have
4 the authority to appoint an attorney duly licensed to practice
5 law in the State of Illinois to serve as the hearing officer.
6 The hearing officer shall have full authority to conduct the
7 hearing. The hearing shall be held at the time and place
8 designated by the Secretary. The Secretary shall have the
9 authority to prescribe rules for the administration of this
10 Section.

11 Section 25-3. Exemption, investigation, mediation. All
12 cemetery authorities maintaining a partial exemption must
13 submit to the following investigation and mediation procedure
14 by the Department in the event of a consumer complaint:

15 (a) Complaints to cemetery:

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

18 (2) if the complaint is not resolved, then the cemetery
19 authority shall advise the consumer of his or her right to
20 seek investigation and mediation by the Department.

21 (b) Complaints to the Department:

22 (1) if the Department receives a complaint, the
23 Department shall make an initial determination as to
24 whether the complaint has a reasonable basis and pertains
25 to this Act;

1 (2) if the Department determines that the complaint has
2 a reasonable basis and pertains to this Act, it shall
3 inform the cemetery authority of the complaint and give it
4 30 days to tender a response;

5 (3) upon receiving the cemetery authority's response,
6 or after the 30 days provided in subsection (2) of this
7 subsection, whichever comes first, the Department shall
8 attempt to resolve the complaint telephonically with the
9 parties involved;

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

13 (5) if the Department conducts an on-site
14 investigation and face-to-face mediation with the parties,
15 then it may charge the cemetery authority a single
16 investigation and mediation fee, which fee shall be set by
17 rule and shall be calculated on an hourly basis; and

18 (6) if all attempts to resolve the consumer complaint
19 as provided for in paragraphs (1) through (5) fail, then
20 the cemetery authority may be subject to proceedings for
21 penalties and discipline under this Article when it is
22 determined by the Department that the cemetery authority
23 may have engaged in any of the following: (i) gross
24 malpractice; (ii) dishonorable, unethical, or
25 unprofessional conduct of a character likely to deceive,
26 defraud, or harm the public; (iii) gross, willful, or

1 continued overcharging for services; (iv) incompetence;
2 (v) unjustified failure to honor its contracts; or (vi)
3 failure to adequately maintain its premises. The
4 Department may issue a citation or institute disciplinary
5 action and cause the matter to be prosecuted and may
6 thereafter issue and enforce its final order as provided in
7 this Act.

8 Section 25-5. Citations.

9 (a) The Department may adopt rules to permit the issuance
10 of citations for non-frivolous complaints. The citation shall
11 be issued to the licensee and shall contain the licensee's name
12 and address, the licensee's license number, a brief factual
13 statement, the Sections of the law allegedly violated, and the
14 penalty imposed. The citation must clearly state that the
15 licensee may choose, in lieu of accepting the citation, to
16 request a hearing. If the licensee does not dispute the matter
17 in the citation with the Department within 30 days after the
18 citation is served, then the citation shall become a final
19 order and shall constitute discipline. The penalty shall be a
20 fine or other conditions as established by rule.

21 (b) The Department shall adopt rules designating
22 violations for which a citation may be issued. Such rules shall
23 designate as citation violations those violations for which
24 there is no substantial threat to the public health, safety,
25 and welfare. Citations shall not be utilized if there was any

1 significant consumer harm resulting from the violation.

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

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

7 Section 25-10. Grounds for disciplinary action.

8 (a) The Department may refuse to issue or renew a license
9 or may revoke, suspend, place on probation, reprimand, or take
10 other disciplinary action as the Department may deem
11 appropriate, including imposing fines not to exceed \$10,000 for
12 each violation, with regard to any license under this Act, for
13 any one or combination of the following:

14 (1) Material misstatement in furnishing information to
15 the Department.

16 (2) Violations of this Act or of the rules promulgated
17 under this Act.

18 (3) Conviction of, or entry of a plea of guilty or nolo
19 contendere to, any crime within the last 5 years that is a
20 Class X felony or is a felony involving fraud and
21 dishonesty under the laws of the United States or any state
22 or territory thereof.

23 (4) Making any misrepresentation for the purpose of
24 obtaining licensure or violating any provision of this Act
25 or the rules promulgated under this Act.

1 (5) Professional incompetence.

2 (6) Gross malpractice.

3 (7) Aiding or assisting another person in violating any
4 provision of this Act or rules promulgated under this Act.

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

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

10 (10) Inability to practice with reasonable judgment,
11 skill, or safety as a result of habitual or excessive use
12 of alcohol, narcotics, stimulants, or any other chemical
13 agent or drug.

14 (11) Discipline by another state, District of
15 Columbia, territory, or foreign nation, if at least one of
16 the grounds for the discipline is the same or substantially
17 equivalent to those set forth in this Section.

18 (12) Directly or indirectly giving to or receiving from
19 any person, firm, corporation, partnership, or association
20 any fee, commission, rebate, or other form of compensation
21 for professional services not actually or personally
22 rendered.

23 (13) A finding by the Department that the licensee,
24 after having his or her license placed on probationary
25 status, has violated the terms of probation.

26 (14) Willfully making or filing false records or

1 reports in his or her practice, including, but not limited
2 to, false records filed with any governmental agency or
3 department.

4 (15) Inability to practice the profession with
5 reasonable judgment, skill, or safety.

6 (16) Failure to file an annual report or to maintain in
7 effect the required bond or to comply with an order,
8 decision, or finding of the Department made pursuant to
9 this Act.

10 (17) Gross, willful, or continued overcharging for
11 professional services, including filing false statements
12 for collection of fees for which services are not rendered.

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

15 (19) Fraud or misrepresentation in applying for, or
16 procuring, a license under this Act or in connection with
17 applying for renewal of a license under this Act.

18 (20) Cheating on or attempting to subvert the licensing
19 examination administered under this Act.

20 (21) Unjustified failure to honor its contracts.

21 (22) Negligent supervision of a cemetery manager,
22 customer service employee, or employee.

23 (23) A pattern of practice or other behavior which
24 demonstrates incapacity or incompetence to practice under
25 this Act.

26 (24) Allowing an independent contractor who is not

1 licensed or registered under this Act to perform work for
2 the cemetery authority.

3 (b) No action may be taken under this Act against a person
4 licensed under this Act unless the action is commenced within 5
5 years after the occurrence of the alleged violations. A
6 continuing violation shall be deemed to have occurred on the
7 date when the circumstances last existed that give rise to the
8 alleged violation.

9 Section 25-13. Independent contractors.

10 (a) Notwithstanding any provision of this Act to the
11 contrary, a cemetery authority may allow an unlicensed or
12 unregistered independent contractor, who otherwise would be
13 required to become licensed or registered, in exigent
14 circumstances only, to perform services of an emergency nature
15 on a temporary basis to prevent an immediate threat to public
16 safety that could not have been foreseen. The cemetery
17 authority may only permit an independent contractor to perform
18 such work for so long as is reasonably necessary to address the
19 emergency, but in no case longer than 10 days unless the
20 Secretary approves a longer period of time upon the cemetery
21 authority's showing of good cause. The cemetery authority shall
22 report the use of such independent contractor to the Department
23 on forms provided by the Department and according to rules
24 adopted by the Department.

25 (b) Notwithstanding any provision of this Act to the

1 contrary, a cemetery authority may allow an unlicensed or
2 unregistered independent contractor, who otherwise would be
3 required to become licensed or registered, to perform work on a
4 special project basis, and only to perform work other than the
5 following services: openings and closings of vaults and graves,
6 stone settings, inurnments, internments, entombments,
7 administrative work, handling of any official burial records,
8 and all other work that is customarily performed by one or more
9 cemetery employees before the effective date of the Act,
10 including, but not limited to, the preparation of foundations
11 for memorials and routine cemetery maintenance. For purposes of
12 this subsection, "routine cemetery maintenance" includes those
13 activities described in items (1), (2), (3), and (6) of Section
14 20-5(a) of this Act.

15 Section 25-14. Mandatory reports.

16 (a) If a cemetery authority receives a consumer complaint
17 that is not resolved to the satisfaction of the consumer within
18 60 days of the complaint, the cemetery authority shall advise
19 the consumer of the right to seek investigation by the
20 Department and shall report the consumer complaint to the
21 Department within the next 30 days. Cemetery authorities shall
22 report to the Department within 30 days after the settlement of
23 any liability insurance claim or cause of action, or final
24 judgment in any cause of action, that alleges negligence,
25 fraud, theft, misrepresentation, misappropriation, or breach

1 of contract.

2 (b) The State's Attorney of each county shall report to the
3 Department all instances in which an individual licensed as a
4 cemetery manager or customer service employee or registered as
5 a cemetery employee, or any individual listed on a licensed
6 cemetery authority's application under this Act, is convicted
7 or otherwise found guilty of the commission of any felony. The
8 report shall be submitted to the Department within 60 days
9 after conviction or finding of guilty.

10 Section 25-15. Cease and desist.

11 (a) The Secretary may issue an order to cease and desist to
12 any licensee or other person doing business without the
13 required license when, in the opinion of the Secretary, the
14 licensee or other person is violating or is about to violate
15 any provision of this Act or any rule or requirement imposed in
16 writing by the Department.

17 (b) The Secretary may issue an order to cease and desist
18 prior to a hearing and such order shall be in full force and
19 effect until a final administrative order is entered.

20 (c) The Secretary shall serve notice of his or her action,
21 designated as an order to cease and desist made pursuant to
22 this Section, including a statement of the reasons for the
23 action, either personally or by certified mail, return receipt
24 requested. Service by certified mail shall be deemed completed
25 when the notice is deposited in the United States mail and sent

1 to the address of record or, in the case of unlicensed
2 activity, the address known to the Department.

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

6 (e) The Secretary shall schedule a hearing within 30 days
7 after the request for a hearing unless otherwise agreed to by
8 the parties.

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

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

15 (h) The powers vested in the Secretary by this Section are
16 additional to any and all other powers and remedies vested in
17 the Secretary by law and nothing in this Section shall be
18 construed as requiring that the Secretary shall employ the
19 power conferred in this Section instead of or as a condition
20 precedent to the exercise of any other power or remedy vested
21 in the Secretary.

22 (i) The cost for the administrative hearing shall be set by
23 rule.

24 Section 25-25. Investigations, notice, hearings.

25 (a) The Department may at any time investigate the actions

1 of any applicant or of any person or persons rendering or
2 offering to render services as a cemetery authority, cemetery
3 manager, or customer service employee of or any person holding
4 or claiming to hold a license as a licensed cemetery authority,
5 cemetery manager, or customer service employee. If it appears
6 to the Department that a person has engaged in, is engaging in,
7 or is about to engage in any practice declared to be unlawful
8 by this Act, then the Department may: (1) require that person
9 to file on such terms as the Department prescribes a statement
10 or report in writing, under oath or otherwise, containing all
11 information the Department may consider necessary to ascertain
12 whether a licensee is in compliance with this Act, or whether
13 an unlicensed person is engaging in activities for which a
14 license is required; (2) examine under oath any individual in
15 connection with the books and records pertaining to or having
16 an impact upon the operation of a cemetery or trust funds
17 required to be maintained pursuant to this Act; (3) examine any
18 books and records of the licensee, trustee, or investment
19 advisor that the Department may consider necessary to ascertain
20 compliance with this Act; and (4) require the production of a
21 copy of any record, book, document, account, or paper that is
22 produced in accordance with this Act and retain it in his or
23 her possession until the completion of all proceedings in
24 connection with which it is produced.

25 (b) The Secretary may, after 10 days notice by certified
26 mail with return receipt requested to the licensee at the

1 address of record or to the last known address of any other
2 person stating the contemplated action and in general the
3 grounds therefor, fine such licensee an amount not exceeding
4 \$10,000 per violation or revoke, suspend, refuse to renew,
5 place on probation, or reprimand any license issued under this
6 Act if he or she finds that:

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

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

15 (c) The Secretary may fine, revoke, suspend, refuse to
16 renew, place on probation, reprimand, or take any other
17 disciplinary action as to the particular license with respect
18 to which grounds for the fine, revocation, suspension, refuse
19 to renew, probation, or reprimand, or other disciplinary action
20 occur or exist, but if the Secretary finds that grounds for
21 revocation are of general application to all offices or to more
22 than one office of the licensee, the Secretary shall fine,
23 revoke, suspend, refuse to renew, place on probation,
24 reprimand, or otherwise discipline every license to which such
25 grounds apply.

26 (d) In every case in which a license is revoked, suspended,

1 placed on probation, reprimanded, or otherwise disciplined,
2 the Secretary shall serve the licensee with notice of his or
3 her action, including a statement of the reasons for his or her
4 actions, either personally or by certified mail, return receipt
5 requested. Service by certified mail shall be deemed completed
6 when the notice is deposited in the United States mail and sent
7 to the address of record.

8 (e) An order assessing a fine, an order revoking,
9 suspending, placing on probation, or reprimanding a license or,
10 an order denying renewal of a license shall take effect upon
11 service of the order unless the licensee requests, in writing,
12 within 20 days after the date of service, a hearing. In the
13 event a hearing is requested, an order issued under this
14 Section shall be stayed until a final administrative order is
15 entered.

16 (f) If the licensee requests a hearing, then the Secretary
17 shall schedule a hearing within 30 days after the request for a
18 hearing unless otherwise agreed to by the parties. The
19 Secretary shall have the authority to appoint an attorney duly
20 licensed to practice law in the State of Illinois to serve as
21 the hearing officer in any disciplinary action with regard to a
22 license. The hearing officer shall have full authority to
23 conduct the hearing.

24 (g) The hearing shall be held at the time and place
25 designated by the Secretary.

26 (h) The Secretary shall have the authority to prescribe

1 rules for the administration of this Section.

2 (i) The cost for the administrative hearing shall be set by
3 rule.

4 (j) Fines imposed and any costs assessed shall be paid
5 within 60 days.

6 Section 25-30. Consent order. At any point in any
7 investigation or disciplinary proceeding provided for in this
8 Act, both parties may agree to a negotiated consent order. The
9 consent order shall be final upon signature of the Secretary.

10 Section 25-35. Record of proceedings; transcript. The
11 Department, at its expense, 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 Section 25-40. Subpoenas; depositions; oaths.

17 (a) The Department has the power to subpoena documents,
18 books, records, or other materials and to bring before it any
19 individual and to take testimony either orally or by
20 deposition, or both, with the same fees and mileage and in the
21 same manner as prescribed in civil cases in the courts of this
22 State.

23 (b) The Secretary and the designated hearing officer have

1 the power to administer oaths to witnesses at any hearing that
2 the Department is authorized to conduct and any other oaths
3 authorized in any Act administered by the Department.

4 (c) Every individual having taken an oath or affirmation in
5 any proceeding or matter wherein an oath is required by this
6 Act, who shall swear willfully, corruptly, and falsely in a
7 matter material to the issue or point in question, or shall
8 suborn any other individual to swear as aforesaid, shall be
9 guilty of perjury or subornation of perjury, as the case may be
10 and shall be punished as provided by State law relative to
11 perjury and subornation of perjury.

12 Section 25-45. Compelling testimony. Any circuit court,
13 upon application of the Department or designated hearing
14 officer may enter an order requiring the attendance of
15 witnesses and their testimony, and the production of documents,
16 papers, files, books, and records in connection with any
17 hearing or investigation. The court may compel obedience to its
18 order by proceedings for contempt.

19 Section 25-50. Findings and recommendations.

20 (a) At the conclusion of the hearing, the hearing officer
21 shall present to the Secretary a written report of its findings
22 of fact, conclusions of law, and recommendations. The report
23 shall contain a finding whether the accused person violated
24 this Act or its rules or failed to comply with the conditions

1 required in this Act or its rules. The hearing officer shall
2 specify the nature of any violations or failure to comply and
3 shall make his or her recommendations to the Secretary. In
4 making recommendations for any disciplinary actions, the
5 hearing officer may take into consideration all facts and
6 circumstances bearing upon the reasonableness of the conduct of
7 the accused and the potential for future harm to the public,
8 including, but not limited to, previous discipline of the
9 accused by the Department, intent, degree of harm to the public
10 and likelihood of harm in the future, any restitution made by
11 the accused, and whether the incident or incidents contained in
12 the complaint appear to be isolated or represent a continuing
13 pattern of conduct. In making its recommendations for
14 discipline, the hearing officer shall endeavor to ensure that
15 the severity of the discipline recommended is reasonably
16 related to the severity of the violation.

17 (b) The report of findings of fact, conclusions of law, and
18 recommendation of the hearing officer shall be the basis for
19 the Department's final order refusing to issue, restore, or
20 renew a license, or otherwise disciplining a licensee. If the
21 Secretary disagrees with the recommendations of the hearing
22 officer, the Secretary may issue an order in contravention of
23 the hearing officer's recommendations. The finding is not
24 admissible in evidence against the person in a criminal
25 prosecution brought for a violation of this Act, but the
26 hearing and finding are not a bar to a criminal prosecution

1 brought for a violation of this Act.

2 Section 25-55. Rehearing. At the conclusion of the
3 hearing, a copy of the hearing officer's report shall be served
4 upon the applicant, licensee, or unlicensed person by the
5 Department, either personally or as provided in this Act.
6 Within 20 days after service, the applicant or licensee may
7 present to the Department a motion in writing for a rehearing,
8 which shall specify the particular grounds for rehearing. The
9 Department may respond to the motion for rehearing within 20
10 days after its service on the Department. If no motion for
11 rehearing is filed, then upon the expiration of the time
12 specified for filing such a motion, or if a motion for
13 rehearing is denied, then upon denial, the Secretary may enter
14 a final order in accordance with recommendations of the hearing
15 officer except as provided in Section 25-60 of this Act. If the
16 applicant, licensee, or unlicensed person orders from the
17 reporting service and pays for a transcript of the record
18 within the time for filing a motion for rehearing, the 20-day
19 period within which a motion may be filed shall commence upon
20 the delivery of the transcript to the applicant or licensee.

21 Section 25-60. Secretary; rehearing. Whenever the
22 Secretary believes that substantial justice has not been done
23 in the revocation, suspension, or refusal to issue, restore, or
24 renew a license, or other discipline of an applicant or

1 licensee, he or she may order a rehearing by the same or other
2 hearing officers.

3 Section 25-65. Order or certified copy; prima facie proof.
4 An order or certified copy thereof, over the seal of the
5 Department and purporting to be signed by the Secretary, is
6 prima facie proof that:

7 (1) the signature is the genuine signature of the
8 Secretary;

9 (2) the Secretary is duly appointed and qualified; and

10 (3) the hearing officer is qualified to act.

11 Section 25-70. Receivership. In the event a cemetery
12 authority license is suspended or revoked or where an
13 unlicensed person has conducted activities requiring cemetery
14 authority licensure under this Act, the Department, through the
15 Attorney General, may petition the circuit courts of this State
16 for appointment of a receiver to administer the care funds of
17 such licensee or unlicensed person or to operate the cemetery.

18 (a) The court shall appoint a receiver if the court
19 determines that a receivership is necessary or advisable:

20 (1) to ensure the orderly and proper conduct of a
21 licensee's professional business and affairs during or in
22 the aftermath of the administrative proceeding to revoke or
23 suspend the cemetery authority's license;

24 (2) for the protection of the public's interest and

1 rights in the business, premises, or activities of the
2 person sought to be placed in receivership;

3 (3) upon a showing of actual or constructive
4 abandonment of premises or business licensed or which was
5 not but should have been licensed under this Act;

6 (4) upon a showing of serious and repeated violations
7 of this Act demonstrating an inability or unwillingness of
8 a licensee to comply with the requirements of this Act;

9 (5) to prevent loss, wasting, dissipation, theft, or
10 conversion of assets that should be marshaled and held
11 available for the honoring of obligations under this Act;
12 or

13 (6) upon proof of other grounds that the court deems
14 good and sufficient for instituting receivership action
15 concerning the respondent sought to be placed in
16 receivership.

17 (b) A receivership under this Section may be temporary, or
18 for the winding up and dissolution of the business, as the
19 Department may request and the court determines to be necessary
20 or advisable in the circumstances. Venue of receivership
21 proceedings may be, at the Department's election, in Cook
22 County or the county where the subject of the receivership is
23 located. The appointed receiver shall be the Department or such
24 person as the Department may nominate and the court shall
25 approve.

26 (c) The Department may adopt rules for the implementation

1 of this Section.

2 Section 25-75. Abandoned or neglected cemeteries;
3 clean-up. The Department of Natural Resources may develop and
4 administer a program for the purpose of cleaning up abandoned
5 or neglected cemeteries located in Illinois. Administration of
6 this program may include the Department of Natural Resources'
7 issuance of grants for that purpose to units of local
8 government, school districts, and not-for-profit associations
9 as determined by rule. If an abandoned or neglected cemetery
10 has been dedicated as an Illinois nature preserve under the
11 Illinois Natural Areas Preservation Act, any action to cause
12 the clean-up of the cemetery under the provisions of this
13 Section shall be consistent with the rules and master plan
14 governing the dedicated nature preserve.

15 Section 25-80. Surrender of license. Upon the revocation
16 or suspension of a license under this Act, the licensee shall
17 immediately surrender his or her license to the Department. If
18 the licensee fails to do so, the Department has the right to
19 seize the license.

20 Section 25-85. Inactive status.

21 (a) Any licensed manager or customer service employee or
22 registered cemetery employee who notifies the Department in
23 writing on forms prescribed by the Department as determined by

1 rule, may elect to place his or her license on an inactive
2 status and shall, subject to rules of the Department, be
3 excused from payment of renewal fees until he or she notifies
4 the Department in writing of his or her desire to resume active
5 status. Any licensed manager or registered cemetery employee
6 requesting restoration from inactive status shall pay the
7 current renewal fee and meet requirements as provided by rule.
8 Any licensee whose license is in inactive status shall not
9 practice in the State of Illinois.

10 (b) A cemetery authority license may only go on inactive
11 status by following the provisions for dissolution set forth in
12 Section 10-50 or transfer in Section 10-45.

13 Section 25-90. Restoration of license from discipline. At
14 any time after the successful completion of a term of
15 indefinite probation, suspension, or revocation of a license,
16 the Department may restore the license to the licensee, unless
17 after an investigation and a hearing the Secretary determines
18 that restoration is not in the public interest.

19 Section 25-95. Administrative review; venue.

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

24 (b) Proceedings for judicial review shall be commenced in

1 the circuit court of the county in which the party applying for
2 review resides, but if the party is not a resident of Illinois,
3 the venue shall be in Sangamon County.

4 Section 25-100. Certifications of record; costs. The
5 Department shall not be required to certify any record to the
6 court, to file an answer in court, or to otherwise appear in
7 any court in a judicial review proceeding unless and until the
8 Department has received from the plaintiff payment of the costs
9 of furnishing and certifying the record, which costs shall be
10 determined by the Department. Failure on the part of the
11 plaintiff to file the receipt in court is grounds for dismissal
12 of the action.

13 Section 25-105. Violations. Any person who is found to
14 have violated any provision of this Act or any applicant for
15 licensure who files with the Department the fingerprints of an
16 individual other than himself or herself is guilty of a Class A
17 misdemeanor. Upon conviction of a second or subsequent offense
18 the violator shall be guilty of a Class 4 felony. However,
19 whoever intentionally fails to deposit the required amounts
20 into a trust provided for in this Act or intentionally and
21 improperly withdraws or uses trust funds for his or her own
22 benefit shall be guilty of a Class 4 felony and each day such
23 provisions are violated shall constitute a separate offense.

1 Section 25-110. Civil action and civil penalties. In
2 addition to the other penalties and remedies provided in this
3 Act, the Department may bring a civil action in the county in
4 which the cemetery is located against a licensee or any other
5 person to enjoin any violation or threatened violation of this
6 Act. In addition to any other penalty provided by law, any
7 person who violates this Act shall forfeit and pay a civil
8 penalty to the Department in an amount not to exceed \$10,000
9 for each violation as determined by the Department. The civil
10 penalty shall be assessed by the Department in accordance with
11 the provisions of this Act. Any civil penalty shall be paid
12 within 60 days after the effective date of the order imposing
13 the civil penalty. The order shall constitute a judgment and
14 may be filed and execution had thereon in the same manner as
15 any judgment from any court of record. All moneys collected
16 under this Section shall be deposited into the Cemetery
17 Oversight Licensing and Disciplinary Fund.

18 Section 25-115. Illinois Administrative Procedure Act;
19 application. The Illinois Administrative Procedure Act is
20 expressly adopted and incorporated in this Act as if all of the
21 provisions of that Act were included in this Act, except that
22 the provision of paragraph (d) of Section 10-65 of the Illinois
23 Administrative Procedure Act, which provides that at hearings
24 the licensee has the right to show compliance with all lawful
25 requirements for retention or continuation or renewal of the

1 license, is specifically excluded. For the purpose of this Act,
2 the notice required under Section 10-25 of the Illinois
3 Administrative Procedure Act is considered sufficient when
4 mailed to the address of record.

5 Section 25-120. Whistleblower protection.

6 (a) "Retaliatory action" means the reprimand, discharge,
7 suspension, demotion, denial of promotion or transfer, or
8 change in the terms and conditions of employment of any
9 cemetery manager or registered cemetery employee that is taken
10 in retaliation for a cemetery manager's, customer service
11 employee's, or registered cemetery employee's involvement in
12 protected activity, as set forth in this Section.

13 (b) A cemetery authority shall not take any retaliatory
14 action against a cemetery manager, customer service employee,
15 or registered cemetery employee because the cemetery manager,
16 customer service employee, or registered cemetery employee
17 does any of the following:

18 (1) Discloses or threatens to disclose to a supervisor
19 or to a public body an activity, policy, or practice of a
20 cemetery manager, customer service employee, or the
21 cemetery authority that the cemetery manager or cemetery
22 employee reasonably believes is in violation of a law,
23 rule, or regulation.

24 (2) Provides information to or testifies before any
25 public body conducting an investigation, hearing, or

1 inquiry into any violation of a law, rule, or regulation by
2 a cemetery manager or cemetery authority.

3 (3) Assists or participates in a proceeding to enforce
4 the provisions of this Act.

5 (c) A violation of this Section may be established only
6 upon a finding that (i) the cemetery manager, customer service
7 employee, or registered cemetery employee engaged in conduct
8 described in subsection (b) of this Section and (ii) that this
9 conduct was a contributing factor in the retaliatory action
10 alleged by the cemetery manager, customer service employee, or
11 registered cemetery employee. It is not a violation, however,
12 if it is demonstrated by clear and convincing evidence that the
13 cemetery manager or cemetery authority would have taken the
14 same unfavorable personnel action in the absence of that
15 conduct.

16 (d) The cemetery manager, customer service employee, or
17 registered cemetery employee may be awarded all remedies
18 necessary to make the cemetery manager or registered cemetery
19 employee whole and to prevent future violations of this
20 Section. Remedies imposed by the court may include, but are not
21 limited to, all of the following:

22 (1) reinstatement of the employee to either the same
23 position held before the retaliatory action or to an
24 equivalent position;

25 (2) two times the amount of back pay;

26 (3) interest on the back pay;

1 (4) the reinstatement of full fringe benefits and
2 seniority rights; and

3 (5) the payment of reasonable costs and attorneys'
4 fees.

5 (e) Nothing in this Section shall be deemed to diminish the
6 rights, privileges, or remedies of a cemetery manager, customer
7 service employee, or registered cemetery employee under any
8 other federal or State law, rule, or regulation or under any
9 employment contract.

10 Section 25-125. Cemetery Oversight Board. The Cemetery
11 Oversight Board is created and shall consist of the Secretary,
12 who shall serve as its chairperson, and 7 members appointed by
13 the Secretary. Appointments shall be made within 90 days after
14 the effective date of this Act. Three members shall represent
15 the segment of the cemetery industry that does not maintain a
16 partial exemption or full exemption, one member shall represent
17 the segment of the cemetery industry that maintains a partial
18 exemption, 2 members shall be consumers as defined in this Act,
19 and one member shall represent the general public. No member
20 shall be a licensed professional from a non-cemetery segment of
21 the death care industry. Board members shall serve 5-year terms
22 and until their successors are appointed and qualified. The
23 membership of the Board should reasonably reflect
24 representation from the geographic areas in this State. No
25 member shall be reappointed to the Board for a term that would

1 cause his or her continuous service on the Board to be longer
2 than 10 successive years. Appointments to fill vacancies shall
3 be made in the same manner as original appointments, for the
4 unexpired portion of the vacated term. Five members of the
5 Board shall constitute a quorum. A quorum is required for Board
6 decisions. The Secretary may remove any member of the Board for
7 misconduct, incompetence, neglect of duty, or for reasons
8 prescribed by law for removal of State officials. The Secretary
9 may remove a member of the Board who does not attend 2
10 consecutive meetings. The Department may, at any time, seek the
11 expert advice and knowledge of the Board on any matter relating
12 to the administration or enforcement of this Act. The Secretary
13 shall consider the recommendations of the Board in the
14 development of proposed rules under this Act and for
15 establishing guidelines and examinations as may be required
16 under this Act. Notice of any proposed rulemaking under this
17 Act shall be transmitted to the Board and the Department shall
18 review the response of the Board and any recommendations made
19 therein.

20 Article 35.

21 Consumer Bill of Rights

22 Section 35-5. Penalties. Cemetery authorities shall
23 respect the rights of consumers of cemetery products and
24 services as put forth in this Article. Failure to abide by the

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

5 Section 35-10. Consumer privileges.

6 (a) The record required under this Section shall be open to
7 public inspection consistent with State and federal law. The
8 cemetery authority shall make available, consistent with State
9 and federal law, a true copy of the record upon written request
10 and payment of reasonable copy costs. At the time of the
11 interment, entombment, or inurnment, the cemetery authority
12 shall provide the record of the deceased's name and date of
13 burial to the person who would have authority to dispose of the
14 decedent's remains under the Disposition of Remains Act.

15 (b) Consumers have the right to purchase merchandise or
16 services directly from the cemetery authority when available or
17 through a third-party vendor of the consumer's choice without
18 incurring a penalty or additional charge by the cemetery
19 authority; provided, however, that consumers do not have the
20 right to purchase types of merchandise that would violate
21 applicable law or the cemetery authority's rules and
22 regulations

23 (c) Consumers have the right to complain to the cemetery
24 authority or to the Department regarding cemetery-related
25 products and services as well as issues with customer service,

1 maintenance, or other cemetery activities. Complaints may be
2 brought by a consumer or the consumer's agent appointed for
3 that purpose.

4 Section 35-15. Cemetery duties.

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

16 (b) A contract for the interment, inurnment, or entombment
17 of human remains must be signed by both parties: the consumer
18 and the cemetery authority or its representative. Before a
19 contract is signed, the prices for the purchased services and
20 merchandise must be disclosed on the contract and in plain
21 language. If a contract is for a term burial, the term must be
22 in bold print and discussed with the consumer. Any contract for
23 the sale of a burial plot, when designated, must disclose the
24 exact location of the burial plot based on the survey of the
25 cemetery plat on file with the Department.

1 (c) A cemetery authority that has the legal right to extend
2 a term burial shall, prior to disinterment, provide the family
3 or other authorized agent under the Disposition of Remains Act
4 the opportunity to extend the term of a term burial for the
5 cost as stated on the cemetery authority's current price list.
6 Regardless of whether the family or other authorized agent
7 chooses to extend the term burial, the cemetery authority
8 shall, prior to disinterment, provide notice to the family or
9 other authorized agent under the Disposition of Remains Act of
10 the cemetery authority's intention to disinter the remains and
11 to inter different human remains in that space.

12 (d) If any rules or regulations, including the operational
13 or maintenance requirements, of a cemetery change after the
14 date a contract is signed for the purchase of cemetery-related
15 or funeral-related products or services, the cemetery may not
16 require the consumer, purchaser, or such individual's relative
17 or representative to purchase any merchandise or service not
18 included in the original contract or in the rules and
19 regulations in existence when the contract was entered unless
20 the purchase is reasonable and not overly burdensome on the
21 consumer or required to make the cemetery authority compliant
22 with applicable law.

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

26 (f) The cemetery authority shall notify the consumer of the

1 existence of green burial and crematory disposition options if
2 the cemetery authority offers green disposition services or
3 products. The Department may promulgate rules regarding green
4 burial certification, green cremation products and methods,
5 and consumer education.

6 (g) The contractual requirements contained in this Section
7 only apply to contracts executed after the effective date of
8 this Act.

9 Article 75.

10 Administrative Provisions

11 Section 75-5. Conflict of interest. No investigator may
12 hold an active license issued pursuant to this Act, nor may an
13 investigator have a financial interest in a business licensed
14 under this Act. Any individual licensed under this Act who is
15 employed by the Department shall surrender his or her license
16 to the Department for the duration of that employment. The
17 licensee shall be exempt from all renewal fees while employed.

18 Section 75-15. Civil Administrative Code. The Department
19 shall exercise the powers and duties prescribed by the Civil
20 Administrative Code of Illinois and shall exercise all other
21 powers and duties set forth in this Act.

22 Section 75-20. Rules. The Department may promulgate rules

1 for the administration and enforcement of this Act. The rules
2 shall include standards for licensure, professional conduct,
3 and discipline.

4 Section 75-25. Home rule. The regulation and licensing as
5 provided for in this Act are exclusive powers and functions of
6 the State. A home rule unit may not regulate or license
7 cemetery authorities, cemetery managers, customer service
8 employees, registered cemetery employees, or any activities
9 relating to the operation of a cemetery. This Section is a
10 denial and limitation of home rule powers and functions under
11 subsection (h) of Section 6 of Article VII of the Illinois
12 Constitution.

13 Section 75-35. Roster. The Department shall, upon request
14 and payment of the required fee, provide a list of the names
15 and business addresses of all licensees under this Act.

16 Section 75-45. Fees. The Department shall by rule provide
17 for fees for the administration and enforcement of this Act,
18 and those fees are nonrefundable. All of the fees and fines
19 collected under this Act shall be deposited into the Cemetery
20 Oversight Licensing and Disciplinary Fund and be appropriated
21 to the Department for the ordinary and contingent expenses of
22 the Department in the administration and enforcement of this
23 Act.

1 Section 75-50. Burial permits. Notwithstanding any law to
2 the contrary, a cemetery authority shall ensure that every
3 burial permit applicable to that cemetery authority contains
4 the decedent's permanent parcel identification number or other
5 information as provided by rule regarding the location of the
6 interment, entombment, or inurnment of the deceased that would
7 enable the Department to determine the precise location of the
8 decedent.

9 Section 75-55. Transition.

10 (a) Within 60 days after the effective date of this Act,
11 the Comptroller shall provide the Department copies of records
12 in the Comptroller's possession pertaining to the Cemetery Care
13 Act and the Crematory Regulation Act that are necessary for the
14 Department's immediate responsibilities under this Act. All
15 other records pertaining to the Cemetery Care Act and the
16 Crematory Regulation Act shall be transferred to the Department
17 by July 1, 2011. In the case of records that pertain both to
18 the administration of the Cemetery Care Act or the Crematory
19 Regulation Act and to a function retained by the Comptroller,
20 the Comptroller, in consultation with the Department, shall
21 determine, within 60 days after the repeal of the Cemetery Care
22 Act, whether the records shall be transferred, copied, or left
23 with the Comptroller; until this determination has been made
24 the transfer shall not occur.

1 (b) A person licensed under one of the Acts listed in
2 subsection (a) of this Section or regulated under the Cemetery
3 Association Act shall continue to comply with the provisions of
4 those Acts until such time as the person is licensed under this
5 Act or those Acts are repealed or the amendatory changes made
6 by this amendatory Act of the 96th General Assembly take
7 effect, as the case may be, whichever is earlier.

8 (c) To support the costs that may be associated with
9 implementing and maintaining a licensure and regulatory
10 process for the licensure and regulation of cemetery
11 authorities, cemetery managers, customer service employees,
12 and registered cemetery employees, all cemetery authorities
13 not maintaining a full exemption or partial exemption shall pay
14 a one-time fee of \$20 to the Department plus an additional
15 charge of \$1 per burial unit per year within the cemetery. The
16 Department may establish forms for the collection of the fee
17 established under this subsection and shall deposit such fee
18 into the Cemetery Oversight Licensing and Disciplinary Fund.
19 The Department may begin to collect the aforementioned fee
20 after the effective date of this Act. In addition, the
21 Department may establish rules for the collection process,
22 which may include, but shall not be limited to, dates, forms,
23 enforcement, or other procedures necessary for the effective
24 collection, deposit, and overall process regarding this
25 Section.

26 (d) Any cemetery authority that fails to pay to the

1 Department the required fee or submits the incorrect amount
2 shall be subject to the penalties provided for in Section
3 25-110 of this Act.

4 (e) Except as otherwise specifically provided, all fees,
5 fines, penalties, or other moneys received or collected
6 pursuant to this Act shall be deposited in the Cemetery
7 Oversight Licensing and Disciplinary Fund.

8 (f) All proportionate funds held in the Comptroller's
9 Administrative Fund related to unexpended moneys collected
10 under the Cemetery Care Act and the Crematory Regulation Act
11 shall be transferred to the Cemetery Oversight Licensing and
12 Disciplinary Fund within 60 days after the effective date of
13 the repeal of the Cemetery Care Act.

14 (g) Personnel employed by the Comptroller on June 30, 2011,
15 to perform the duties pertaining to the administration of the
16 Cemetery Care Act and the Crematory Regulation Act, are
17 transferred to the Department on July 1, 2011.

18 The rights of State employees, the State, and its agencies
19 under the Comptroller Merit Employment Code and applicable
20 collective bargaining agreements and retirement plans are not
21 affected under this Act, except that all positions transferred
22 to the Department shall be subject to the Personnel Code
23 effective July 1, 2011.

24 All transferred employees who are members of collective
25 bargaining units shall retain their seniority, continuous
26 service, salary, and accrued benefits. During the pendency of

1 the existing collective bargaining agreement, the rights
2 provided for under that agreement shall not be abridged.

3 The Department shall continue to honor during their
4 pendency all bargaining agreements in effect at the time of the
5 transfer and to recognize all collective bargaining
6 representatives for the employees who perform or will perform
7 functions transferred by this Act. For all purposes with
8 respect to the management of the existing agreement and the
9 negotiation and management of any successor agreements, the
10 Department shall be deemed the employer of employees who
11 perform or will perform functions transferred to the Department
12 by this Act.

13 Article 90.

14 Amendatory Provisions and Repeals

15 Section 90-1. The Regulatory Sunset Act is amended by
16 adding Section 8.31 as follows:

17 (5 ILCS 80/8.31 new)

18 Sec. 8.31. Acts repealed on January 1, 2021. The following
19 Acts are repealed on January 1, 2021:

20 The Crematory Regulation Act.

21 The Cemetery Oversight Act.

22 Section 90-5. The Human Skeletal Remains Protection Act is

1 amended by changing Section 1 as follows:

2 (20 ILCS 3440/1) (from Ch. 127, par. 2661)

3 Sec. 1. Definitions. For the purposes of this Act:

4 (a) "Human skeletal remains" include the bones and
5 decomposed fleshy parts of a deceased human body.

6 (b) "Unregistered graves" are any graves or locations where
7 a human body has been buried or deposited; is over 100 years
8 old; and is not in a cemetery under the authority of the
9 Illinois Department of Financial and Professional Regulation
10 pursuant to the Cemetery Oversight Act ~~registered with the~~
11 ~~State Comptroller under the Cemetery Care Act.~~

12 (c) "Grave artifacts" are any item of human manufacture or
13 use that is associated with the human skeletal remains in an
14 unregistered grave.

15 (d) "Grave markers" are any tomb, monument, stone,
16 ornament, mound, or other item of human manufacture that is
17 associated with an unregistered grave.

18 (e) "Person" means any natural individual, firm, trust,
19 estate, partnership, association, joint stock company, joint
20 venture, corporation or a receiver, trustee, guardian or other
21 representatives appointed by order of any court, the Federal
22 and State governments, including State Universities created by
23 statute or any city, town, county or other political
24 subdivision of this State.

25 (f) "Disturb" includes excavating, removing, exposing,

1 defacing, mutilating, destroying, molesting, or desecrating in
2 any way human skeletal remains, unregistered graves, and grave
3 markers.

4 (Source: P.A. 86-151.)

5 Section 90-10. The State Finance Act is amended by adding
6 Section 5.755 as follows:

7 (30 ILCS 105/5.755 new)

8 Sec. 5.755. The Cemetery Oversight Licensing and
9 Disciplinary Fund.

10 Section 90-25. The Crematory Regulation Act is amended by
11 changing Sections 5, 10, 11, 11.5, 13, 20, 22, 25, 40, 55, 60,
12 62, 62.5, 62.10, 62.15, 62.20, 65, 80, and 100 and by adding
13 Sections 7, 85, 87, 88, 89, 90, 91, 92, 93, 94, 95, 105, 115,
14 120, 125, 130, 140, 150, 160, and 170, and by repealing Section
15 12 as follows:

16 (410 ILCS 18/5)

17 Sec. 5. Definitions. As used in this Act:

18 "Address of record" means the designated address recorded
19 by the Department in the applicant's or licensee's application
20 file or license file. It is the duty of the applicant or
21 licensee to inform the Department of any change of address
22 within 14 days, and such changes must be made either through

1 the Department's website or by contacting the Department's
2 licensure maintenance unit. The address of record shall be the
3 permanent street address of the crematory.

4 "Alternative container" means a receptacle, other than a
5 casket, in which human remains are transported to the crematory
6 and placed in the cremation chamber for cremation. An
7 alternative container shall be (i) composed of readily
8 combustible materials suitable for cremation, (ii) able to be
9 closed in order to provide a complete covering for the human
10 remains, (iii) resistant to leakage or spillage, (iv) rigid
11 enough for handling with ease, and (v) able to provide
12 protection for the health, safety, and personal integrity of
13 crematory personnel.

14 "Authorizing agent" means a person legally entitled to
15 order the cremation and final disposition of specific human
16 remains.

17 "Body parts" means limbs or other portions of the anatomy
18 that are removed from a person or human remains for medical
19 purposes during treatment, surgery, biopsy, autopsy, or
20 medical research; or human bodies or any portion of bodies that
21 have been donated to science for medical research purposes.

22 "Burial transit permit" means a permit for disposition of a
23 dead human body as required by Illinois law.

24 "Casket" means a rigid container that is designed for the
25 encasement of human remains, is usually constructed of wood,
26 metal, or like material and ornamented and lined with fabric,

1 and may or may not be combustible.

2 ~~"Change of ownership" means a transfer of more than 50% of~~
3 ~~the stock or assets of a crematory authority.~~

4 "Comptroller" means the Comptroller of the State of
5 Illinois.

6 "Cremated remains" means all human remains recovered after
7 the completion of the cremation, which may possibly include the
8 residue of any foreign matter including casket material,
9 bridgework, or eyeglasses, that was cremated with the human
10 remains.

11 "Cremation" means the technical process, using heat and
12 flame, that reduces human remains to bone fragments. The
13 reduction takes place through heat and evaporation. Cremation
14 shall include the processing, and may include the
15 pulverization, of the bone fragments.

16 "Cremation chamber" means the enclosed space within which
17 the cremation takes place.

18 "Cremation interment container" means a rigid outer
19 container that, subject to a cemetery's rules and regulations,
20 is composed of concrete, steel, fiberglass, or some similar
21 material in which an urn is placed prior to being interred in
22 the ground, and which is designed to withstand prolonged
23 exposure to the elements and to support the earth above the
24 urn.

25 "Cremation room" means the room in which the cremation
26 chamber is located.

1 "Crematory" means the building or portion of a building
2 that houses the cremation room and the holding facility.

3 "Crematory authority" means the legal entity which is
4 licensed by the Department ~~Comptroller~~ to operate a crematory
5 and to perform cremations.

6 "Department" means the Illinois Department of Financial
7 and Professional Regulation ~~Illinois Department of Public~~
8 ~~Health~~.

9 "Final disposition" means the burial, cremation, or other
10 disposition of a dead human body or parts of a dead human body.

11 "Funeral director" means a person known by the title of
12 "funeral director", "funeral director and embalmer", or other
13 similar words or titles, licensed by the State to practice
14 funeral directing or funeral directing and embalming.

15 "Funeral establishment" means a building or separate
16 portion of a building having a specific street address and
17 location and devoted to activities relating to the shelter,
18 care, custody, and preparation of a deceased human body and may
19 contain facilities for funeral or wake services.

20 "Holding facility" means an area that (i) is designated for
21 the retention of human remains prior to cremation, (ii)
22 complies with all applicable public health law, (iii) preserves
23 the health and safety of the crematory authority personnel, and
24 (iv) is secure from access by anyone other than authorized
25 persons. A holding facility may be located in a cremation room.

26 "Human remains" means the body of a deceased person,

1 including any form of body prosthesis that has been permanently
2 attached or implanted in the body.

3 "Licensee" means an entity licensed under this Act. An
4 entity that holds itself as a licensee or that is accused of
5 unlicensed practice is considered a licensee for purposes of
6 enforcement, investigation, hearings, and the Illinois
7 Administrative Procedure Act.

8 "Niche" means a compartment or cubicle for the
9 memorialization and permanent placement of an urn containing
10 cremated remains.

11 "Person" means any person, partnership, association,
12 corporation, limited liability company, or other entity, and in
13 the case of any such business organization, its officers,
14 partners, members, or shareholders possessing 25% or more of
15 ownership of the entity.

16 "Processing" means the reduction of identifiable bone
17 fragments after the completion of the cremation process to
18 unidentifiable bone fragments by manual or mechanical means.

19 "Pulverization" means the reduction of identifiable bone
20 fragments after the completion of the cremation process to
21 granulated particles by manual or mechanical means.

22 "Scattering area" means an area which may be designated by
23 a cemetery and located on dedicated cemetery property where
24 cremated remains, which have been removed from their container,
25 can be mixed with, or placed on top of, the soil or ground
26 cover.

1 "Secretary" means the Secretary of Financial and
2 Professional Regulation.

3 "Temporary container" means a receptacle for cremated
4 remains, usually composed of cardboard, plastic or similar
5 material, that can be closed in a manner that prevents the
6 leakage or spillage of the cremated remains or the entrance of
7 foreign material, and is a single container of sufficient size
8 to hold the cremated remains until an urn is acquired or the
9 cremated remains are scattered.

10 "Urn" means a receptacle designed to encase the cremated
11 remains.

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

13 (410 ILCS 18/7 new)

14 Sec. 7. Powers and duties of the Department. Subject to the
15 provisions of this Act, the Department may exercise any of the
16 following powers and duties:

17 (1) Authorize standards to ascertain the
18 qualifications and fitness of applicants for licensing as
19 licensed crematory authorities and pass upon the
20 qualifications of applicants for licensure.

21 (2) Examine and audit a licensed crematory authority's
22 records, crematory, or any other aspects of crematory
23 operation as the Department deems appropriate.

24 (3) Investigate any and all unlicensed activity.

25 (4) Conduct hearings on proceedings to refuse to issue

1 licenses or to revoke, suspend, place on probation,
2 reprimand, or otherwise discipline licensees and to refuse
3 to issue licenses or to revoke, suspend, place on
4 probation, reprimand, or otherwise discipline licensees.

5 (5) Formulate rules required for the administration of
6 this Act.

7 (6) Maintain rosters of the names and addresses of all
8 licensees, and all entities whose licenses have been
9 suspended, revoked, or otherwise disciplined. These
10 rosters shall be available upon written request and payment
11 of the required fee as established by rule.

12 (410 ILCS 18/10)

13 Sec. 10. Establishment of crematory and licensing of
14 crematory authority.

15 (a) Any person doing business in this State, or any
16 cemetery, funeral establishment, corporation, partnership,
17 joint venture, voluntary organization or any other entity, may
18 erect, maintain, and operate a crematory in this State and
19 provide the necessary appliances and facilities for the
20 cremation of human remains in accordance with this Act.

21 (b) A crematory shall be subject to all local, State, and
22 federal health and environmental protection requirements and
23 shall obtain all necessary licenses and permits from the
24 Department of Financial and Professional Regulation, the
25 Department of Public Health, the federal Department of Health

1 and Human Services, and the Illinois and federal Environmental
2 Protection Agencies, or such other appropriate local, State, or
3 federal agencies.

4 (c) A crematory may be constructed on or adjacent to any
5 cemetery, on or adjacent to any funeral establishment, or at
6 any other location consistent with local zoning regulations.

7 (d) An application for licensure as a crematory authority
8 shall be in writing on forms furnished by the Department
9 ~~Comptroller~~. Applications shall be accompanied by a reasonable
10 fee determined by rule ~~of \$50~~ and shall contain all of the
11 following:

12 (1) The full name and address, both residence and
13 business, of the applicant if the applicant is an
14 individual; the full name and address of every member if
15 the applicant is a partnership; the full name and address
16 of every member of the board of directors if the applicant
17 is an association; and the name and address of every
18 officer, director, and shareholder holding more than 25% of
19 the corporate stock if the applicant is a corporation.

20 (2) The address and location of the crematory.

21 (3) A description of the type of structure and
22 equipment to be used in the operation of the crematory,
23 including the operating permit number issued to the
24 cremation device by the Illinois Environmental Protection
25 Agency.

26 ~~(3.5) Attestation by the owner that cremation services~~

1 ~~shall be by a person trained in accordance with the~~
2 ~~requirements of Section 22 of this Act.~~

3 ~~(3.10) A copy of the certification or certifications~~
4 ~~issued by the certification program to the person or~~
5 ~~persons who will operate the cremation device.~~

6 (4) Any further information that the Department
7 ~~Comptroller~~ reasonably may require as established by rule.

8 (e) Each crematory authority shall file an annual report
9 with the Department Comptroller, accompanied with a reasonable
10 ~~\$25~~ fee determined by rule, providing (i) an affidavit signed
11 by the owner of the crematory authority that at the time of the
12 report the cremation device was in proper operating condition,
13 (ii) the total number of all cremations performed at the
14 crematory during the past year, (iii) attestation by the
15 licensee that all applicable permits and certifications are
16 valid, ~~and~~ (iv) either (A) any changes required in the
17 information provided under subsection (d) or (B) an indication
18 that no changes have occurred, and (v) any other information
19 that the Department may require as established by rule. The
20 annual report shall be filed by a crematory authority on or
21 before March 15 of each calendar year, ~~in the Office of the~~
22 ~~Comptroller. If the fiscal year of a crematory authority is~~
23 ~~other than on a calendar year basis, then the crematory~~
24 ~~authority shall file the report required by this Section within~~
25 ~~75 days after the end of its fiscal year. The Comptroller~~
26 ~~shall, for good cause shown, grant an extension for the filing~~

1 ~~of the annual report upon the written request of the crematory~~
2 ~~authority. An extension shall not exceed 60 days. If the fiscal~~
3 ~~year of a crematory authority is other than on a calendar year~~
4 ~~basis, then the crematory authority shall file the report~~
5 ~~required by this Section within 75 days after the end of its~~
6 ~~fiscal year.~~ If a crematory authority fails to submit an annual
7 report to the Department ~~Comptroller~~ within the time specified
8 in this Section, the Department ~~Comptroller~~ shall impose upon
9 the crematory authority a penalty as provided for by rule ~~of \$5~~
10 for each and every day the crematory authority remains
11 delinquent in submitting the annual report. The Department
12 ~~Comptroller~~ may abate all or part of the ~~\$5 daily~~ penalty for
13 good cause shown.

14 (f) All records required to be maintained under this Act,
15 including but not limited to those relating to the license and
16 annual report of the crematory authority required to be filed
17 under this Section, shall be subject to inspection by the
18 Comptroller upon reasonable notice.

19 (g) The Department ~~Comptroller~~ may inspect crematory
20 records at the crematory authority's place of business to
21 review the licensee's compliance with this Act. The inspection
22 must include verification that:

23 (1) the crematory authority has complied with
24 record-keeping requirements of this Act;

25 (2) a crematory device operator's certification of
26 training is conspicuously displayed at the crematory;

1 (3) the cremation device has a current operating permit
2 issued by the Illinois Environmental Protection Agency and
3 the permit is conspicuously displayed in the crematory;

4 (4) the crematory authority is in compliance with local
5 zoning requirements; and

6 (5) the crematory authority license issued by the
7 Department Comptroller is conspicuously displayed at the
8 crematory.

9 (6) other details as determined by rule.

10 (h) The Department Comptroller shall issue licenses under
11 this Act to the crematories that are registered with the
12 Comptroller as of March 15, 2010 ~~July 1, 2003~~ without requiring
13 the previously registered crematories to complete license
14 applications.

15 (Source: P.A. 92-419, eff. 1-1-02; 92-675, eff. 7-1-03.)

16 (410 ILCS 18/11)

17 Sec. 11. Grounds for denial or discipline ~~refusal of~~
18 ~~license or suspension or revocation of license.~~

19 (a) In this Section, "applicant" means a person who has
20 applied for a license under this Act including those persons
21 whose names are listed on a license application in Section 10
22 of this Act.

23 (b) The Department Comptroller may refuse to issue a
24 license, place on probation, reprimand, or take other
25 disciplinary action that the Department may deem appropriate,

1 including imposing fines not to exceed \$10,000 for each
2 violation, with regard to any a license under this Act, or may
3 suspend or revoke a license issued under this Act, on any of
4 the following grounds:

5 (1) The applicant or licensee has made any
6 misrepresentation or false statement or concealed any
7 material fact in furnishing information to the Department
8 ~~connection with a license application or licensure under~~
9 ~~this Act.~~

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

12 (3) The applicant or licensee has refused to give
13 information required under this Act to be disclosed to the
14 Department or failing, within 30 days, to provide
15 information in response to a written request made by the
16 Department ~~Comptroller.~~

17 (4) Engaging in dishonorable, unethical, or
18 unprofessional conduct of a character likely to deceive,
19 defraud, or harm the public. ~~The applicant or licensee has~~
20 ~~conducted or is about to conduct cremation business in a~~
21 ~~fraudulent manner.~~

22 (5) As to any individual listed in the license
23 application as required under Section 10, that individual
24 has conducted or is about to conduct any cremation business
25 on behalf of the applicant in a fraudulent manner or has
26 been convicted of any felony or misdemeanor an essential

1 element of which is fraud.

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

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

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

19 (9) Any violation of this Act or of the rules adopted
20 under this Act.

21 (10) Incompetence.

22 (11) Gross malpractice.

23 (12) Discipline by another state, District of
24 Columbia, territory, or foreign nation, if at least one of
25 the grounds for the discipline is the same or substantially
26 equivalent to those set forth in this Section.

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

6 (14) A finding by the Department that the licensee,
7 after having its license placed on probationary status, has
8 violated the terms of probation.

9 (15) Willfully making or filing false records or
10 reports, including, but not limited to, false records filed
11 with State agencies or departments.

12 (16) Gross, willful, or continued overcharging for
13 professional services, including filing false statements
14 for collection of fees for which services are not rendered.

15 (17) Practicing under a false or, except as provided by
16 law, an assumed name.

17 (18) Cheating on or attempting to subvert this Act's
18 licensing application process.

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

20 (410 ILCS 18/11.5)

21 Sec. 11.5. License revocation or suspension; surrender of
22 license.

23 (a) (Blank). ~~Upon determining that grounds exist for the~~
24 ~~revocation or suspension of a license issued under this Act,~~
25 ~~the Comptroller, if appropriate, may revoke or suspend the~~

1 ~~license issued to the licensee.~~

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

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

7 (410 ILCS 18/13)

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

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

14 (b) After initial licensure, if any person comes to obtain
15 at least 25% of the ownership over the licensed crematory
16 authority, then the crematory authority shall have to apply for
17 a new license and receive licensure in the required time as set
18 out by rule. ~~No license is transferable or assignable without~~
19 ~~the express written consent of the Comptroller. A transfer of~~
20 ~~more than 50% of the ownership of any business licensed under~~
21 ~~this Act shall be deemed to be an attempted assignment of the~~
22 ~~license originally issued to the licensee for whom consent of~~
23 ~~the Comptroller is required.~~

24 (c) Every license issued under this Act shall remain in
25 force until it has been surrendered, suspended, or revoked in

1 accordance with this Act. Upon the request of an interested
2 person or on the Department's ~~Comptroller's~~ own motion, the
3 Department ~~Comptroller~~ may issue a new license to a licensee
4 whose license has been revoked under this Act if no factor or
5 condition then exists which would have warranted the Department
6 ~~Comptroller~~ in originally refusing the issuance of the license.
7 (Source: P.A. 92-675, eff. 7-1-03.)

8 (410 ILCS 18/20)

9 Sec. 20. Authorization to cremate.

10 (a) A crematory authority shall not cremate human remains
11 until it has received all of the following:

12 (1) A cremation authorization form signed by an
13 authorizing agent. The cremation authorization form shall
14 be provided by the crematory authority and shall contain,
15 at a minimum, the following information:

16 (A) The identity of the human remains and the time
17 and date of death.

18 (B) The name of the funeral director and ~~or~~ funeral
19 establishment, if applicable, that obtained the
20 cremation authorization.

21 (C) Notification as to whether the death occurred
22 from a disease declared by the Department of Health to
23 be infectious, contagious, communicable, or dangerous
24 to the public health.

25 (D) The name of the authorizing agent and the

1 relationship between the authorizing agent and the
2 decedent.

3 (E) A representation that the authorizing agent
4 does in fact have the right to authorize the cremation
5 of the decedent, and that the authorizing agent is not
6 aware of any living person who has a superior priority
7 right to that of the authorizing agent, as set forth in
8 Section 15. In the event there is another living person
9 who has a superior priority right to that of the
10 authorizing agent, the form shall contain a
11 representation that the authorizing agent has made all
12 reasonable efforts to contact that person, has been
13 unable to do so, and has no reason to believe that the
14 person would object to the cremation of the decedent.

15 (F) Authorization for the crematory authority to
16 cremate the human remains.

17 (G) A representation that the human remains do not
18 contain a pacemaker or any other material or implant
19 that may be potentially hazardous or cause damage to
20 the cremation chamber or the person performing the
21 cremation.

22 (H) The name of the person authorized to receive
23 the cremated remains from the crematory authority.

24 (I) The manner in which final disposition of the
25 cremated remains is to take place, if known. If the
26 cremation authorization form does not specify final

1 disposition in a grave, crypt, niche, or scattering
2 area, then the form may indicate that the cremated
3 remains will be held by the crematory authority for 30
4 days before they are released, unless they are picked
5 up from the crematory authority prior to that time, in
6 person, by the authorizing agent. At the end of the 30
7 days the crematory authority may return the cremated
8 remains to the authorizing agent if no final
9 disposition arrangements are made; or at the end of 60
10 days the crematory authority may dispose of the
11 cremated remains in accordance with subsection (d) of
12 Section 40.

13 (J) A listing of any items of value to be delivered
14 to the crematory authority along with the human
15 remains, and instructions as to how the items should be
16 handled.

17 (K) A specific statement as to whether the
18 authorizing agent has made arrangements for any type of
19 viewing of the decedent before cremation, or for a
20 service with the decedent present before cremation in
21 connection with the cremation, and if so, the date and
22 time of the viewing or service and whether the
23 crematory authority is authorized to proceed with the
24 cremation upon receipt of the human remains.

25 (L) The signature of the authorizing agent,
26 attesting to the accuracy of all representations

1 contained on the cremation authorization form, except
2 as set forth in paragraph (M) of this subsection.

3 (M) If a cremation authorization form is being
4 executed on a pre-need basis, the cremation
5 authorization form shall contain the disclosure
6 required by subsection (b) of Section 140 ~~65~~.

7 (N) The cremation authorization form, other than
8 pre-need cremation forms, shall also be signed by a
9 funeral director or other representative of the
10 funeral establishment that obtained the cremation
11 authorization. That individual shall merely execute
12 the cremation authorization form as a witness and shall
13 not be responsible for any of the representations made
14 by the authorizing agent, unless the individual has
15 actual knowledge to the contrary. The information
16 requested by items (A), (B), (C) and (G) of this
17 subsection, however, shall be considered to be
18 representations of the authorizing agent. In addition,
19 the funeral director or funeral establishment shall
20 warrant to the crematory that the human remains
21 delivered to the crematory authority are the human
22 remains identified on the cremation authorization
23 form.

24 (2) A completed and executed burial transit permit
25 indicating that the human remains are to be cremated.

26 (3) Any other documentation required by this State.

1 (b) If an authorizing agent is not available to execute a
2 cremation authorization form in person, that person may
3 delegate that authority to another person in writing, or by
4 sending the crematory authority a facsimile transmission that
5 contains the name, address, and relationship of the sender to
6 the decedent and the name and address of the individual to whom
7 authority is delegated. Upon receipt of the written document,
8 or facsimile transmission, telegram, or other electronic
9 telecommunications transmission which specifies the individual
10 to whom authority has been delegated, the crematory authority
11 shall allow this individual to serve as the authorizing agent
12 and to execute the cremation authorization form. The crematory
13 authority shall be entitled to rely upon the cremation
14 authorization form without liability.

15 (c) An authorizing agent who signs a cremation
16 authorization form shall be deemed to warrant the truthfulness
17 of any facts set forth on the cremation authorization form,
18 including that person's authority to order the cremation;
19 except for the information required by items (C) and (G) of
20 paragraph (1) of subsection (a) of this Section, unless the
21 authorizing agent has actual knowledge to the contrary. An
22 authorizing agent signing a cremation authorization form shall
23 be personally and individually liable for all damages
24 occasioned by and resulting from authorizing the cremation.

25 (d) A crematory authority shall have authority to cremate
26 human remains upon the receipt of a cremation authorization

1 form signed by an authorizing agent. There shall be no
2 liability for a crematory authority that cremates human remains
3 according to an authorization, or that releases or disposes of
4 the cremated remains according to an authorization, except for
5 a crematory authority's gross negligence, provided that the
6 crematory authority performs its functions in compliance with
7 this Act.

8 (e) After an authorizing agent has executed a cremation
9 authorization form, the authorizing agent may revoke the
10 authorization and instruct the crematory authority to cancel
11 the cremation and to release or deliver the human remains to
12 another crematory authority or funeral establishment. The
13 instructions shall be provided to the crematory authority in
14 writing. A crematory authority shall honor any instructions
15 given to it by an authorizing agent under this Section if it
16 receives the instructions prior to beginning the cremation of
17 the human remains.

18 (Source: P.A. 87-1187.)

19 (410 ILCS 18/22)

20 Sec. 22. Performance of cremation service; training. A
21 person may not perform a cremation service in this State unless
22 he or she has completed training in performing cremation
23 services and received certification by a program recognized by
24 the Department ~~Comptroller~~. The crematory authority must
25 conspicuously display the certification at the crematory

1 authority's place of business. Any new employee shall have a
2 reasonable time period, as determined by rule ~~not to exceed one~~
3 ~~year~~, to attend a recognized training program. In the interim,
4 the new employee may perform a cremation service if he or she
5 has received training from another person who has received
6 certification by a program recognized by the Department and is
7 under the supervision of the trained person ~~Comptroller~~. For
8 purposes of this Act, the Department may ~~Comptroller shall~~
9 recognize any training program that provides training in the
10 operation of a cremation device, in the maintenance of a clean
11 facility, and in the proper handling of human remains. The
12 Department may ~~Comptroller shall~~ recognize any course that is
13 conducted by a death care trade association in Illinois or the
14 United States or by a manufacturer of a cremation unit that is
15 consistent with the standards provided in this Act or as
16 otherwise determined by rule.

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

18 (410 ILCS 18/25)

19 Sec. 25. Recordkeeping.

20 (a) The crematory authority shall furnish to the person who
21 delivers human remains to the crematory authority a receipt
22 signed at the time of delivery by both the crematory authority
23 and the person who delivers the human remains, showing the date
24 and time of the delivery, the type of casket or alternative
25 container that was delivered, the name of the person from whom

1 the human remains were received and the name of the funeral
2 establishment or other entity with whom the person is
3 affiliated, the name of the person who received the human
4 remains on behalf of the crematory authority, and the name of
5 the decedent. The crematory shall retain a copy of this receipt
6 in its permanent records.

7 (b) Upon its release of cremated remains, the crematory
8 authority shall furnish to the person who receives the cremated
9 remains from the crematory authority a receipt signed by both
10 the crematory authority and the person who receives the
11 cremated remains, showing the date and time of the release, the
12 name of the person to whom the cremated remains were released
13 and the name of the funeral establishment, cemetery, or other
14 entity with whom the person is affiliated, the name of the
15 person who released the cremated remains on behalf of the
16 crematory authority, and the name of the decedent. The
17 crematory shall retain a copy of this receipt in its permanent
18 records.

19 (c) A crematory authority shall maintain at its place of
20 business a permanent record of each cremation that took place
21 at its facility which shall contain the name of the decedent,
22 the date of the cremation, and the final disposition of the
23 cremated remains.

24 (d) The crematory authority shall maintain a record of all
25 cremated remains disposed of by the crematory authority in
26 accordance with subsection (d) of Section 40.

1 (e) Upon completion of the cremation, the crematory
2 authority shall file the burial transit permit as required by
3 the Illinois Vital Records Act and rules adopted under that Act
4 and the Illinois Counties Code law, and transmit a photocopy of
5 the burial transit permit along with the cremated remains to
6 whoever receives the cremated remains from the authorizing
7 agent unless the cremated remains are to be interred, entombed,
8 inurned, or placed in a scattering area, in which case the
9 crematory authority shall retain a copy of the burial transit
10 permit and shall send the permit, along with the cremated
11 remains, to the cemetery, which shall file the permit with the
12 designated agency after the interment, entombment, inurnment,
13 or scattering has taken place.

14 (f) All cemeteries shall maintain a record of all cremated
15 remains that are disposed of on their property, provided that
16 the cremated remains were properly transferred to the cemetery
17 and the cemetery issued a receipt acknowledging the transfer of
18 the cremated remains.

19 (Source: P.A. 87-1187.)

20 (410 ILCS 18/40)

21 Sec. 40. Disposition of cremated remains.

22 (a) The authorizing agent shall be responsible for the
23 final disposition of the cremated remains.

24 (b) Cremated remains may be disposed of by placing them in
25 a grave, crypt, or niche, by scattering them in a scattering

1 area as defined in this Act, or in any manner whatever on the
2 private property of a consenting owner.

3 (c) Upon the completion of the cremation process, and
4 except as provided for in item (I) ~~(J)~~ of paragraph (1) of
5 subsection (a) of Section 20, if the crematory authority has
6 not been instructed to arrange for the interment, entombment,
7 inurnment, or scattering of the cremated remains, the crematory
8 authority shall deliver the cremated remains to the individual
9 specified on the cremation authorization form, or if no
10 individual is specified then to the authorizing agent. The
11 delivery may be made in person or by registered mail. Upon
12 receipt of the cremated remains, the individual receiving them
13 may transport them in any manner in this State without a
14 permit, and may dispose of them in accordance with this
15 Section. After delivery, the crematory authority shall be
16 discharged from any legal obligation or liability concerning
17 the cremated remains.

18 (d) If, after a period of 60 days from the date of the
19 cremation, the authorizing agent or the agent's designee has
20 not instructed the crematory authority to arrange for the final
21 disposition of the cremated remains or claimed the cremated
22 remains, the crematory authority may dispose of the cremated
23 remains in any manner permitted by this Section. The crematory
24 authority, however, shall keep a permanent record identifying
25 the site of final disposition. The authorizing agent shall be
26 responsible for reimbursing the crematory authority for all

1 reasonable expenses incurred in disposing of the cremated
2 remains. Upon disposing of the cremated remains, the crematory
3 authority shall be discharged from any legal obligation or
4 liability concerning the cremated remains. Any person who was
5 in possession of cremated remains prior to the effective date
6 of this Act may dispose of them in accordance with this
7 Section.

8 (e) Except with the express written permission of the
9 authorizing agent, no person shall:

10 (1) Dispose of cremated remains in a manner or in a
11 location so that the cremated remains are commingled with
12 those of another person. This prohibition shall not apply
13 to the scattering of cremated remains at sea, by air, or in
14 an area located in a dedicated cemetery and used
15 exclusively for those purposes.

16 (2) Place cremated remains of more than one person in
17 the same temporary container or urn.

18 (Source: P.A. 87-1187.)

19 (410 ILCS 18/55)

20 Sec. 55. Penalties. Violations of this Act shall be
21 punishable as follows:

22 (1) Performing a cremation without receipt of a
23 cremation authorization form signed by an authorizing
24 agent shall be a Class 4 felony.

25 (2) Signing a cremation authorization form with the

1 actual knowledge that the form contains false or incorrect
2 information shall be a Class 4 felony.

3 (3) A Violation of any cremation procedure set forth in
4 Section 35 shall be a Class 4 felony.

5 (4) Holding oneself out to the public as a crematory
6 authority, or the operation of a building or structure
7 within this State as a crematory, without being licensed
8 under this Act, shall be a Class A misdemeanor.

9 (4.5) Performance of a cremation service by a person
10 who has not completed a training program as defined in
11 Section 22 of this Act shall be a Class A misdemeanor.

12 (4.10) Any person who intentionally violates a
13 provision of this Act or a final order of the Department
14 ~~Comptroller~~ is liable for a civil penalty not to exceed
15 \$10,000 ~~\$5,000~~ per violation.

16 (4.15) Any person who knowingly acts without proper
17 legal authority and who willfully and knowingly destroys or
18 damages the remains of a deceased human being or who
19 desecrates human remains is guilty of a Class 3 felony.

20 (5) A violation of any other provision of this Act
21 shall be a Class B misdemeanor.

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

23 (410 ILCS 18/60)

24 Sec. 60. Failure to file annual report. Whenever a
25 crematory authority refuses or neglects to file its annual

1 report in violation of Section 10 of this Act, or fails to
2 otherwise comply with the requirements of this Act, the
3 Department shall impose a penalty as provided for by rule for
4 each and every day the licensee remains delinquent in
5 submitting the annual report. Such report shall be made under
6 oath and shall be in a form determined by the Department.
7 ~~Comptroller may commence an administrative proceeding as~~
8 ~~authorized by this Act or may communicate the facts to the~~
9 ~~Attorney General of the State of Illinois who shall thereupon~~
10 ~~institute such proceedings against the crematory authority or~~
11 ~~its officers as the nature of the case may require.~~

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

13 (410 ILCS 18/62)

14 Sec. 62. Injunctive action; cease and desist order
15 ~~Investigation of unlawful practices.~~

16 (a) If any person violates the provisions of this Act, the
17 Secretary, in the name of the People of the State of Illinois,
18 through the Attorney General or the State's Attorney of the
19 county in which the violation is alleged to have occurred, may
20 petition for an order enjoining the violation or for an order
21 enforcing compliance with this Act. Upon the filing of a
22 verified petition, the court with appropriate jurisdiction may
23 issue a temporary restraining order, without notice or bond,
24 and may preliminarily and permanently enjoin the violation. If
25 it is established that the person has violated or is violating

1 the injunction, the court may punish the offender for contempt
2 of court. Proceedings under this Section are in addition to,
3 and not in lieu of, all other remedies and penalties provided
4 by this Act.

5 (b) Whenever, in the opinion of the Department, a person
6 violates any provision of this Act, the Department may issue a
7 rule to show cause why an order to cease and desist should not
8 be entered against that person. The rule shall clearly set
9 forth the grounds relied upon by the Department and shall allow
10 at least 7 days from the date of the rule to file an answer
11 satisfactory to the Department. Failure to answer to the
12 satisfaction of the Department shall cause an order to cease
13 and desist to be issued.

14 ~~If the Comptroller has good cause to believe that a person has~~
15 ~~engaged in, is engaging in, or is about to engage in any~~
16 ~~practice in violation of this Act, the Comptroller may do any~~
17 ~~one or more of the following:~~

18 ~~(1) Require that person to file, on terms the~~
19 ~~Comptroller prescribes, a statement or report in writing,~~
20 ~~under oath or otherwise, containing all information that~~
21 ~~the Comptroller considers necessary to ascertain whether a~~
22 ~~licensee is in compliance with this Act, or whether an~~
23 ~~unlicensed person is engaging in activities for which a~~
24 ~~license is required under this Act.~~

25 ~~(2) Examine under oath any person in connection with~~
26 ~~the books and records required to be maintained under this~~

1 ~~Act.~~

2 ~~(3) Examine any books and records of a licensee that~~
3 ~~the Comptroller considers necessary to ascertain~~
4 ~~compliance with this Act.~~

5 ~~(4) Require the production of a copy of any record,~~
6 ~~book, document, account, or paper that is produced in~~
7 ~~accordance with this Act and retain it in the Comptroller's~~
8 ~~possession until the completion of all proceedings in~~
9 ~~connection with which it is produced.~~

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

11 (410 ILCS 18/62.5)

12 Sec. 62.5. Service of notice. Service by the Department
13 ~~Comptroller~~ of any notice requiring a person to file a
14 statement or report under this Act shall be made: (1)
15 personally by delivery of a duly executed copy of the notice to
16 the person to be served or, if that person is not a natural
17 person, in the manner provided in the Civil Practice Law when a
18 complaint is filed; or (2) by mailing by certified mail a duly
19 executed copy of the notice to the person at his or her address
20 of record ~~to be served at his or her last known abode or~~
21 ~~principal place of business within this State.~~

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

23 (410 ILCS 18/62.10)

24 Sec. 62.10. Investigations; notice and hearing

1 ~~Investigation of actions; hearing.~~ The Department may at any
2 time investigate the actions of any applicant or of any person,
3 persons, or entity rendering or offering to render cremation
4 services or any person or entity holding or claiming to hold a
5 license as a licensed crematory. The Department shall, before
6 revoking, suspending, placing on probation, reprimanding, or
7 taking any other disciplinary action under Section 11 of this
8 Act, at least 30 days before the date set for the hearing, (i)
9 notify the accused in writing of the charges made and the time
10 and place for the hearing on the charges, (ii) direct the
11 accused applicant or licensee to file a written answer to the
12 charges with the Department under oath within 20 days after the
13 service on him or her of the notice, and (iii) inform the
14 accused that, if he or she fails to answer, default will be
15 taken against him or her or that his or her license may be
16 suspended, revoked, placed on probationary status, or other
17 disciplinary action taken with regard to the license, including
18 limiting the scope, nature, or extent of his or her practice,
19 as the Department may consider proper.

20 At the time and place fixed in the notice, the Department
21 shall proceed to hear the charges and the parties or their
22 counsel shall be accorded ample opportunity to present any
23 pertinent statements, testimony, evidence, and arguments. The
24 Secretary shall have the authority to appoint an attorney duly
25 licensed to practice law in the State of Illinois to serve as
26 the hearing officer in any disciplinary action with regard to a

1 license. The hearing officer shall have full authority to
2 conduct the hearing. The Department may continue the hearing
3 from time to time. In case the person, after receiving the
4 notice, fails to file an answer, his or her license may, in the
5 discretion of the Department, be suspended, revoked, placed on
6 probationary status, or the Department may take whatever
7 disciplinary action considered proper, including limiting the
8 scope, nature, or extent of the person's practice or the
9 imposition of a fine, without a hearing, if the act or acts
10 charged constitute sufficient grounds for that action under
11 this Act. The written notice may be served by personal delivery
12 or by certified mail to the address specified by the accused in
13 his or her last notification with the Department.

14 ~~(a) The Comptroller shall make an investigation upon~~
15 ~~discovering facts that, if proved, would constitute grounds for~~
16 ~~refusal, suspension, or revocation of a license under this Act.~~

17 ~~(b) Before refusing to issue, and before suspending or~~
18 ~~revoking, a license under this Act, the Comptroller shall hold~~
19 ~~a hearing to determine whether the applicant for a license or~~
20 ~~the licensee ("the respondent") is entitled to hold such a~~
21 ~~license. At least 10 days before the date set for the hearing,~~
22 ~~the Comptroller shall notify the respondent in writing that (i)~~
23 ~~on the designated date a hearing will be held to determine the~~
24 ~~respondent's eligibility for a license and (ii) the respondent~~
25 ~~may appear in person or by counsel. The written notice may be~~
26 ~~served on the respondent personally, or by registered or~~

1 ~~certified mail sent to the respondent's business address as~~
2 ~~shown in the respondent's latest notification to the~~
3 ~~Comptroller. The notice must include sufficient information to~~
4 ~~inform the respondent of the general nature of the reason for~~
5 ~~the Comptroller's action.~~

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

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

1 ~~filed in the proceeding, the transcript of testimony, and the~~
2 ~~report and orders of the Comptroller. Copies of the transcript~~
3 ~~of the record may be purchased from the certified shorthand~~
4 ~~reporter who prepared the record or from the Comptroller.~~

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

6 (410 ILCS 18/62.15)

7 Sec. 62.15. Compelling testimony Court order. Any circuit
8 court, upon application of the Department or designated hearing
9 officer may enter an order requiring the attendance of
10 witnesses and their testimony, and the production of documents,
11 papers, files, books, and records in connection with any
12 hearing or investigation. The court may compel obedience to its
13 order by proceedings for contempt. ~~Upon the application of the~~
14 ~~Comptroller or of the applicant or licensee against whom~~
15 ~~proceedings under Section 62.10 are pending, any circuit court~~
16 ~~may enter an order requiring witnesses to attend and testify~~
17 ~~and requiring the production of documents, papers, files,~~
18 ~~books, and records in connection with any hearing in any~~
19 ~~proceeding under that Section. Failure to obey such a court~~
20 ~~order may result in contempt proceedings.~~

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

22 (410 ILCS 18/62.20)

23 Sec. 62.20. Administrative review; venue; certification of
24 record; costs ~~Judicial review.~~

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

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

9 (c) The Department shall not be required to certify any
10 record of the court, file an answer in court, or to otherwise
11 appear in any court in a judicial review proceeding unless and
12 until the Department has received from the plaintiff payment of
13 the costs of furnishing and certifying the record, which costs
14 shall be determined by the Department. Failure on the part of
15 the plaintiff to make such payment to the Department is grounds
16 for dismissal of the action. Any person affected by a final
17 administrative decision of the Comptroller under this Act may
18 have the decision reviewed judicially by the circuit court of
19 the county where the person resides or, in the case of a
20 corporation, where the corporation's registered office is
21 located. If the plaintiff in the judicial review proceeding is
22 not a resident of this State, venue shall be in Sangamon
23 County. The provisions of the Administrative Review Law and any
24 rules adopted under it govern all proceedings for the judicial
25 review of final administrative decisions of the Comptroller
26 under this Act. The term "administrative decision" is defined

1 ~~as in the Administrative Review Law.~~

2 ~~(b) The Comptroller is not required to certify the record~~
3 ~~of the proceeding unless the plaintiff in the review proceeding~~
4 ~~has purchased a copy of the transcript from the certified~~
5 ~~shorthand reporter who prepared the record or from the~~
6 ~~Comptroller. Exhibits shall be certified without cost.~~

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

8 (410 ILCS 18/65)

9 Sec. 65. Pre-need cremation arrangements.

10 (a) Any person, or anyone who has legal authority to act on
11 behalf of a person, on a pre-need basis, may authorize his or
12 her own cremation and the final disposition of his or her
13 cremated remains by executing, as the authorizing agent, a
14 cremation authorization form on a pre-need basis. A copy of
15 this form shall be provided to the person. Any person shall
16 have the right to transfer or cancel this authorization at any
17 time prior to death by destroying the executed cremation
18 authorization form and providing written notice to the
19 crematory authority.

20 (b) Any cremation authorization form that is being executed
21 by an individual as his or her own authorizing agent on a
22 pre-need basis shall contain the following disclosure, which
23 shall be completed by the authorizing agent:

24 "() I do not wish to allow any of my survivors the option
25 of cancelling my cremation and selecting alternative

1 arrangements, regardless of whether my survivors deem
2 a change to be appropriate.

3 () I wish to allow only the survivors whom I have
4 designated below the option of cancelling my cremation
5 and selecting alternative arrangements, if they deem a
6 change to be appropriate:....."

7 (c) Except as provided in subsection (b) of this Section,
8 at the time of the death of a person who has executed, as the
9 authorizing agent, a cremation authorization form on a pre-need
10 basis, any person in possession of an executed form and any
11 person charged with making arrangements for the final
12 disposition of the decedent who has knowledge of the existence
13 of an executed form, shall use their best efforts to ensure
14 that the decedent is cremated and that the final disposition of
15 the cremated remains is in accordance with the instructions
16 contained on the cremation authorization form. If a crematory
17 authority (i) is in possession of a completed cremation
18 authorization form that was executed on a pre-need basis, (ii)
19 is in possession of the designated human remains, and (iii) has
20 received payment for the cremation of the human remains and the
21 final disposition of the cremated remains or is otherwise
22 assured of payment, then the crematory authority shall be
23 required to cremate the human remains and dispose of the
24 cremated remains according to the instructions contained on the
25 cremation authorization form, and may do so without any
26 liability.

1 (d) ~~(e)~~ Any pre-need contract sold by, or pre-need
2 arrangements made with, a cemetery, funeral establishment,
3 crematory authority, or any other party that includes a
4 cremation shall specify the final disposition of the cremated
5 remains, in accordance with Section 40. In the event that no
6 different or inconsistent instructions are provided to the
7 crematory authority by the authorizing agent at the time of
8 death, the crematory authority shall be authorized to release
9 or dispose of the cremated remains as indicated in the pre-need
10 agreement. Upon compliance with the terms of the pre-need
11 agreement, the crematory authority shall be discharged from any
12 legal obligation concerning the cremated remains. The pre-need
13 agreement shall be kept as a permanent record by the crematory
14 authority.

15 (e) ~~(f)~~ This Section shall not apply to any cremation
16 authorization form or pre-need contract executed prior to the
17 effective date of this Act. Any cemetery, funeral
18 establishment, crematory authority, or other party, however,
19 with the written approval of the authorizing agent or person
20 who executed the pre-need contract, may designate that the
21 cremation authorization form or pre-need contract shall be
22 subject to this Act.

23 (Source: P.A. 87-1187.)

24 (410 ILCS 18/80)

25 Sec. 80. Record of proceedings; transcript ~~Home Rule.~~ The

1 Department, at its expense, shall preserve a record of all
2 proceedings at the formal hearing of any case. Any notice of
3 hearing, complaint, all other documents in the nature of
4 pleadings, written motions filed in the proceedings, the
5 transcripts of testimony, the report of the hearing officer,
6 and orders of the Department shall be in the record of the
7 proceeding. The Department shall furnish a transcript of such
8 record to any person interested in such hearing upon payment of
9 the fee required under Section 2105-115 of the Department of
10 Professional Regulation Law. ~~The regulation of crematories and~~
11 ~~crematory authorities as set forth in this Act is an exclusive~~
12 ~~power and function of the State. A home rule unit may not~~
13 ~~regulate crematories or crematory authorities. This Section is~~
14 ~~a denial and limitation of home rule powers and functions under~~
15 ~~subsection (h) of Section 6 of Article VII of the Illinois~~
16 ~~Constitution.~~

17 (Source: P.A. 91-357, eff. 7-29-99.)

18 (410 ILCS 18/85 new)

19 Sec. 85. Subpoenas; depositions; oaths. The Department has
20 the power to subpoena documents, books, records or other
21 materials and to bring before it any person and to take
22 testimony either orally or by deposition, or both, with the
23 same fees and mileage and in the same manner as prescribed in
24 civil cases in the courts of this State. The Secretary, the
25 designated hearing officer, or any qualified person the

1 Department may designate has the power to administer oaths to
2 witnesses at any hearing that the Department is authorized to
3 conduct, and any other oaths authorized in any Act administered
4 by the Department.

5 Every person having taken an oath or affirmation in any
6 proceeding or matter wherein an oath is required by this Act,
7 who shall swear willfully, corruptly and falsely in a matter
8 material to the issue or point in question, or shall suborn any
9 other person to swear as aforesaid, shall be guilty of perjury
10 or subornation of perjury, as the case may be and shall be
11 punished as provided by State law relative to perjury and
12 subornation of perjury.

13 (410 ILCS 18/87 new)

14 Sec. 87. Findings and recommendations. At the conclusion of
15 the hearing, the hearing officer shall present to the Secretary
16 a written report of its findings of fact, conclusions of law,
17 and recommendations. The report shall contain a finding whether
18 or not the accused person violated this Act or its rules or
19 failed to comply with the conditions required in this Act or
20 its rules. The hearing officer shall specify the nature of any
21 violations or failure to comply and shall make recommendations
22 to the Secretary. In making recommendations for any
23 disciplinary actions, the hearing officer may take into
24 consideration all facts and circumstances bearing upon the
25 reasonableness of the conduct of the accused and the potential

1 for future harm to the public, including but not limited to,
2 previous discipline of the accused by the Department, intent,
3 degree of harm to the public and likelihood of harm in the
4 future, any restitution made by the accused, and whether the
5 incident or incidents contained in the complaint appear to be
6 isolated or represent a continuing pattern of conduct. In
7 making its recommendations for discipline, the hearing officer
8 shall endeavor to ensure that the severity of the discipline
9 recommended is reasonably related to the severity of the
10 violation. The report of findings of fact, conclusions of law,
11 and recommendation of the hearing officer shall be the basis
12 for the Department's order refusing to issue, restore, place on
13 probation, fine, suspend, revoke a license, or otherwise
14 disciplining a licensee. If the Secretary disagrees with the
15 recommendations of the hearing officer, the Secretary may issue
16 an order in contravention of the hearing officer's
17 recommendations. The finding is not admissible in evidence
18 against the person in a criminal prosecution brought for a
19 violation of this Act, but the hearing and finding are not a
20 bar to a criminal prosecution brought for a violation of this
21 Act.

22 (410 ILCS 18/88 new)

23 Sec. 88. Rehearing. At the conclusion of the hearing, a
24 copy of the hearing officer's report shall be served upon the
25 applicant or licensee by the Department, either personally or

1 as provided in this Act. Within 20 days after service, the
2 applicant or licensee may present to the Department a motion in
3 writing for a rehearing, which shall specify the particular
4 grounds for rehearing. The Department may respond to the motion
5 for rehearing within 20 days after its service on the
6 Department. If no motion for rehearing is filed, then upon the
7 expiration of the time specified for filing such a motion, or
8 if a motion for rehearing is denied, then upon denial, the
9 Secretary may enter an order in accordance with recommendations
10 of the hearing officer except as provided in Section 89 of this
11 Act.

12 If the applicant or licensee orders from the reporting
13 service and pays for a transcript of the record within the time
14 for filing a motion for rehearing, the 20-day period within
15 which a motion may be filed shall commence upon the delivery of
16 the transcript to the applicant or licensee.

17 (410 ILCS 18/89 new)

18 Sec. 89. Secretary; rehearing. Whenever the Secretary
19 believes that substantial justice has not been done in the
20 revocation, suspension, or refusal to issue or restore a
21 license or other discipline of an applicant or licensee, he or
22 she may order a rehearing by the same or other hearing
23 officers.

24 (410 ILCS 18/90 new)

1 Sec. 90. Order or certified copy; prima facie proof. An
2 order or certified copy thereof, over the seal of the
3 Department and purporting to be signed by the Secretary, is
4 prima facie proof that:

5 (a) the signature is the genuine signature of the
6 Secretary;

7 (b) the Secretary is duly appointed and qualified; and

8 (c) the hearing officer is qualified to act.

9 (410 ILCS 18/91 new)

10 Sec. 91. Civil action and civil penalties. In addition to
11 the other penalties and remedies provided in this Act, the
12 Department may bring a civil action in the county of residence
13 of the licensee or any other person to enjoin any violation or
14 threatened violation of this Act. In addition to any other
15 penalty provided by law, any person who violates this Act shall
16 forfeit and pay a civil penalty to the Department in an amount
17 not to exceed \$10,000 for each violation as determined by the
18 Department. The civil penalty shall be assessed by the
19 Department in accordance with the provisions of this Act.

20 Any civil penalty shall be paid within 60 days after the
21 effective date of the order imposing the civil penalty. The
22 order shall constitute a judgment and may be filed and
23 execution had thereon in the same manner as any judgment from
24 any court of record. All moneys collected under this Section
25 shall be deposited into the Cemetery Oversight Licensing and

1 Disciplinary Fund.

2 (410 ILCS 18/92 new)

3 Sec. 92. Consent order. At any point in any investigation
4 or disciplinary proceedings as provided in this Act, both
5 parties may agree to a negotiated consent order. The consent
6 order shall be final upon signature of the Secretary.

7 (410 ILCS 18/93 new)

8 Sec. 93. Illinois Administrative Procedure Act;
9 application. The Illinois Administrative Procedure Act is
10 expressly adopted and incorporated in this Act as if all of the
11 provisions of that Act were included in this Act, except that
12 the provision of paragraph (d) of Section 10-65 of the Illinois
13 Administrative Procedure Act, which provides that at hearings
14 the licensee has the right to show compliance with all lawful
15 requirements for retention or continuation of the license, is
16 specifically excluded. For the purpose of this Act, the notice
17 required under Section 10-25 of the Illinois Administrative
18 Procedure Act is considered sufficient when mailed to the
19 address of record.

20 (410 ILCS 18/94 new)

21 Sec. 94. Summary suspension of a license. The Secretary may
22 summarily suspend a license of a licensed crematory without a
23 hearing, simultaneously with the institution of proceedings

1 for a hearing provided for in this Act, if the Secretary finds
2 that evidence in the Secretary's possession indicates that the
3 licensee's continued practice would constitute an imminent
4 danger to the public. In the event that the Secretary summarily
5 suspends the license of a licensed crematory without a hearing,
6 a hearing must be commenced within 30 days after the suspension
7 has occurred and concluded as expeditiously as practical. In
8 the event of a summary suspension, the county coroner or
9 medical examiner responsible for the area where the crematory
10 is located shall make arrangements to dispose of any bodies in
11 the suspended licensee's possession after consulting with the
12 authorizing agents for those bodies.

13 (410 ILCS 18/95 new)

14 Sec. 95. Home Rule. The regulation of crematories and
15 crematory authorities as set forth in this Act is an exclusive
16 power and function of the State. A home rule unit may not
17 regulate crematories or crematory authorities. This Section is
18 a denial and limitation of home rule powers and functions under
19 subsection (h) of Section 6 of Article VII of the Illinois
20 Constitution.

21 Section 90-30. The Vital Records Act is amended by changing
22 Sections 11 and 18.5 as follows:

23 (410 ILCS 535/11) (from Ch. 111 1/2, par. 73-11)

1 Sec. 11. Information required on forms.

2 (a) The form of certificates, reports, and other returns
3 required by this Act or by regulations adopted under this Act
4 shall include as a minimum the items recommended by the federal
5 agency responsible for national vital statistics, subject to
6 approval of and modification by the Department. All forms shall
7 be prescribed and furnished by the State Registrar of Vital
8 Records.

9 (b) On and after the effective date of this amendatory Act
10 of 1983, all forms used to collect information under this Act
11 which request information concerning the race or ethnicity of
12 an individual by providing spaces for the designation of that
13 individual as "white" or "black", or the semantic equivalent
14 thereof, shall provide an additional space for a designation as
15 "Hispanic".

16 (c) Effective November 1, 1990, the social security numbers
17 of the mother and father shall be collected at the time of the
18 birth of the child. These numbers shall not be recorded on the
19 certificate of live birth. The numbers may be used only for
20 those purposes allowed by Federal law.

21 (d) The social security number of a person who has died
22 shall be entered on the death certificate; however, failure to
23 enter the social security number of the person who has died on
24 the death certificate does not invalidate the death
25 certificate.

26 (e) If the place of disposition of a dead human body or

1 cremated remains is in a cemetery, the burial permit shall
2 include the place of disposition. The place of disposition
3 shall include the lot, block, section, and plot or niche where
4 the dead human body or cremated remains are located. This
5 subsection does not apply to cremated remains scattered in a
6 cemetery.

7 (Source: P.A. 90-18, eff. 7-1-97.)

8 (410 ILCS 535/18.5)

9 Sec. 18.5. Electronic reporting system for death
10 registrations. The State Registrar shall ~~may~~ facilitate death
11 registration by implementing an electronic reporting system.
12 The system may be used to transfer information to individuals
13 and institutions responsible for completing and filing
14 certificates and related reports for deaths that occur in the
15 State. The system shall be capable of storing and retrieving
16 accurate and timely data and statistics for those persons and
17 agencies responsible for vital records registration and
18 administration. Upon establishment of such an electronic
19 reporting system, but not later than January 1, 2011, the
20 county clerk in the county in which a death occurred or the
21 county clerk of the county where a decedent last resided, as
22 indicated on the decedent's death certificate, shall be
23 authorized to issue certifications of death records from such
24 system, and the State Registrar shall cause the electronic
25 reporting system to provide for such capability. The Department

1 of Financial and Professional Regulation shall have access to
2 the system to enhance its enforcement of the Cemetery Oversight
3 Act.

4 (Source: P.A. 96-327, eff. 8-11-09.)

5 Section 90-33. The Eminent Domain Act is amended by
6 changing Section 15-5-40 as follows:

7 (735 ILCS 30/15-5-40)

8 Sec. 15-5-40. Eminent domain powers in ILCS Chapters 705
9 through 820. The following provisions of law may include
10 express grants of the power to acquire property by condemnation
11 or eminent domain:

12 (765 ILCS 230/2); Coast and Geodetic Survey Act; United States
13 of America; for carrying out coast and geodetic surveys.

14 (765 ILCS 505/1); Mining Act of 1874; mine owners and
15 operators; for roads, railroads, and ditches.

16 (805 ILCS 25/2); Corporation Canal Construction Act; general
17 corporations; for levees, canals, or tunnels for
18 agricultural, mining, or sanitary purposes.

19 (805 ILCS 30/7); Gas Company Property Act; consolidating gas
20 companies; for acquisition of stock of dissenting
21 stockholder.

22 (805 ILCS 120/9); Merger of Not For Profit Corporations Act;
23 merging or consolidating corporations; for acquisition of

1 interest of objecting member or owner.
2 ~~(805 ILCS 320/16 through 320/20); Cemetery Association Act;~~
3 ~~cemetery associations; for cemetery purposes.~~
4 (Source: P.A. 94-1055, eff. 1-1-07.)

5 Section 90-35. The Crime Victims Compensation Act is
6 amended by changing Section 2 as follows:

7 (740 ILCS 45/2) (from Ch. 70, par. 72)

8 Sec. 2. Definitions. As used in this Act, unless the
9 context otherwise requires:

10 (a) "Applicant" means any person who applies for
11 compensation under this Act or any person the Court of Claims
12 finds is entitled to compensation, including the guardian of a
13 minor or of a person under legal disability. It includes any
14 person who was a dependent of a deceased victim of a crime of
15 violence for his or her support at the time of the death of
16 that victim.

17 (b) "Court of Claims" means the Court of Claims created by
18 the Court of Claims Act.

19 (c) "Crime of violence" means and includes any offense
20 defined in Sections 9-1, 9-2, 9-3, 10-1, 10-2, 11-11, 11-19.2,
21 11-20.1, 12-1, 12-2, 12-3, 12-3.2, 12-3.3, 12-4, 12-4.1,
22 12-4.2, 12-4.3, 12-5, 12-7.1, 12-7.3, 12-7.4, 12-13, 12-14,
23 12-14.1, 12-15, 12-16, 12-20.5, 12-30, 20-1 or 20-1.1 of the
24 Criminal Code of 1961, Sections 1(a) and 1(a-5) of the Cemetery

1 Protection Act, driving under the influence of intoxicating
2 liquor or narcotic drugs as defined in Section 11-501 of the
3 Illinois Vehicle Code, and a violation of Section 11-401 of the
4 Illinois Vehicle Code, provided the victim was a pedestrian or
5 was operating a vehicle moved solely by human power or a
6 mobility device at the time of contact; so long as the offense
7 did not occur during a civil riot, insurrection or rebellion.
8 "Crime of violence" does not include any other offense or
9 accident involving a motor vehicle except those vehicle
10 offenses specifically provided for in this paragraph. "Crime of
11 violence" does include all of the offenses specifically
12 provided for in this paragraph that occur within this State but
13 are subject to federal jurisdiction and crimes involving
14 terrorism as defined in 18 U.S.C. 2331.

15 (d) "Victim" means (1) a person killed or injured in this
16 State as a result of a crime of violence perpetrated or
17 attempted against him or her, (2) the parent of a person killed
18 or injured in this State as a result of a crime of violence
19 perpetrated or attempted against the person, (3) a person
20 killed or injured in this State while attempting to assist a
21 person against whom a crime of violence is being perpetrated or
22 attempted, if that attempt of assistance would be expected of a
23 reasonable person ~~man~~ under the circumstances, (4) a person
24 killed or injured in this State while assisting a law
25 enforcement official apprehend a person who has perpetrated a
26 crime of violence or prevent the perpetration of any such crime

1 if that assistance was in response to the express request of
2 the law enforcement official, (5) a person who personally
3 witnessed a violent crime, (5.1) solely for the purpose of
4 compensating for pecuniary loss incurred for psychological
5 treatment of a mental or emotional condition caused or
6 aggravated by the crime, any other person under the age of 18
7 who is the brother, sister, half brother, half sister, child,
8 or stepchild of a person killed or injured in this State as a
9 result of a crime of violence, ~~or~~ (6) an Illinois resident who
10 is a victim of a "crime of violence" as defined in this Act
11 except, if the crime occurred outside this State, the resident
12 has the same rights under this Act as if the crime had occurred
13 in this State upon a showing that the state, territory,
14 country, or political subdivision of a country in which the
15 crime occurred does not have a compensation of victims of
16 crimes law for which that Illinois resident is eligible, (7) a
17 deceased person whose body is dismembered or whose remains are
18 desecrated as the result of a crime of violence, or (8) solely
19 for the purpose of compensating for pecuniary loss incurred for
20 psychological treatment of a mental or emotional condition
21 caused or aggravated by the crime, any parent, spouse, or child
22 under the age of 18 of a deceased person whose body is
23 dismembered or whose remains are desecrated as the result of a
24 crime of violence.

25 (e) "Dependent" means a relative of a deceased victim who
26 was wholly or partially dependent upon the victim's income at

1 the time of his or her death and shall include the child of a
2 victim born after his or her death.

3 (f) "Relative" means a spouse, parent, grandparent,
4 stepfather, stepmother, child, grandchild, brother,
5 brother-in-law, sister, sister-in-law, half brother, half
6 sister, spouse's parent, nephew, niece, uncle or aunt.

7 (g) "Child" means an unmarried son or daughter who is under
8 18 years of age and includes a stepchild, an adopted child or a
9 child born out of wedlock.

10 (h) "Pecuniary loss" means, in the case of injury,
11 appropriate medical expenses and hospital expenses including
12 expenses of medical examinations, rehabilitation, medically
13 required nursing care expenses, appropriate psychiatric care
14 or psychiatric counseling expenses, expenses for care or
15 counseling by a licensed clinical psychologist, licensed
16 clinical social worker, or licensed clinical professional
17 counselor and expenses for treatment by Christian Science
18 practitioners and nursing care appropriate thereto;
19 transportation expenses to and from medical and treatment
20 facilities; prosthetic appliances, eyeglasses, and hearing
21 aids necessary or damaged as a result of the crime; replacement
22 costs for clothing and bedding used as evidence; costs
23 associated with temporary lodging or relocation necessary as a
24 result of the crime, including, but not limited to, the first
25 month's rent and security deposit of the dwelling that the
26 claimant relocated to and other reasonable relocation expenses

1 incurred as a result of the violent crime; locks or windows
2 necessary or damaged as a result of the crime; the purchase,
3 lease, or rental of equipment necessary to create usability of
4 and accessibility to the victim's real and personal property,
5 or the real and personal property which is used by the victim,
6 necessary as a result of the crime; the costs of appropriate
7 crime scene clean-up; replacement services loss, to a maximum
8 of \$1000 per month; dependents replacement services loss, to a
9 maximum of \$1000 per month; loss of tuition paid to attend
10 grammar school or high school when the victim had been enrolled
11 as a student prior to the injury, or college or graduate school
12 when the victim had been enrolled as a day or night student
13 prior to the injury when the victim becomes unable to continue
14 attendance at school as a result of the crime of violence
15 perpetrated against him or her; loss of earnings, loss of
16 future earnings because of disability resulting from the
17 injury, and, in addition, in the case of death, expenses for
18 funeral, burial, and travel and transport for survivors of
19 homicide victims to secure bodies of deceased victims and to
20 transport bodies for burial all of which may not exceed a
21 maximum of \$5,000 and loss of support of the dependents of the
22 victim; in the case of dismemberment or desecration of a body,
23 expenses for funeral and burial, all of which may not exceed a
24 maximum of \$5,000. Loss of future earnings shall be reduced by
25 any income from substitute work actually performed by the
26 victim or by income he or she would have earned in available

1 appropriate substitute work he or she was capable of performing
2 but unreasonably failed to undertake. Loss of earnings, loss of
3 future earnings and loss of support shall be determined on the
4 basis of the victim's average net monthly earnings for the 6
5 months immediately preceding the date of the injury or on \$1000
6 per month, whichever is less. If a divorced or legally
7 separated applicant is claiming loss of support for a minor
8 child of the deceased, the amount of support for each child
9 shall be based either on the amount of support pursuant to the
10 judgment prior to the date of the deceased victim's injury or
11 death, or, if the subject of pending litigation filed by or on
12 behalf of the divorced or legally separated applicant prior to
13 the injury or death, on the result of that litigation. Real and
14 personal property includes, but is not limited to, vehicles,
15 houses, apartments, town houses, or condominiums. Pecuniary
16 loss does not include pain and suffering or property loss or
17 damage.

18 (i) "Replacement services loss" means expenses reasonably
19 incurred in obtaining ordinary and necessary services in lieu
20 of those the injured person would have performed, not for
21 income, but for the benefit of himself or herself or his or her
22 family, if he or she had not been injured.

23 (j) "Dependents replacement services loss" means loss
24 reasonably incurred by dependents or private legal guardians of
25 minor dependents after a victim's death in obtaining ordinary
26 and necessary services in lieu of those the victim would have

1 performed, not for income, but for their benefit, if he or she
2 had not been fatally injured.

3 (k) "Survivor" means immediate family including a parent,
4 step-father, step-mother, child, brother, sister, or spouse.

5 (Source: P.A. 96-267, eff. 8-11-09.)

6 Section 90-40. The Burial Lot Perpetual Trust Act is
7 amended by changing Section 2 as follows:

8 (760 ILCS 90/2) (from Ch. 21, par. 32)

9 Sec. 2. Every company or association incorporated for
10 cemetery purposes under any general or special law of the State
11 of Illinois may receive, by gift, legacy, or otherwise, moneys
12 or real or personal property, or the income or avails of such
13 moneys or property, in trust, in perpetuity, for the
14 improvement, maintenance, ornamentation, repair, care and
15 preservation of any burial lot or grave, vault, tomb, or other
16 such structures, in any cemetery owned or controlled by such
17 cemetery company or association, upon such terms and in such
18 manner as may be provided by the terms of such gift, legacy or
19 other conveyance of such moneys or property in trust and
20 assented to by such company or association, and subject to the
21 rules and regulations of such company or association, and every
22 such company or association owning or controlling any such
23 cemetery may make contracts with the owner or owners or legal
24 representatives of any lot, grave, vault, tomb, or other such

1 structure in such cemetery, for the improvement, maintenance,
2 ornamentation, care, preservation and repair of any such lot,
3 grave, vault, tomb, or other such structure in such cemetery
4 owned or controlled by such cemetery company or association. If
5 the cemetery is a privately owned cemetery, as defined in
6 Section 2 of the Cemetery Care Act, or a licensed cemetery
7 authority under the Cemetery Oversight Act, or if the burial
8 lot or grave, vault, tomb, or other such structures are in a
9 privately owned cemetery, as defined in Section 2 of the
10 Cemetery Care Act, or a licensed cemetery authority under the
11 Cemetery Oversight Act, then such company or association shall
12 also comply with the provisions of the Cemetery Care Act or
13 Cemetery Oversight Act, whichever is applicable. ~~Where the~~
14 ~~cemetery is a privately operated cemetery, as defined in~~
15 ~~section 2 of the Cemetery Care Act, approved July 21, 1947, as~~
16 ~~amended, or where the burial lot or grave, vault, tomb, or~~
17 ~~other such structures are in a privately operated cemetery, as~~
18 ~~defined in section 2 of that Act, then such company or~~
19 ~~association shall also comply with the provisions of the~~
20 ~~Cemetery Care Act.~~

21 (Source: P.A. 83-388.)

22 Section 90-45. The Cemetery Perpetual Trust Authorization
23 Act is amended by changing Section 2 as follows:

24 (760 ILCS 95/2) (from Ch. 21, par. 64)

1 Sec. 2. Any incorporated cemetery association incorporated
2 not for pecuniary profit, may if it elects to do so, receive
3 and hold money, funds and property in perpetual trust pursuant
4 to the provisions of this act. Such election shall be evidenced
5 by a by-law or resolution adopted by the board of directors, or
6 board of trustees of the incorporated cemetery association. Any
7 person is authorized to give, donate or bequeath any sum of
8 money or any funds, securities, or property of any kind to the
9 cemetery association, in perpetual trust, for the maintenance,
10 care, repair, upkeep or ornamentation of the cemetery, or any
11 lot or lots, or grave or graves in the cemetery, specified in
12 the instrument making the gift, donation or legacy. The
13 cemetery association may receive and hold in perpetual trust,
14 any such money, funds, securities and property so given,
15 donated or bequeathed to it, and may convert the property,
16 funds and securities into money and shall invest and keep
17 invested the proceeds thereof and the money so given, donated
18 and bequeathed, in safe and secure income bearing investments,
19 including investments in income producing real estate,
20 provided the purchase price of the real estate shall not exceed
21 the fair market value thereof on the date of its purchase as
22 such value is determined by the board of directors or board of
23 trustees of the association. The principal of the trust fund
24 shall be kept intact and the income arising therefrom shall be
25 perpetually applied for the uses and purposes specified in the
26 instrument making the gift, donation or legacy and for no other

1 purpose.

2 The by-laws of the cemetery association shall provide for a
3 permanent committee to manage and control the trust funds so
4 given, donated and bequeathed to it. The members of the
5 committee shall be appointed by the board of directors, or
6 board of trustees of the cemetery association from among the
7 members of the board of directors or board of trustees. The
8 committee shall choose a chairman, a secretary and a treasurer
9 from among the members, and shall have the management and
10 control of the trust funds of the cemetery association so
11 given, donated and bequeathed in trust, under the supervision
12 of the board of directors or board of trustees. The treasurer
13 of the committee shall execute a bond to the People of the
14 State of Illinois for the use of the cemetery association, in a
15 penal sum of not less than double the amount of the trust funds
16 coming into his possession as treasurer, conditioned for the
17 faithful performance of his duties and the faithful accounting
18 for all money or funds which by virtue of his treasurership
19 come into his possession, and be in such form and with such
20 securities as may be prescribed and approved by the board of
21 directors, or board of trustees, and shall be approved by such
22 board of directors, or board of trustees, and filed with the
23 secretary of the cemetery association.

24 The treasurer of the committee shall have the custody of
25 all money, funds and property received in trust by the cemetery
26 association and shall invest the same in accordance with the

1 directions of the committee as approved by the board of
2 directors or board of trustees of the cemetery association, and
3 shall receive and have the custody of all of the income arising
4 from such investments and as the income is received by him, he
5 shall pay it to the treasurer of the cemetery association, and
6 he shall keep permanent books of record of all such trust funds
7 and of all receipts arising therefrom and disbursements
8 thereof, and shall annually make a written report to the board
9 of directors or board of trustees of the cemetery association,
10 under oath, showing receipts and disbursements, including a
11 statement showing the amount and principal of trust funds on
12 hand and how invested, which report shall be audited by the
13 board of directors, or board of trustees, and if found correct,
14 shall be approved, and filed with the secretary of the cemetery
15 association.

16 The secretary of the committee shall keep, in a book
17 provided for such purpose, a permanent record of the
18 proceedings of the committee, signed by the president and
19 attested by the secretary, and shall also keep a permanent
20 record of the several trust funds, the amounts thereof, and for
21 what uses and purposes, respectively, and he shall annually, at
22 the time the treasurer makes his report, make a written report
23 under oath, to the board of directors or board of trustees,
24 stating therein substantially the same matter required to be
25 reported by the treasurer of the committee, which report, if
26 found to be correct, shall be approved, and filed with the

1 secretary of the association.

2 The treasurer shall execute a bond to the People of the
3 State of Illinois, in a penal sum of not less than double the
4 amount of money or funds coming into his possession as such
5 treasurer, conditioned for the faithful performance of his
6 duties and the faithful accounting of all money or funds which
7 by virtue of his office come into his possession and be in such
8 form and with such securities as may be prescribed and approved
9 by the board of directors, or board of trustees, and shall be
10 approved by such board of directors or board of trustees and
11 filed with the secretary of the cemetery association.

12 The trust funds, gifts and legacies mentioned in this
13 section and the income arising therefrom shall be exempt from
14 taxation and from the operation of all laws of mortmain, and
15 the laws against perpetuities and accumulations.

16 No loan; investment; purchase of insurance on the life of
17 any trustee or employee; purchase of any real estate; or any
18 other transaction using care funds by any trustee, director, or
19 committee member shall be made to or for the benefit of any
20 person, officer, trustee, or party having any interest, or to
21 any firm, corporation, trade association, or partnership in
22 which any officer, director, trustee, or party has any
23 interest, is a member of, or serves as an officer or director.
24 A violation of this Section shall constitute the intentional
25 and improper withdrawal of trust funds.

26 No loan or investment in any unproductive real estate or

1 real estate outside of this State or in permanent improvements
2 of the cemetery or any of its facilities shall be made, unless
3 specifically authorized by the instrument whereby the
4 principal fund was created. No commission or brokerage fee for
5 the purchase or sale of any property shall be paid in excess of
6 that usual and customary at the time and in the locality where
7 such purchase or sale is made, and all such commissions and
8 brokerage fees shall be fully reported in the next annual
9 report filed by such cemetery association or trustee.

10 If the cemetery is a privately owned cemetery, as defined
11 in Section 2 of the Cemetery Care Act, or a licensed cemetery
12 authority under the Cemetery Oversight Act, or if the burial
13 lot or grave, vault, tomb, or other such structures are in a
14 privately owned cemetery, as defined in Section 2 of the
15 Cemetery Care Act, or a licensed cemetery authority under the
16 Cemetery Oversight Act, then such company or association shall
17 also comply with the provisions of the Cemetery Care Act or
18 Cemetery Oversight Act, whichever is applicable. ~~Where the~~
19 ~~cemetery is a privately operated cemetery, as defined in~~
20 ~~section 2 of the Cemetery Care Act, approved July 21, 1947, as~~
21 ~~amended, or where the lot or lots or grave or graves are in a~~
22 ~~privately operated cemetery, as defined in section 2 of that~~
23 ~~Act, then such cemetery association or such committee, shall~~
24 ~~also comply with the provisions of the Cemetery Care Act.~~

25 (Source: P.A. 95-331, eff. 8-21-07.)

1 Section 90-50. The Cemetery Protection Act is amended by
2 changing Sections .01, 1 and 8 as follows:

3 (765 ILCS 835/.01) (from Ch. 21, par. 14.01)

4 Sec. .01. For the purposes of this Act, the term:

5 "Cemetery manager" means an individual who is engaged in,
6 or holding himself or herself out as engaged in, those
7 activities involved in or incidental to supervising the
8 following: the maintenance, operation, development, or
9 improvement of a cemetery licensed under this Act; the
10 interment of human remains; or the care, preservation, and
11 embellishment of cemetery property. This definition also
12 includes, without limitation, an individual that is an
13 independent contractor or individuals employed or contracted
14 by an independent contractor who is engaged in, or holding
15 himself or herself out as engaged in, those activities involved
16 in or incidental to supervising the following: the maintenance,
17 operation, development, or improvement of a cemetery licensed
18 under this Act; the interment of human remains; or the care,
19 preservation, and embellishment of cemetery property.

20 ~~"Cemetery authority" is defined as in Section 2 of the~~
21 ~~"Cemetery Care Act", approved July 21, 1947, as now and~~
22 ~~hereafter amended.~~

23 "Community mausoleum" means a mausoleum owned and operated
24 by a cemetery authority that contains multiple entombment
25 rights sold to the public.

1 (Source: P.A. 94-44, eff. 6-17-05.)

2 (765 ILCS 835/1) (from Ch. 21, par. 15)

3 Sec. 1. (a) Any person who acts without proper legal
4 authority and who willfully and knowingly destroys or damages
5 the remains of a deceased human being or who desecrates human
6 remains is guilty of a Class 3 felony.

7 (a-5) Any person who acts without proper legal authority
8 and who willfully and knowingly removes any portion of the
9 remains of a deceased human being from a burial ground where
10 skeletal remains are buried or from a grave, crypt, vault,
11 mausoleum, or other repository of human remains is guilty of a
12 Class 4 felony.

13 (b) Any person who acts without proper legal authority and
14 who willfully and knowingly:

15 (1) obliterates, vandalizes, or desecrates a burial
16 ground where skeletal remains are buried or a grave, crypt,
17 vault, mausoleum, or other repository of human remains;

18 (2) obliterates, vandalizes, or desecrates a park or
19 other area clearly designated to preserve and perpetuate
20 the memory of a deceased person or group of persons;

21 (3) obliterates, vandalizes, or desecrates plants,
22 trees, shrubs, or flowers located upon or around a
23 repository for human remains or within a human graveyard or
24 cemetery; or

25 (4) obliterates, vandalizes, or desecrates a fence,

1 rail, curb, or other structure of a similar nature intended
2 for the protection or for the ornamentation of any tomb,
3 monument, gravestone, or other structure of like
4 character;

5 is guilty of a Class A misdemeanor if the amount of the damage
6 is less than \$500, a Class 4 felony if the amount of the damage
7 is at least \$500 and less than \$10,000, a Class 3 felony if the
8 amount of the damage is at least \$10,000 and less than
9 \$100,000, or a Class 2 felony if the damage is \$100,000 or more
10 and shall provide restitution to the cemetery authority or
11 property owner for the amount of any damage caused.

12 (b-5) Any person who acts without proper legal authority
13 and who willfully and knowingly defaces, vandalizes, injures,
14 or removes a gravestone or other memorial, monument, or marker
15 commemorating a deceased person or group of persons, whether
16 located within or outside of a recognized cemetery, memorial
17 park, or battlefield is guilty of a Class 4 felony for damaging
18 at least one but no more than 4 gravestones, a Class 3 felony
19 for damaging at least 5 but no more than 10 gravestones, or a
20 Class 2 felony for damaging more than 10 gravestones and shall
21 provide restitution to the cemetery authority or property owner
22 for the amount of any damage caused.

23 (b-7) Any person who acts without proper legal authority
24 and who willfully and knowingly removes with the intent to
25 resell a gravestone or other memorial, monument, or marker
26 commemorating a deceased person or group of persons, whether

1 located within or outside a recognized cemetery, memorial park,
2 or battlefield, is guilty of a Class 2 felony.

3 (c) The provisions of this Section shall not apply to the
4 removal or unavoidable breakage or injury by a cemetery
5 authority of anything placed in or upon any portion of its
6 cemetery in violation of any of the rules and regulations of
7 the cemetery authority, nor to the removal of anything placed
8 in the cemetery by or with the consent of the cemetery
9 authority that in the judgment of the cemetery authority has
10 become wrecked, unsightly, or dilapidated.

11 (d) If an unemancipated minor is found guilty of violating
12 any of the provisions of subsection (b) of this Section and is
13 unable to provide restitution to the cemetery authority or
14 property owner, the parents or legal guardians of that minor
15 shall provide restitution to the cemetery authority or property
16 owner for the amount of any damage caused, up to the total
17 amount allowed under the Parental Responsibility Law.

18 (d-5) Any person who commits any of the following:

19 (1) any unauthorized, non-related third party or
20 person who enters any sheds, crematories, or employee
21 areas;

22 (2) any non-cemetery personnel who solicits cemetery
23 mourners or funeral directors on the grounds or in the
24 offices or chapels of a cemetery before, during, or after a
25 burial;

26 (3) any person who harasses or threatens any employee

1 of a cemetery on cemetery grounds; or

2 (4) any unauthorized person who removes, destroys, or
3 disturbs any cemetery devices or property placed for safety
4 of visitors and cemetery employees;

5 is guilty of a Class A misdemeanor for the first offense and of
6 a Class 4 felony for a second or subsequent offense.

7 (e) Any person who shall hunt, shoot or discharge any gun,
8 pistol or other missile, within the limits of any cemetery, or
9 shall cause any shot or missile to be discharged into or over
10 any portion thereof, or shall violate any of the rules made and
11 established by the board of directors of such cemetery, for the
12 protection or government thereof, is guilty of a Class C
13 misdemeanor.

14 (f) Any person who knowingly enters or knowingly remains
15 upon the premises of a public or private cemetery without
16 authorization during hours that the cemetery is posted as
17 closed to the public is guilty of a Class A misdemeanor.

18 (g) All fines when recovered, shall be paid over by the
19 court or officer receiving the same to the cemetery authority
20 and be applied, as far as possible in repairing the injury, if
21 any, caused by such offense. Provided, nothing contained in
22 this Act shall deprive such cemetery authority or the owner of
23 any interment, entombment, or inurnment ~~inurement~~ right or
24 monument from maintaining an action for the recovery of damages
25 caused by any injury caused by a violation of the provisions of
26 this Act, or of the rules established by the board of directors

1 of such cemetery authority. Nothing in this Section shall be
2 construed to prohibit the discharge of firearms loaded with
3 blank ammunition as part of any funeral, any memorial
4 observance or any other patriotic or military ceremony.

5 (Source: P.A. 94-44, eff. 6-17-05; 94-608, eff. 8-16-05;
6 95-331, eff. 8-21-07.)

7 (765 ILCS 835/8) (from Ch. 21, par. 21.1)

8 Sec. 8. If the cemetery is a privately owned cemetery, as
9 defined in Section 2 of the Cemetery Care Act, or a licensed
10 cemetery authority under the Cemetery Oversight Act, or if the
11 burial lot or grave, vault, tomb, or other such structures are
12 in a privately owned cemetery, as defined in Section 2 of the
13 Cemetery Care Act, or a licensed cemetery authority under the
14 Cemetery Oversight Act, then such company or association shall
15 also comply with the provisions of the Cemetery Care Act or
16 Cemetery Oversight Act, whichever is applicable. Furthermore,
17 no cemetery authority company or other legal entity may deny
18 burial space to any person because of race, creed, marital
19 status, sex, national origin, sexual orientation, or color. A
20 cemetery company or other entity operating any cemetery may
21 designate parts of cemeteries or burial grounds for the
22 specific use of persons whose religious code requires
23 isolation. Religious institution cemeteries may limit burials
24 to members of the religious institution and their families.
25 ~~Where the cemetery is a privately operated cemetery, as defined~~

1 ~~in Section 2 of the Cemetery Care Act, enacted by the~~
2 ~~Sixty fifth General Assembly or where the interment,~~
3 ~~entombment rights in a community mausoleum or lawn crypt~~
4 ~~section, or inurnment rights in a community columbarium, vault~~
5 ~~or vaults, tomb or tombs, or other such structures in the~~
6 ~~cemetery or graveyard are in a privately operated cemetery, as~~
7 ~~defined in Section 2 of that Act, then such board of directors~~
8 ~~or managing officers of such cemetery, society or cemetery~~
9 ~~authority, or the trustees of any public graveyard or the~~
10 ~~cemetery society or cemetery association, shall also comply~~
11 ~~with the provisions of the Cemetery Care Act, enacted by the~~
12 ~~Sixty fifth General Assembly.~~

13 (Source: P.A. 94-44, eff. 6-17-05.)

14 Section 90-57. The Consumer Fraud and Deceptive Business
15 Practices Act is amended by changing Section 2Z as follows:

16 (815 ILCS 505/2Z) (from Ch. 121 1/2, par. 262Z)

17 Sec. 2Z. Violations of other Acts. Any person who knowingly
18 violates the Automotive Repair Act, the Automotive Collision
19 Repair Act, the Home Repair and Remodeling Act, the Dance
20 Studio Act, the Physical Fitness Services Act, the Hearing
21 Instrument Consumer Protection Act, the Illinois Union Label
22 Act, the Job Referral and Job Listing Services Consumer
23 Protection Act, the Travel Promotion Consumer Protection Act,
24 the Credit Services Organizations Act, the Automatic Telephone

1 Dialers Act, the Pay-Per-Call Services Consumer Protection
2 Act, the Telephone Solicitations Act, the Illinois Funeral or
3 Burial Funds Act, the Cemetery Oversight Act, the Cemetery Care
4 Act, the Safe and Hygienic Bed Act, the Pre-Need Cemetery Sales
5 Act, the High Risk Home Loan Act, the Payday Loan Reform Act,
6 the Mortgage Rescue Fraud Act, subsection (a) or (b) of Section
7 3-10 of the Cigarette Tax Act, the Payday Loan Reform Act,
8 subsection (a) or (b) of Section 3-10 of the Cigarette Use Tax
9 Act, the Electronic Mail Act, the Internet Caller
10 Identification Act, paragraph (6) of subsection (k) of Section
11 6-305 of the Illinois Vehicle Code, Section 18d-115, 18d-120,
12 18d-125, 18d-135, or 18d-150 of the Illinois Vehicle Code,
13 Article 3 of the Residential Real Property Disclosure Act, the
14 Automatic Contract Renewal Act, or the Personal Information
15 Protection Act commits an unlawful practice within the meaning
16 of this Act.

17 (Source: P.A. 94-13, eff. 12-6-05; 94-36, eff. 1-1-06; 94-280,
18 eff. 1-1-06; 94-292, eff. 1-1-06; 94-822, eff. 1-1-07; 95-413,
19 eff. 1-1-08; 95-562, eff. 7-1-08; 95-876, eff. 8-21-08.)

20 Section 90-60. The Burial Rights Act is amended by changing
21 Sections 1 and 2.3 as follows:

22 (820 ILCS 135/1) (from Ch. 21, par. 101)

23 Sec. 1. (a) Every contract, agreement or understanding
24 between a cemetery authority and a cemetery workers'

1 association which totally prohibits burials of human remains on
2 Sundays or legal holidays shall be deemed to be void as against
3 public policy and wholly unenforceable.

4 (b) Nothing in this Section shall prohibit a cemetery
5 authority and a cemetery workers' association from entering
6 into a contract, agreement or understanding which limits Sunday
7 or holiday burials of human remains to decedents who were
8 members of religious sects whose tenets or beliefs require
9 burials within a specified period of time and whose deaths
10 occurred at such times as to necessitate Sunday or holiday
11 burials. Such contract, agreement or understanding may provide
12 that a funeral director notify the cemetery authority within a
13 reasonable time when a Sunday or holiday burial is necessitated
14 by reason of the decedent's religious tenets or beliefs.

15 (c) It shall be unlawful for any person to restrain,
16 prohibit or interfere with the burial of a decedent whose time
17 of death and religious tenets or beliefs necessitate burial on
18 a Sunday or legal holiday.

19 (d) A violation of this Section is a Class A misdemeanor.

20 (e) For the purposes of this Act, "cemetery authority"
21 shall have the meaning ascribed to it in ~~Section 2~~ of the
22 Cemetery Oversight ~~Care~~ Act; and "cemetery workers'
23 association" means an organization of workers who are employed
24 by cemetery authorities to perform the task of burying human
25 remains or transporting remains to cemeteries or other places
26 of interment, and who join together for collective bargaining

1 purposes or to negotiate terms and conditions of employment.

2 (Source: P.A. 83-384.)

3 (820 ILCS 135/2.3)

4 Sec. 2.3. Sections of cemeteries. No provision of any law
5 of this State may be construed to prohibit a cemetery authority
6 from reserving, in a cemetery not owned by a religious
7 organization or institution, a section of interment rights,
8 entombment rights, or inurnment rights for sale exclusively to
9 persons of a particular religion, unless membership in the
10 religion is restricted on account of race, color, or national
11 origin. As used in this Section, "interment rights",
12 "entombment rights", and "inurnment rights" have the meanings
13 ascribed to those terms in the Cemetery Oversight ~~Care~~ Act.

14 (Source: P.A. 88-659.)

15 (760 ILCS 100/Act rep.)

16 Section 90-90. The Cemetery Care Act is repealed.

17 (805 ILCS 320/16 rep.)

18 (805 ILCS 320/16.5 rep.)

19 (805 ILCS 320/17 rep.)

20 (805 ILCS 320/18 rep.)

21 (805 ILCS 320/19 rep.)

22 (805 ILCS 320/20 rep.)

23 Section 90-92. The Cemetery Association Act is amended by

1 repealing Sections 16, 16.5, 17, 18, 19, and 20.

2 (805 ILCS 320/Act rep.)

3 Section 90-95. The Cemetery Association Act is repealed.

4 Article 91.

5 Additional Amendatory Provisions

6 Section 91-5. The Funeral Directors and Embalmers
7 Licensing Code is amended by changing Sections 1-10, 15-50,
8 15-60, and 15-75 and adding Article 12 as follows:

9 (225 ILCS 41/1-10)

10 (Section scheduled to be repealed on January 1, 2013)

11 Sec. 1-10. Definitions. As used in this Code:

12 "Applicant" means any person making application for a
13 license or certificate of registration.

14 "Board" means the Funeral Directors and Embalmers
15 Licensing and disciplinary Board.

16 "Customer service employee" means a funeral establishment,
17 funeral chapel, funeral home, or mortuary employee who has
18 direct contact with consumers and explains funeral or burial
19 merchandise or services or negotiates, develops, or finalizes
20 contracts with consumers. This definition includes, without
21 limitation, an individual that is an independent contractor or
22 an individual employed or contracted by an independent

1 contractor who has direct contact with consumers and explains
2 funeral or burial merchandise or services or negotiates,
3 develops, or finalizes contracts with consumers. This
4 definition does not include a funeral establishment, funeral
5 chapel, funeral home, or mortuary employee, an individual who
6 is an independent contractor, or an individual employed or
7 contracted by an independent contractor who merely provides a
8 printed price list to a consumer, processes payment from a
9 consumer, or performs sales functions related solely to
10 incidental merchandise like flowers, keepsakes, memorial
11 tributes, or other similar items.

12 "Department" means the Department of Professional
13 Regulation.

14 "Director" means the Director of Professional Regulation.

15 "Funeral director and embalmer" means a person who is
16 licensed and qualified to practice funeral directing and to
17 prepare, disinfect and preserve dead human bodies by the
18 injection or external application of antiseptics,
19 disinfectants or preservative fluids and materials and to use
20 derma surgery or plastic art for the restoring of mutilated
21 features. It further means a person who restores the remains of
22 a person for the purpose of funeralization whose organs or bone
23 or tissue has been donated for anatomical purposes.

24 "Funeral director and embalmer intern" means a person
25 licensed by the State who is qualified to render assistance to
26 a funeral director and embalmer in carrying out the practice of

1 funeral directing and embalming under the supervision of the
2 funeral director and embalmer.

3 "Embalming" means the process of sanitizing and chemically
4 treating a deceased human body in order to reduce the presence
5 and growth of microorganisms, to retard organic decomposition,
6 to render the remains safe to handle while retaining
7 naturalness of tissue, and to restore an acceptable physical
8 appearance for funeral viewing purposes.

9 "Funeral director" means a person, known by the title of
10 "funeral director" or other similar words or titles, licensed
11 by the State who practices funeral directing.

12 "Funeral establishment", "funeral chapel", "funeral home",
13 or "mortuary" means a building or separate portion of a
14 building having a specific street address or location and
15 devoted to activities relating to the shelter, care, custody
16 and preparation of a deceased human body and which may contain
17 facilities for funeral or wake services.

18 "Owner" means the individual, partnership, corporation,
19 association, trust, estate, or agent thereof, or other person
20 or combination of persons who owns a funeral establishment or
21 funeral business.

22 "Person" means any individual, partnership, association,
23 firm, corporation, trust or estate, or other entity.

24 (Source: P.A. 93-268, eff. 1-1-04.)

25 (225 ILCS 41/Art. 12 heading new)

1 ARTICLE 12. CUSTOMER SERVICE EMPLOYEES

2 (225 ILCS 41/12-5 new)

3 Sec. 12-5. License requirement. Customer service employees
4 employed by a funeral establishment, funeral chapel, funeral
5 home, or mortuary must apply for licensure as a customer
6 service employee on forms prescribed by the Department and pay
7 the fee established by rule. It is unlawful for any person to
8 act as a customer service employee without a customer service
9 employee license issued by the Department.

10 A person acting as a customer service employee who, prior
11 to the effective date of this amendatory Act of the 96th
12 General Assembly, was not required to obtain licensure need not
13 comply with the licensure requirement in this Article until the
14 Department takes action on the person's application for a
15 license. The application for a customer service employee
16 license must be submitted to the Department within 6 months
17 after the effective date of this amendatory Act of the 96th
18 General Assembly. If the person fails to submit the application
19 within 6 months after the effective date of this amendatory Act
20 of the 96th General Assembly, then the person shall be
21 considered to be engaged in unlicensed practice and shall be
22 subject to discipline under this Act.

23 (225 ILCS 41/12-10 new)

24 Sec. 12-10. Qualifications for licensure.

1 (a) A person is qualified for licensure as a customer
2 service employee if he or she meets all of the following
3 requirements:

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

5 (2) Is of good moral character, including compliance
6 with the Code of Professional Conduct and Ethics as
7 provided for by rule. Good moral character is a continuing
8 requirement of licensure. In determining good moral
9 character, the Department may take into consideration
10 conviction of any crime under the laws of any jurisdiction.

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

13 (4) Submits his or her fingerprints in accordance with
14 subsection (b) of this Section.

15 (5) Has not committed a violation of this Act or any
16 rules adopted under this Act that, in the opinion of the
17 Department, renders the applicant unqualified to be a
18 customer service employee.

19 (6) Successfully passes the examination authorized by
20 the Department for customer service employees.

21 (7) Has complied with all other requirements of this
22 Act and rules established for the implementation of this
23 Act.

24 (8) Can be reasonably expected to treat consumers
25 professionally, fairly, and ethically.

26 (b) Each applicant for a customer service employee license

1 shall have his or her fingerprints submitted to the Department
2 of State Police in an electronic format that complies with the
3 form and manner for requesting and furnishing criminal history
4 record information that is prescribed by the Department of
5 State Police. These fingerprints shall be checked against the
6 Department of State Police and Federal Bureau of Investigation
7 criminal history record databases. The Department of State
8 Police shall charge applicants a fee for conducting the
9 criminal history records check, which shall be deposited in the
10 State Police Services Fund and shall not exceed the actual cost
11 of the records check. The Department of State Police shall
12 furnish, pursuant to positive identification, records of
13 Illinois convictions to the Department. The Department may
14 require applicants to pay a separate fingerprinting fee, either
15 to the Department or directly to a designated fingerprint
16 vendor. The Department, in its discretion, may allow an
17 applicant who does not have reasonable access to a designated
18 fingerprint vendor to provide his or her fingerprints in an
19 alternative manner. The Department, in its discretion, may also
20 use other procedures in performing or obtaining criminal
21 background checks of applicants. Instead of submitting his or
22 her fingerprints, an individual may submit proof that is
23 satisfactory to the Department that an equivalent security
24 clearance has been conducted.

1 Sec. 12-15. Examination; failure or refusal to take the
2 examination.

3 (a) The Department shall authorize examinations of
4 customer service employee applicants at such times and places
5 as it may determine. The examinations shall fairly test an
6 applicant's qualifications to practice as customer service
7 employee and knowledge of the theory and practice of funeral
8 home customer service. The examination shall further test the
9 extent to which the applicant understands and appreciates that
10 the final disposal of a deceased human body should be attended
11 with appropriate observance and understanding, having due
12 regard and respect for the reverent care of the human body and
13 for those bereaved and for the overall spiritual dignity of an
14 individual.

15 (b) Applicants for examinations shall pay, either to the
16 Department or to the designated testing service, a fee covering
17 the cost of providing the examination. Failure to appear for
18 the examination on the scheduled date at the time and place
19 specified after the application for examination has been
20 received and acknowledged by the Department or the designated
21 testing service shall result in forfeiture of the examination
22 fee.

23 (c) If the applicant neglects, fails, or refuses to take an
24 examination or fails to pass an examination for a license under
25 this Act within one year after filing an application, then the
26 application shall be denied. However, the applicant may

1 thereafter submit a new application accompanied by the required
2 fee. The applicant shall meet the requirements in force at the
3 time of making the new application.

4 (d) The Department may employ consultants for the purpose
5 of preparing and conducting examinations.

6 (e) The Department shall have the authority to adopt or
7 recognize, in part or in whole, examinations prepared,
8 administered, or graded by other organizations in the cemetery
9 industry that are determined appropriate to measure the
10 qualifications of an applicant for licensure.

11 (225 ILCS 41/12-20 new)

12 Sec. 12-20. Continuing education. The Department shall
13 promulgate rules of continuing education for customer service
14 employees. The requirements of this Section apply to any person
15 seeking renewal or restoration under this Code.

16 (225 ILCS 41/15-50)

17 (Section scheduled to be repealed on January 1, 2013)

18 Sec. 15-50. Practice by corporation, partnership, or
19 association. No corporation, partnership or association of
20 individuals, as such, shall be issued a license as a licensed
21 funeral director and embalmer or licensed funeral director, nor
22 shall any corporation, partnership, firm or association of
23 individuals, or any individual connected therewith, publicly
24 advertise any corporation, partnership or association of

1 individuals as being licensed funeral directors and embalmers
2 or licensed funeral directors. Nevertheless, nothing in this
3 Act shall restrict funeral director licensees or funeral
4 director and embalmer licensees from forming professional
5 service corporations under the Professional Service
6 Corporation Act or from having these corporations registered
7 for the practice of funeral directing.

8 No funeral director licensee or funeral director and
9 embalmer licensee, and no partnership or association of those
10 licensees, formed since July 1, 1935, shall engage in the
11 practice of funeral directing and embalming or funeral
12 directing under a trade name or partnership or firm name unless
13 in the use and advertising of the trade name, partnership or
14 firm name there is published in connection with the advertising
15 the name of the owner or owners as the owner or owners.

16 (Source: P.A. 87-966.)

17 (225 ILCS 41/15-60)

18 (Section scheduled to be repealed on January 1, 2013)

19 Sec. 15-60. Determination of life. Every funeral director
20 licensee or funeral director and embalmer licensee under this
21 Code before proceeding to prepare or embalm a human body to
22 cremate or bury shall determine that life is extinct by
23 ascertaining that:

24 (a) pulsation has entirely ceased in the radial or other
25 arteries; and

1 (b) heart or respiratory sounds are not audible with the
2 use of a stethoscope or with the ear applied directly over the
3 heart.

4 (Source: P.A. 87-966.)

5 (225 ILCS 41/15-75)

6 (Section scheduled to be repealed on January 1, 2013)

7 Sec. 15-75. Violations; grounds for discipline; penalties.

8 (a) Each of the following acts is a Class A misdemeanor for
9 the first offense, and a Class 4 felony for each subsequent
10 offense. These penalties shall also apply to unlicensed owners
11 of funeral homes.

12 (1) Practicing the profession of funeral directing and
13 embalming or funeral directing, or attempting to practice
14 the profession of funeral directing and embalming or
15 funeral directing without a license as a licensed funeral
16 director and embalmer or funeral director or acting as a
17 customer service employee without a license as a customer
18 service employee issued by the Department.

19 (2) Serving as an intern under a licensed funeral
20 director and embalmer or attempting to serve as an intern
21 under a licensed funeral director and embalmer without a
22 license as a licensed funeral director and embalmer intern.

23 (3) Obtaining or attempting to obtain a license,
24 practice or business, or any other thing of value, by fraud
25 or misrepresentation.

1 (4) Permitting any person in one's employ, under one's
2 control or in or under one's service to serve as a funeral
3 director and embalmer, funeral director, or funeral
4 director and embalmer intern when the person does not have
5 the appropriate license.

6 (5) Failing to display a license as required by this
7 Code.

8 (6) Giving false information or making a false oath or
9 affidavit required by this Code.

10 (b) Each of the following acts or actions is a violation of
11 this Code for which the Department may refuse to issue or
12 renew, or may suspend or revoke any license or may take any
13 disciplinary action as the Department may deem proper including
14 fines not to exceed \$1,000 for each violation.

15 (1) Obtaining or attempting to obtain a license by
16 fraud or misrepresentation.

17 (2) Conviction in this State or another state of any
18 crime that is a felony or misdemeanor under the laws of
19 this State or conviction of a felony or misdemeanor in a
20 federal court.

21 (3) Violation of the laws of this State relating to the
22 funeral, burial or disposal of deceased human bodies or of
23 the rules and regulations of the Department, or the
24 Department of Public Health.

25 (4) Directly or indirectly paying or causing to be paid
26 any sum of money or other valuable consideration for the

1 securing of business or for obtaining authority to dispose
2 of any deceased human body.

3 (5) Incompetence or untrustworthiness in the practice
4 of funeral directing and embalming or funeral directing.

5 (6) False or misleading advertising as a funeral
6 director and embalmer or funeral director, or advertising
7 or using the name of a person other than the holder of a
8 license in connection with any service being rendered in
9 the practice of funeral directing and embalming or funeral
10 directing. Nothing in this paragraph shall prevent
11 including the name of any owner, officer or corporate
12 director of a funeral business who is not a licensee in any
13 advertisement used by a funeral home with which the
14 individual is affiliated if the advertisement specifies
15 the individual's affiliation with the funeral home.

16 (7) Engaging in, promoting, selling, or issuing burial
17 contracts, burial certificates, or burial insurance
18 policies in connection with the profession as a funeral
19 director and embalmer, funeral director, or funeral
20 director and embalmer intern in violation of any laws of
21 the State of Illinois.

22 (8) Refusing, without cause, to surrender the custody
23 of a deceased human body upon the proper request of the
24 person or persons lawfully entitled to the custody of the
25 body.

26 (9) Taking undue advantage of a client or clients as to

1 amount to the perpetration of fraud.

2 (10) Engaging in funeral directing and embalming or
3 funeral directing without a license.

4 (11) Encouraging, requesting, or suggesting by a
5 licensee or some person working on his behalf and with his
6 consent for compensation that a person utilize the services
7 of a certain funeral director and embalmer, funeral
8 director, or funeral establishment unless that information
9 has been expressly requested by the person. This does not
10 prohibit general advertising or pre-need solicitation.

11 (12) Making or causing to be made any false or
12 misleading statements about the laws concerning the
13 disposal of human remains, including, but not limited to,
14 the need to embalm, the need for a casket for cremation or
15 the need for an outer burial container.

16 (13) Continued practice by a person having an
17 infectious or contagious disease.

18 (14) Embalming or attempting to embalm a deceased human
19 body without express prior authorization of the person
20 responsible for making the funeral arrangements for the
21 body. This does not apply to cases where embalming is
22 directed by local authorities who have jurisdiction or when
23 embalming is required by State or local law.

24 (15) Making a false statement on a Certificate of Death
25 where the person making the statement knew or should have
26 known that the statement was false.

1 (16) Soliciting human bodies after death or while death
2 is imminent.

3 (17) Performing any act or practice that is a violation
4 of this Code, the rules for the administration of this
5 Code, or any federal, State or local laws, rules, or
6 regulations governing the practice of funeral directing or
7 embalming.

8 (18) Performing any act or practice that is a violation
9 of Section 2 of the Consumer Fraud and Deceptive Business
10 Practices Act.

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

14 (20) Taking possession of a dead human body without
15 having first obtained express permission from next of kin
16 or a public agency legally authorized to direct, control or
17 permit the removal of deceased human bodies.

18 (21) Advertising in a false or misleading manner or
19 advertising using the name of an unlicensed person in
20 connection with any service being rendered in the practice
21 of funeral directing or funeral directing and embalming.
22 The use of any name of an unlicensed or unregistered person
23 in an advertisement so as to imply that the person will
24 perform services is considered misleading advertising.
25 Nothing in this paragraph shall prevent including the name
26 of any owner, officer or corporate director of a funeral

1 home, who is not a licensee, in any advertisement used by a
2 funeral home with which the individual is affiliated, if
3 the advertisement specifies the individual's affiliation
4 with the funeral home.

5 (22) Directly or indirectly receiving compensation for
6 any professional services not actually performed.

7 (23) Failing to account for or remit any monies,
8 documents, or personal property that belongs to others that
9 comes into a licensee's possession.

10 (24) Treating any person differently to his detriment
11 because of race, color, creed, gender, religion, or
12 national origin.

13 (25) Knowingly making any false statements, oral or
14 otherwise, of a character likely to influence, persuade or
15 induce others in the course of performing professional
16 services or activities.

17 (26) Knowingly making or filing false records or
18 reports in the practice of funeral directing and embalming.

19 (27) Failing to acquire continuing education required
20 under this Code.

21 (28) Failing to comply with any of the following
22 required activities:

23 (A) When reasonably possible, a funeral director
24 licensee or funeral director and embalmer licensee or
25 anyone acting on his or her behalf shall obtain the
26 express authorization of the person or persons

1 responsible for making the funeral arrangements for a
2 deceased human body prior to removing a body from the
3 place of death or any place it may be or embalming or
4 attempting to embalm a deceased human body, unless
5 required by State or local law. This requirement is
6 waived whenever removal or embalming is directed by
7 local authorities who have jurisdiction. If the
8 responsibility for the handling of the remains
9 lawfully falls under the jurisdiction of a public
10 agency, then the regulations of the public agency shall
11 prevail.

12 (B) A licensee shall clearly mark the price of any
13 casket offered for sale or the price of any service
14 using the casket on or in the casket if the casket is
15 displayed at the funeral establishment. If the casket
16 is displayed at any other location, regardless of
17 whether the licensee is in control of that location,
18 the casket shall be clearly marked and the registrant
19 shall use books, catalogues, brochures, or other
20 printed display aids to show the price of each casket
21 or service.

22 (C) At the time funeral arrangements are made and
23 prior to rendering the funeral services, a licensee
24 shall furnish a written statement to be retained by the
25 person or persons making the funeral arrangements,
26 signed by both parties, that shall contain: (i) the

1 name, address and telephone number of the funeral
2 establishment and the date on which the arrangements
3 were made; (ii) the price of the service selected and
4 the services and merchandise included for that price;
5 (iii) a clear disclosure that the person or persons
6 making the arrangement may decline and receive credit
7 for any service or merchandise not desired and not
8 required by law or the funeral director or the funeral
9 director and embalmer; (iv) the supplemental items of
10 service and merchandise requested and the price of each
11 item; (v) the terms or method of payment agreed upon;
12 and (vi) a statement as to any monetary advances made
13 by the registrant on behalf of the family.

14 (29) A finding by the Department that the license,
15 after having his or her license placed on probationary
16 status or subjected to conditions or restrictions,
17 violated the terms of the probation or failed to comply
18 with such terms or conditions.

19 (30) Violation of any final administrative action of
20 the Director.

21 (31) Being named as a perpetrator in an indicated
22 report by the Department of Children and Family Services
23 pursuant to the Abused and Neglected Child Reporting Act
24 and, upon proof by clear and convincing evidence, being
25 found to have caused a child to be an abused child or
26 neglected child as defined in the Abused and Neglected

1 Child Reporting Act.

2 (c) The Department may refuse to issue or renew, or may
3 suspend, the license of any person who fails to file a return,
4 to pay the tax, penalty or interest shown in a filed return, or
5 to pay any final assessment of tax, penalty or interest as
6 required by any tax Act administered by the Illinois Department
7 of Revenue, until the time as the requirements of the tax Act
8 are satisfied.

9 (Source: P.A. 93-268, eff. 1-1-04.)

10 Article 900.

11 Severability

12 Section 900-5. Severability. This Act is declared to be
13 severable, and should any word, phrase, sentence, provision or
14 Section hereof be hereafter declared unconstitutional or
15 otherwise invalid, the remainder of this Act shall not thereby
16 be affected, but shall remain valid and in full force and
17 effect for all intents and purposes.

18 Article 999.

19 Effective date

20 Section 999-5. Effective date. This Act takes effect
21 January 1, 2010, except that Section 90-25 takes effect March
22 15, 2010, Sections 90-90 and 90-95 take effect July 1, 2011,

1 and Sections 90-33, 90-57, 90-92, and 999-5 take effect upon
2 becoming law.".