

HB0184



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

HB0184

Introduced 1/18/2011, by Rep. Angelo Saviano

SYNOPSIS AS INTRODUCED:

See Index

Amends the Cemetery Oversight Act. Transfers the administration and oversight of the Cemetery Oversight Act from the Secretary of Financial and Professional Regulation and the Department of Financial and Professional Regulation to the Illinois Comptroller. Changes references from "Secretary" and "Department" to "Comptroller". Effective immediately.

LRB097 02976 CEL 43001 b

A BILL FOR

1 AN ACT concerning State government.

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

4 Section 5. The Cemetery Oversight Act is amended by
5 changing Sections 5-15, 5-25, 10-5, 10-10, 10-15, 10-20, 10-21,
6 10-22, 10-23, 10-25, 10-30, 10-45, 10-50, 10-55, 10-60, 15-15,
7 15-40, 20-5, 20-6, 20-20, 20-25, 20-30, 22-1, 22-3, 22-4,
8 22-10, 22-11, 22-12, 22-13, 22-21, 25-1, 25-3, 25-5, 25-10,
9 25-13, 25-14, 25-15, 25-25, 25-30, 25-35, 25-40, 25-45, 25-50,
10 25-55, 25-60, 25-65, 25-70, 25-75, 25-80, 25-85, 25-90, 25-95,
11 25-100, 25-105, 25-110, 25-125, 35-10, 35-15, 75-5, 75-15,
12 75-20, 75-35, 75-45, 75-50, and 75-55 as follows:

13 (225 ILCS 411/5-15)

14 (Section scheduled to be repealed on January 1, 2021)

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

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

1 permanent street address of the cemetery.

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

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

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

25 "Care funds", as distinguished from receipts from annual
26 charges or gifts for current or annual care, means any realty

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

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

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

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

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

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

10 "Cemetery operation" means to engage or attempt to engage
11 in the interment, inurnment, or entombment of human remains or
12 to engage in or attempt to engage in the care of a cemetery.

13 "Cemetery Oversight Database" means a database certified
14 by the Comptroller Department ~~Department~~ as effective in tracking the
15 interment, entombment, or inurnment of human remains.

16 "Cemetery worker" means an individual, including an
17 independent contractor or third-party vendor, who performs any
18 work at the cemetery that is customarily performed by one or
19 more cemetery employees, including openings and closings of
20 vaults and graves, stone settings, inurnments, interments,
21 entombments, administrative work, handling of any official
22 burial records, the preparation of foundations for memorials,
23 and routine cemetery maintenance. This definition does not
24 include uncompensated, volunteer workers.

25 "Certificate of organization" means the document received
26 by a cemetery association from the Secretary of State that

1 indicates that the cemetery association shall be deemed fully
2 organized as a body corporate under the name adopted and in its
3 corporate name may sue and be sued.

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

6 "Consumer" means a person, or the persons given priority
7 for the disposition of an individual's remains under the
8 Disposition of Remains Act, who purchases or is considering
9 purchasing cemetery, burial, or cremation products or services
10 from a cemetery authority or crematory authority, whether for
11 themselves or for another person.

12 "Customer service employee" means an individual who has
13 direct contact with consumers and explains cemetery
14 merchandise or services or negotiates, develops, or finalizes
15 contracts with consumers. This definition includes, without
16 limitation, an employee, an individual that is an independent
17 contractor, an individual that is employed or contracted by an
18 independent contractor, a third-party vendor, or an individual
19 that is employed or contracted by a third-party vendor, who has
20 direct contact with consumers and explains cemetery
21 merchandise or services or negotiates, develops, or finalizes
22 contracts with consumers. This definition does not include an
23 employee, an individual that is an independent contractor or an
24 individual that is employed or contracted by an independent
25 contractor, a third party vendor, or an individual that is
26 employed or contracted by a third party vendor, who merely

1 provides a printed cemetery list to a consumer, processes
2 payment from a consumer, or performs sales functions related
3 solely to incidental merchandise like flowers, souvenirs, or
4 other similar items.

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

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

12 "Entombment right" means the right to place individual
13 human remains or individual cremated human remains in a
14 specific mausoleum crypt or lawn crypt selected by a consumer
15 for use as a final resting place.

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

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

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

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

26 "Green burial or cremation disposition" means burial or

1 cremation practices that reduce the greenhouse gas emissions,
2 waste, and toxic chemicals ordinarily created in burial or
3 cremation or, in the case of greenhouse gas emissions, mitigate
4 or offset emissions. Such practices include standards for
5 burial or cremation certified by the Green Burial Council or
6 any other organization or method that the Comptroller
7 ~~Department~~ may name by rule.

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

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

15 "Independent contractor" means a person who performs work
16 for a cemetery authority where the cemetery authority has the
17 right to control or direct only the result of the work and not
18 the means and methods of accomplishing the result.

19 "Individual" means a natural person.

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

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

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

4 "Investment company" means any issuer (a) whose securities
5 are purchasable only with care funds or trust funds, or both;
6 (b) that is an open and diversified management company as
7 defined in and registered under the Investment Company Act of
8 1940; and (c) that has entered into an agreement with the
9 Comptroller ~~Department~~ containing such provisions as the
10 Comptroller ~~Department~~ by regulation requires for the proper
11 administration of this Act.

12 "Lawn crypt" means a permanent underground crypt installed
13 in multiple units for the interment of human remains.

14 "Licensee" means a person licensed under this Act as a
15 cemetery authority, cemetery manager, or customer service
16 employee. Anyone who holds himself or herself out as a licensee
17 or who is accused of unlicensed practice is considered a
18 licensee for purposes of enforcement, investigation, hearings,
19 and the Illinois Administrative Procedure Act. This definition
20 does not include a cemetery worker.

21 "Mausoleum crypt" means a space in a mausoleum used or
22 intended to be used, above or underground, to entomb human
23 remains.

24 "Niche" means a space in a columbarium or mausoleum used,
25 or intended to be used, for inurnment of cremated human
26 remains.

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

3 "Parcel identification number" means a unique number
4 assigned to a grave, plot, crypt, or niche that enables the
5 ~~Comptroller Department~~ to ascertain the precise location of a
6 decedent's remains interred, entombed, or inurned after the
7 effective date of this Act.

8 "Person" means any individual, firm, partnership,
9 association, corporation, limited liability company, trustee,
10 government or political subdivision, or other entity.

11 "Public cemetery" means a cemetery owned, operated,
12 controlled, or managed by the federal government, by any state,
13 county, city, village, incorporated town, township,
14 multi-township, public cemetery district, or other municipal
15 corporation, political subdivision, or instrumentality thereof
16 authorized by law to own, operate, or manage a cemetery.

17 "Religious cemetery" means a cemetery owned, operated,
18 controlled, or managed by any recognized church, religious
19 society, association, or denomination, or by any cemetery
20 authority or any corporation administering, or through which is
21 administered, the temporalities of any recognized church,
22 religious society, association, or denomination.

23 ~~"Secretary" means the Secretary of Financial and~~
24 ~~Professional Regulation.~~

25 "Term burial" means a right of interment sold to a consumer
26 in which the cemetery authority retains the right to disinter

1 and relocate the remains, subject to the provisions of
2 subsection (d) of Section 35-15 of this Act.

3 "Trustee" means any person authorized to hold funds under
4 this Act.

5 "Unique personal identifier" means the parcel
6 identification number in addition to the term of burial in
7 years; the numbered level or depth in the grave, plot, crypt,
8 or niche; and the year of death for human remains interred,
9 entombed, or inurned after the effective date of this Act.
10 (Source: P.A. 96-863, eff. 3-1-10.)

11 (225 ILCS 411/5-25)

12 (Section scheduled to be repealed on January 1, 2021)

13 Sec. 5-25. Powers of the Comptroller ~~Department~~. Subject
14 to the provisions of this Act, the Comptroller ~~Department~~ may
15 exercise the following powers:

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

21 (2) Examine and audit a licensed cemetery authority's care
22 funds, records from any year, and records of care funds from
23 any year, or any other aspects of cemetery operation as the
24 Comptroller ~~Department~~ deems appropriate.

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

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

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

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

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

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

16 (225 ILCS 411/10-5)

17 (Section scheduled to be repealed on January 1, 2021)

18 Sec. 10-5. Restrictions and limitations. No person shall,
19 without a valid license issued by the Comptroller ~~Department~~,
20 (i) hold himself or herself out in any manner to the public as
21 a licensed cemetery authority, licensed cemetery manager, or
22 customer service employee; (ii) attach the title "licensed
23 cemetery authority", "licensed cemetery manager", or "licensed
24 customer service employee" to his or her name; (iii) render or
25 offer to render services constituting the practice of cemetery

1 operation; or (iv) accept care funds within the meaning of this
2 Act or otherwise hold funds for care and maintenance unless
3 such person is holding and managing funds on behalf of a
4 cemetery authority and is authorized to conduct a trust
5 business under the Corporate Fiduciary Act or the federal
6 National Bank Act.

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

8 (225 ILCS 411/10-10)

9 (Section scheduled to be repealed on January 1, 2021)

10 Sec. 10-10. Persons licensed under the Cemetery Care Act or
11 Cemetery Association Act. A person acting as a licensed
12 cemetery authority under the Cemetery Care Act or Cemetery
13 Association Act prior to their repeal on March 1, 2012 must
14 comply with those Acts until the Comptroller ~~Department~~ takes
15 action on the person's application for a cemetery authority
16 license in accordance with this Act. The application for a
17 cemetery authority license under this Article must be submitted
18 to the Comptroller ~~Department~~ within 9 months after the
19 effective date of this Act. If the person fails to submit the
20 application within this period, then the person shall be
21 considered to be engaged in unlicensed practice and shall be
22 subject to discipline in accordance with Article 25 of this
23 Act.

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

1 (225 ILCS 411/10-15)

2 (Section scheduled to be repealed on January 1, 2021)

3 Sec. 10-15. Persons not licensed under the Cemetery Care
4 Act or the Cemetery Association Act. A cemetery manager, a
5 customer service employee, or a person acting as a cemetery
6 authority who was not required to obtain licensure prior to the
7 effective date of this Act need not comply with the licensure
8 requirement in this Article until the Comptroller ~~Department~~
9 takes action on the person's application for a license. The
10 application for a cemetery authority license must be submitted
11 to the Comptroller ~~Department~~ within 6 months after the
12 effective date of this Act. For cemetery managers already
13 working for a cemetery authority at the time of cemetery
14 authority application for licensure, the application for a
15 cemetery manager license must be submitted at the same time as
16 the original application for licensure as a cemetery authority
17 pursuant to this Section or Section 10-10, whichever the case
18 may be. Any applicant for licensure as a cemetery manager of a
19 cemetery authority that is already licensed under this Act or
20 that has a pending application for licensure under this Act
21 must submit his or her application to the Comptroller
22 ~~Department~~ on or before his or her first day of work. The
23 application for a customer service employee license must be
24 submitted to the Comptroller ~~Department~~ within 10 days after
25 the cemetery authority for which he or she works becomes
26 licensed under this Act or on or before his or her first day of

1 work, whichever the case may be. If the person fails to submit
2 the application within the required period, the person shall be
3 considered to be engaged in unlicensed practice and shall be
4 subject to discipline in accordance with Article 25 of this
5 Act.

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

7 (225 ILCS 411/10-20)

8 (Section scheduled to be repealed on January 1, 2021)

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

10 (a) Applications for original licensure as a cemetery
11 authority, cemetery manager, or customer service employee
12 authorized by this Act, or application for exemption from
13 licensure as a cemetery authority, shall be made to the
14 Comptroller Department on forms prescribed by the Comptroller
15 Department, which shall include the applicant's Social
16 Security number or FEIN number, or both, and shall be
17 accompanied by the required fee as set by rule. Applications
18 for partial or full exemption from licensure as a cemetery
19 authority shall be submitted to the Comptroller Department
20 within 12 months after the Comptroller Department adopts rules
21 under this Act. If the person fails to submit the application
22 for partial or full exemption within this period, the person
23 shall be subject to discipline in accordance with Article 25 of
24 this Act. If a cemetery authority seeks to practice at more
25 than one location, it shall meet all licensure requirements at

1 each location as required by this Act and by rule, including
2 submission of an application and fee. A person licensed as a
3 cemetery manager or customer service employee need not submit a
4 Worker's Statement in accordance with Section 10-22 of this
5 Act.

6 (b) If the application for licensure as a cemetery
7 authority does not claim a full exemption or partial exemption,
8 then the cemetery authority license application shall be
9 accompanied by a fidelity bond, proof of self-insurance, or
10 letter of credit in the amount required by rule. Such bond,
11 self-insurance, or letter of credit shall run to the
12 Comptroller Department for the benefit of the care funds held
13 by such cemetery authority or by the trustee of the care funds
14 of such cemetery authority. If care funds of a cemetery
15 authority are held by any entity authorized to do a trust
16 business under the Corporate Fiduciary Act or held by an
17 investment company, then the Comptroller Department shall
18 waive the requirement of a bond, self-insurance, or letter of
19 credit as established by rule. If the Comptroller Department
20 finds at any time that the bond, self-insurance or letter of
21 credit is insecure or exhausted or otherwise doubtful, then an
22 additional bond, form of self-insurance, or letter of credit in
23 like amount to be approved by the Comptroller Department shall
24 be filed by the cemetery authority applicant or licensee within
25 30 days after written demand is served upon the applicant or
26 licensee by the Comptroller Department. In addition, if the

1 cemetery authority application does not claim a full exemption
2 or partial exemption, then the license application shall be
3 accompanied by proof of liability insurance, proof of
4 self-insurance, or a letter of credit in the amount required by
5 rule. The procedure by which claims on the liability insurance,
6 self-insurance, or letter of credit are made and paid shall be
7 determined by rule. Any bond obtained pursuant to this
8 subsection shall be issued by a bonding company authorized to
9 do business in this State. Any letter of credit obtained
10 pursuant to this subsection shall be issued by a financial
11 institution authorized to do business in this State.
12 Maintaining the bonds, self-insurance, or letters of credit
13 required under this subsection is a continuing obligation for
14 licensure. A bonding company may terminate a bond, a financial
15 institution may terminate a letter of credit, or an insurance
16 company may terminate liability insurance and avoid further
17 liability by filing a 60-day notice of termination with the
18 Comptroller ~~Department~~ and at the same time sending the same
19 notice to the cemetery authority.

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

1 (d) All applications shall contain the information that, in
2 the judgment of the Comptroller Department, will enable the
3 Comptroller Department to pass on the qualifications of the
4 applicant for an exemption from licensure or for a license to
5 practice as a cemetery authority, cemetery manager, or customer
6 service employee as set by rule.

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

8 (225 ILCS 411/10-21)

9 (Section scheduled to be repealed on January 1, 2021)

10 Sec. 10-21. Qualifications for licensure.

11 (a) A cemetery authority shall apply for licensure on forms
12 prescribed by the Comptroller Department and pay the required
13 fee. An applicant is qualified for licensure as a cemetery
14 authority if the applicant meets all of the following
15 qualifications:

16 (1) The applicant is of good moral character and has
17 not committed any act or offense in any jurisdiction that
18 would constitute the basis for discipline under this Act.
19 In determining good moral character, the Comptroller
20 ~~Department~~ shall take into consideration the following:

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

1 (B) whether the applicant has been adjudicated,
2 civilly or criminally, to have committed fraud or to
3 have violated any law of any state involving unfair
4 trade or business practices, has been convicted of a
5 misdemeanor of which fraud is an essential element or
6 which involves any aspect of the cemetery business, or
7 has been convicted of any felony;

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

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

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

21 If the applicant is a corporation, limited liability
22 company, partnership, or other entity permitted by law,
23 then each principal, owner, member, officer, and
24 shareholder holding 25% or more of corporate stock is to be
25 of good moral character. Good moral character is a
26 continuing requirement of licensure.

1 (2) The applicant provides evidence satisfactory to
2 the Comptroller ~~Department~~ that the applicant has
3 financial resources sufficient to comply with the
4 maintenance and record-keeping provisions in Section 20-5
5 of this Act. Maintaining sufficient financial resources is
6 a continuing requirement for licensure.

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

22 (4) The applicant submits his or her fingerprints in
23 accordance with subsection (c) of this Section.

24 (5) The applicant has complied with all other
25 requirements of this Act and the rules adopted for the
26 implementation of this Act.

1 (b) The cemetery manager and customer service employees of
2 a licensed cemetery authority shall apply for licensure as a
3 cemetery manager or customer service employee on forms
4 prescribed by the Comptroller ~~Department~~ and pay the required
5 fee. A person is qualified for licensure as a cemetery manager
6 or customer service employee if he or she meets all of the
7 following requirements:

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

9 (2) Is of good moral character. Good moral character is
10 a continuing requirement of licensure. In determining good
11 moral character, the Comptroller ~~Department~~ shall take
12 into consideration the factors outlined in item (1) of
13 subsection (a) of this Section.

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

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

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

22 (6) Successfully passes the examination authorized by
23 the Comptroller ~~Department~~ for cemetery manager or
24 customer service employee, whichever is applicable.

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

1 to (i) a Class X felony or (ii) a felony, an essential
2 element of which was fraud or dishonesty under the laws of
3 this State, another state, the United States, or a foreign
4 jurisdiction.

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

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

9 (c) Each applicant for a cemetery authority, cemetery
10 manager, or customer service employee license shall have his or
11 her fingerprints submitted to the Department of State Police in
12 an electronic format that complies with the form and manner for
13 requesting and furnishing criminal history record information
14 that is prescribed by the Department of State Police. These
15 fingerprints shall be checked against the Department of State
16 Police and Federal Bureau of Investigation criminal history
17 record databases. The Department of State Police shall charge
18 applicants a fee for conducting the criminal history records
19 check, which shall be deposited in the State Police Services
20 Fund and shall not exceed the actual cost of the records check.
21 The Department of State Police shall furnish, pursuant to
22 positive identification, records of Illinois convictions to
23 the Comptroller Department. The Comptroller Department may
24 require applicants to pay a separate fingerprinting fee, either
25 to the Comptroller Department or directly to a designated
26 fingerprint vendor. The Comptroller Department, in its

1 discretion, may allow an applicant who does not have reasonable
2 access to a designated fingerprint vendor to provide his or her
3 fingerprints in an alternative manner. The Comptroller
4 ~~Department~~, in its discretion, may also use other procedures in
5 performing or obtaining criminal background checks of
6 applicants. Instead of submitting his or her fingerprints, an
7 individual may submit proof that is satisfactory to the
8 Comptroller ~~Department~~ that an equivalent security clearance
9 has been conducted. If the applicant for a cemetery authority
10 license is a corporation, limited liability company,
11 partnership, or other entity permitted by law, then each
12 principal, owner, member, officer, and shareholder holding 25%
13 or more of corporate stock shall have his or her fingerprints
14 submitted in accordance with this subsection (c).

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

16 (225 ILCS 411/10-22)

17 (Section scheduled to be repealed on January 1, 2021)

18 Sec. 10-22. Worker's Statement.

19 (a) (1) No cemetery worker shall perform work at the
20 cemetery of a licensed cemetery authority without submitting a
21 Worker's Statement on or before the first day the cemetery
22 worker commences work at the cemetery. No licensed cemetery
23 authority shall allow a cemetery worker to perform work at his
24 or her cemetery without submitting a Worker's Statement on or
25 before the first day the cemetery worker commences work at the

1 cemetery. The Worker's Statement shall be on forms prescribed
2 by the Comptroller ~~Department~~ and shall set forth the
3 following:

4 (i) The individual's full name, age, and residence
5 address.

6 (ii) The individual's work history for the 5 years
7 immediately preceding the date of the execution of the
8 statement, the place where the business or occupation
9 was engaged in, and the names of employers, if any.

10 (iii) That the individual has not had licensure as
11 a cemetery authority, cemetery manager, or customer
12 service employee denied, revoked, or suspended under
13 this Act within the previous year.

14 (iv) Any declaration of incompetence by a court of
15 competent jurisdiction that has not been restored.

16 (2) The cemetery authority shall retain a copy of the
17 Worker's Statement and shall transmit a copy to the
18 Comptroller ~~Department~~. A cemetery authority, however,
19 shall not transmit copies of Worker's Statements until the
20 cemetery authority receives a license under this Act. The
21 Comptroller ~~Department~~ shall issue a cemetery worker card
22 or other record of acknowledgment to an individual who
23 submits a Worker's Statement, but in no event shall the
24 Comptroller ~~Department~~ impose a fee to comply with the
25 requirements of this Section.

26 (b) Each cemetery authority shall maintain a record of each

1 cemetery worker that is accessible to the Comptroller
2 ~~Department~~. The record shall contain the following
3 information:

4 (1) A photograph taken within 10 days of the date that
5 the cemetery worker commences work with the cemetery
6 authority. The photograph shall be replaced with a current
7 photograph no later than 4 calendar years after the date on
8 which the cemetery worker commences work and every 4 years
9 thereafter. The photo may consist of the worker's driver's
10 license.

11 (2) The Worker's Statement specified in subsection (a)
12 of this Section.

13 (3) All correspondence or documents relating to the
14 character and integrity of the cemetery worker received by
15 the cemetery authority from any former employer, cemetery
16 association, government agency, or law enforcement agency.

17 (c) A cemetery authority may furnish a worker
18 identification card to each cemetery worker. If the cemetery
19 authority issues worker identification cards, then it shall
20 confiscate the worker identification card of any worker whose
21 employment or contract is terminated.

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

23 (225 ILCS 411/10-23)

24 (Section scheduled to be repealed on January 1, 2021)

25 Sec. 10-23. Code of Professional Conduct and Ethics. The

1 ~~Comptroller Department~~ shall adopt a Code of Professional
2 Conduct and Ethics by rule. Cemetery authorities, cemetery
3 managers, and customer service employees shall abide by the
4 Code of Professional Conduct and Ethics.

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

6 (225 ILCS 411/10-25)

7 (Section scheduled to be repealed on January 1, 2021)

8 Sec. 10-25. Examination; failure or refusal to take the
9 examination.

10 (a) The ~~Comptroller Department~~ shall authorize
11 examinations of cemetery manager and customer service employee
12 applicants at such times and places as it may determine. The
13 examinations shall fairly test an applicant's qualifications
14 to practice as cemetery manager or customer service employee,
15 whatever the case may be, and knowledge of the theory and
16 practice of cemetery operation and management or cemetery
17 customer service, whichever is applicable. The examination
18 shall further test the extent to which the applicant
19 understands and appreciates that the final disposal of a
20 deceased human body should be attended with appropriate
21 observance and understanding, having due regard and respect for
22 the reverent care of the human body and for those bereaved and
23 for the overall spiritual dignity of an individual.

24 (a-5) The examinations for cemetery manager and customer
25 service employee shall be appropriate for cemetery

1 professionals and shall not cover mortuary science.

2 (a-10) The examinations for cemetery manager and customer
3 service employee applicants shall be tiered, as determined by
4 rule, to account for the different amount of knowledge needed
5 by such applicants depending on their job duties and the number
6 of interments, inurnments, and entombments per year at the
7 cemetery at which they work.

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

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

23 (d) The Comptroller Department may employ consultants for
24 the purpose of preparing and conducting examinations.

25 (e) The Comptroller Department shall have the authority to
26 adopt or recognize, in part or in whole, examinations prepared,

1 administered, or graded by other organizations in the cemetery
2 industry that are determined appropriate to measure the
3 qualifications of an applicant for licensure.

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

5 (225 ILCS 411/10-30)

6 (Section scheduled to be repealed on January 1, 2021)

7 Sec. 10-30. Continuing education. The Comptroller
8 ~~Department~~ shall adopt rules for continuing education of
9 cemetery managers and customer service employees. The
10 continuing education requirements for cemetery managers and
11 customer service employees shall be tiered, as determined by
12 rule, to account for the different amount of knowledge needed
13 by such applicants depending on their job duties and the number
14 of interments, inurnments, and entombments per year at the
15 cemetery at which they work. The Comptroller ~~Department~~ shall
16 strive to keep the costs of any continuing education program
17 imposed on a cemetery authority minimal. The requirements of
18 this Section apply to any person seeking renewal or restoration
19 under Section 10-40 of this Act.

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

21 (225 ILCS 411/10-45)

22 (Section scheduled to be repealed on January 1, 2021)

23 Sec. 10-45. Transfer or sale, preservation of license,
24 liability for shortage.

1 (a) In the case of a sale of any cemetery or any part
2 thereof or of any related personal property by a cemetery
3 authority to a purchaser or pursuant to foreclosure
4 proceedings, except the sale of burial rights, services, or
5 merchandise to a person for his or her personal or family
6 burial or interment, the purchaser is liable for any shortages
7 existing before or after the sale in the care funds required to
8 be maintained in a trust pursuant to this Act and shall honor
9 all instruments issued under Article 15 of this Act for that
10 cemetery. Any shortages existing in the care funds constitute a
11 prior lien in favor of the trust for the total value of the
12 shortages and notice of such lien shall be provided in all
13 sales instruments.

14 (b) In the event of a sale or transfer of all or
15 substantially all of the assets of the cemetery authority, the
16 sale or transfer of the controlling interest of the corporate
17 stock of the cemetery authority, if the cemetery authority is a
18 corporation, or the sale or transfer of the controlling
19 interest of the partnership, if the cemetery authority is a
20 partnership, or the sale or transfer of the controlling
21 membership, if the cemetery authority is a limited liability
22 company, the cemetery authority shall, at least 30 days prior
23 to the sale or transfer, notify the Comptroller ~~Department~~, in
24 writing, of the pending date of sale or transfer so as to
25 permit the Comptroller ~~Department~~ to audit the books and
26 records of the cemetery authority. The audit must be commenced

1 within 10 business days of the receipt of the notification and
2 completed within the 30-day notification period unless the
3 Comptroller ~~Department~~ notifies the cemetery authority during
4 that period that there is a basis for determining a deficiency
5 that will require additional time to finalize. The sale or
6 transfer may not be completed by the cemetery authority unless
7 and until:

8 (1) the Comptroller ~~Department~~ has completed the audit
9 of the cemetery authority's books and records;

10 (2) any delinquency existing in the care funds has been
11 paid by the cemetery authority or arrangements
12 satisfactory to the Comptroller ~~Department~~ have been made
13 by the cemetery authority on the sale or transfer for the
14 payment of any delinquency; and

15 (3) the Comptroller ~~Department~~ issues a new cemetery
16 authority license upon application of the newly controlled
17 corporation or partnership, which license must be applied
18 for at least 30 days prior to the anticipated date of the
19 sale or transfer, subject to the payment of any
20 delinquencies, if any, as stated in item (2) of this
21 subsection (b).

22 (c) In the event of a sale or transfer of any cemetery
23 land, including any portion of cemetery land in which no human
24 remains have been interred, a licensee shall, at least 45 days
25 prior to the sale or transfer, notify the Comptroller
26 ~~Department~~, in writing, of the pending sale or transfer. With

1 the notification, the cemetery authority shall submit
2 information to the Comptroller Department, which may include a
3 copy of a portion of the cemetery map showing the land to be
4 sold or transferred, to enable the Comptroller Department to
5 determine whether any human remains are interred, inurned, or
6 entombed within the land to be sold or transferred and whether
7 consumers have rights of interment, inurnment, or entombment
8 within the land to be sold or transferred.

9 (d) For purposes of this Section, a person who acquires the
10 cemetery through a real estate foreclosure shall be subject to
11 the provisions of this Section pertaining to the purchaser,
12 including licensure.

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

14 (225 ILCS 411/10-50)

15 (Section scheduled to be repealed on January 1, 2021)

16 Sec. 10-50. Dissolution. Where any licensed cemetery
17 authority or any trustee thereof has accepted care funds within
18 the meaning of this Act, and dissolution is sought by such
19 cemetery authority in any manner, by resolution of such
20 cemetery authority, or the trustees thereof, notice shall be
21 given to the Comptroller Department of such intention to
22 dissolve and proper disposition shall be made of the care funds
23 so held for the general benefit of such lot owners by or for
24 the benefit of such cemetery authority, as provided by law, or
25 in accordance with the trust provisions of any gift, grant,

1 contribution, payment, legacy, or pursuant to any contract
2 whereby such funds were created. The Comptroller Department,
3 represented by the Attorney General, may apply to the circuit
4 court for the appointment of a receiver, trustee, successor in
5 trust, or for directions of such court as to the proper
6 disposition to be made of such care funds, to the end that the
7 uses and purposes for which such trust or care funds were
8 created may be accomplished, and for proper continued operation
9 of the cemetery.

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

11 (225 ILCS 411/10-55)

12 (Section scheduled to be repealed on January 1, 2021)

13 Sec. 10-55. Fees.

14 (a) Except as provided in subsection (b) of this Section,
15 the fees for the administration and enforcement of this Act,
16 including, but not limited to, original licensure, renewal, and
17 restoration fees, shall be set by the Comptroller Department by
18 rule. The fees shall be reasonable and shall not be refundable.

19 (b) Applicants for examination shall be required to pay,
20 either to the Comptroller Department or the designated testing
21 service, a fee covering the cost of providing the examination.

22 (c) All fees and other moneys collected under this Act
23 shall be deposited in the Cemetery Oversight Licensing and
24 Disciplinary Fund.

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

1 (225 ILCS 411/10-60)

2 (Section scheduled to be repealed on January 1, 2021)

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

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

1 ~~Secretary~~ may waive the fines due under this Section in
2 individual cases where the Comptroller ~~Secretary~~ finds that the
3 fines would be unreasonable or unnecessarily burdensome.
4 (Source: P.A. 96-863, eff. 3-1-10.)

5 (225 ILCS 411/15-15)

6 (Section scheduled to be repealed on January 1, 2021)

7 Sec. 15-15. Care funds; deposits; investments.

8 (a) Whenever a cemetery authority accepts care funds,
9 either in connection with the sale or giving away at an imputed
10 value of an interment right, entombment right, or inurnment
11 right, or in pursuance of a contract, or whenever, as a
12 condition precedent to the purchase or acceptance of an
13 interment right, entombment right, or inurnment right, such
14 cemetery authority shall establish a care fund or deposit the
15 funds in an already existing care fund.

16 (b) The cemetery authority shall execute and deliver to the
17 person from whom it received the care funds an instrument in
18 writing that shall specifically state: (i) the nature and
19 extent of the care to be furnished and (ii) that such care
20 shall be furnished only in so far as net income derived from
21 the amount deposited in trust will permit (the income from the
22 amount so deposited, less necessary expenditures of
23 administering the trust, shall be deemed the net income).

24 (c) The setting-aside and deposit of care funds shall be
25 made by such cemetery authority no later than 30 days after the

1 close of the month in which the cemetery authority gave away
2 for an imputed value or received the final payment on the
3 purchase price of interment rights, entombment rights, or
4 inurnment rights, or received the final payment for the general
5 or special care of a lot, grave, crypt, or niche or of a family
6 mausoleum, memorial, marker, or monument, and such amounts
7 shall be held by the trustee of the care funds of such cemetery
8 authority in trust and in perpetuity for the specific purposes
9 stated in the written instrument described in subsection (b).
10 For all care funds received by a cemetery authority, except for
11 care funds received by a cemetery authority pursuant to a
12 specific gift, grant, contribution, payment, legacy, or
13 contract that are subject to investment restrictions more
14 restrictive than the investment provisions set forth in this
15 Act, and except for care funds otherwise subject to a trust
16 agreement executed by a person or persons responsible for
17 transferring the specific gift, grant, contribution, payment,
18 or legacy to the cemetery authority that contains investment
19 restrictions more restrictive than the investment provisions
20 set forth in this Act, the cemetery authority may, without the
21 necessity of having to obtain prior approval from any court in
22 this State, designate a new trustee in accordance with this Act
23 and invest the care funds in accordance with this Section,
24 notwithstanding any contrary limitation contained in the trust
25 agreement.

26 (d) Any cemetery authority engaged in selling or giving

1 away at an imputed value interment rights, entombment rights,
2 or inurnment rights, in conjunction with the selling or giving
3 away at an imputed value any other merchandise or services not
4 covered by this Act, shall be prohibited from increasing the
5 sales price or imputed value of those items not requiring a
6 care fund deposit under this Act with the purpose of allocating
7 a lesser sales price or imputed value to items that require a
8 care fund deposit.

9 (e) If any sale that requires a deposit to a cemetery
10 authority's care fund is made by a cemetery authority on an
11 installment basis, and the installment contract is factored,
12 discounted, or sold to a third party, then the cemetery
13 authority shall deposit the amount due to the care fund within
14 30 days after the close of the month in which the installment
15 contract was factored, discounted, or sold. If, subsequent to
16 such deposit, the purchaser defaults on the contract such that
17 no care fund deposit on that contract would have been required,
18 then the cemetery authority may apply the amount deposited as a
19 credit against future required deposits.

20 (f) The trust authorized by this Section shall be a single
21 purpose trust fund. In the event of the cemetery authority's
22 bankruptcy, insolvency, or assignment for the benefit of
23 creditors, or an adverse judgment, the trust funds shall not be
24 available to any creditor as assets of the cemetery authority
25 or to pay any expenses of any bankruptcy or similar proceeding,
26 but shall be retained intact to provide for the future

1 maintenance of the cemetery. Except in an action by the
2 Comptroller ~~Department~~ to revoke a license issued pursuant to
3 this Act and for creation of a receivership as provided in this
4 Act, the trust shall not be subject to judgment, execution,
5 garnishment, attachment, or other seizure by process in
6 bankruptcy or otherwise, nor to sale, pledge, mortgage, or
7 other alienation, and shall not be assignable except as
8 approved by the Comptroller ~~Department~~.

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

10 (225 ILCS 411/15-40)

11 (Section scheduled to be repealed on January 1, 2021)

12 Sec. 15-40. Trust examinations and audits.

13 (a) The Comptroller ~~Department~~ shall examine at least
14 annually every licensee who holds \$250,000 or more in its care
15 funds. For that purpose, the Comptroller ~~Department~~ shall have
16 free access to the office and places of business and to such
17 records of all licensees and of all trustees of the care funds
18 of all licensees as shall relate to the acceptance, use, and
19 investment of care funds. The Comptroller ~~Department~~ may
20 require the attendance of and examine under oath all persons
21 whose testimony may be required relative to such business. In
22 such cases the Comptroller ~~Department~~, or any qualified
23 representative of the Comptroller ~~Department~~ whom the
24 Comptroller ~~Department~~ may designate, may administer oaths to
25 all such persons called as witnesses, and the Comptroller

1 ~~Department~~, or any such qualified representative of the
2 Comptroller ~~Department~~, may conduct such examinations. The
3 cost of an initial examination shall be determined by rule.

4 (b) The Comptroller ~~Department~~ may order additional audits
5 or examinations as it may deem necessary or advisable to ensure
6 the safety and stability of the trust funds and to ensure
7 compliance with this Act. These additional audits or
8 examinations shall only be made after good cause is established
9 by the Comptroller ~~Department~~ in the written order. The grounds
10 for ordering these additional audits or examinations may
11 include, but shall not be limited to:

12 (1) material and unverified changes or fluctuations in
13 trust balances;

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

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

18 (4) failure to maintain or produce documentation
19 required by this Act.

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

21 (225 ILCS 411/20-5)

22 (Section scheduled to be repealed on January 1, 2021)

23 Sec. 20-5. Maintenance and records.

24 (a) A cemetery authority shall provide reasonable
25 maintenance of the cemetery property and of all lots, graves,

1 crypts, and columbariums in the cemetery based on the type and
2 size of the cemetery, topographic limitations, and contractual
3 commitments with consumers. Subject to the provisions of this
4 subsection (a), reasonable maintenance includes:

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

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

12 (3) the trimming of shrubs to prevent excessive
13 overgrowth;

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

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

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

19 Reasonable maintenance by the cemetery authority shall not
20 preclude the exercise of lawful rights by the owner of an
21 interment, inurnment, or entombment right, or by the decedent's
22 immediate family or other heirs, in accordance with reasonable
23 rules and regulations of the cemetery or other agreement of the
24 cemetery authority.

25 In the case of a cemetery dedicated as a nature preserve
26 under the Illinois Natural Areas Preservation Act, reasonable

1 maintenance by the cemetery authority shall be in accordance
2 with the rules and master plan governing the dedicated nature
3 preserve.

4 The Comptroller ~~Department~~ shall adopt rules to provide
5 greater detail as to what constitutes the reasonable
6 maintenance required under this Section. The rules shall
7 differentiate between cemeteries based on, among other things,
8 the size and financial strength of the cemeteries. The rules
9 shall also provide a reasonable opportunity for a cemetery
10 authority accused of violating the provisions of this Section
11 to cure any such violation in a timely manner given the weather
12 conditions, climate, and season before the Comptroller
13 ~~Department~~ initiates formal proceedings.

14 (b) A cemetery authority, before commencing cemetery
15 operations or within 6 months after the effective date of this
16 Act, shall cause an overall map of its cemetery property,
17 delineating all lots or plots, blocks, sections, avenues,
18 walks, alleys, and paths and their respective designations, to
19 be filed at its on-site office, or if it does not maintain an
20 on-site office, at its principal place of business. A cemetery
21 manager's certificate acknowledging, accepting, and adopting
22 the map shall also be included with the map. The Comptroller
23 ~~Department~~ may order that the cemetery authority obtain a
24 cemetery plat and that it be filed at its on-site office, or if
25 it does not maintain an on-site office, at its principal place
26 of business only in the following circumstances:

1 (1) the cemetery authority is expanding or altering the
2 cemetery grounds; or

3 (2) a human body that should have been interred,
4 entombed, or inurned at the cemetery is missing, displaced,
5 or dismembered and the cemetery map contains serious
6 discrepancies.

7 In exercising this discretion, the Comptroller ~~Department~~
8 shall consider whether the cemetery authority would experience
9 an undue hardship as a result of obtaining the plat. The
10 cemetery plat, as with all plats prepared under this Act, shall
11 comply with the Illinois Professional Land Surveyor Act of 1989
12 and shall delineate, describe, and set forth all lots or plots,
13 blocks, sections, avenues, walks, alleys, and paths and their
14 respective designations. A cemetery manager's certificate
15 acknowledging, accepting, and adopting the plat shall also be
16 included with the plat.

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

21 (c) The cemetery authority shall open the cemetery map or
22 plat to public inspection. The cemetery authority shall make
23 available a copy of the overall cemetery map or plat upon
24 written request and shall, if practical, provide a copy of a
25 segment of the cemetery plat where interment rights are located
26 upon the payment of reasonable photocopy fees. Any unsold lots,

1 plots, or parts thereof, in which there are not human remains,
2 may be resurveyed and altered in shape or size and properly
3 designated on the cemetery map or plat. However, sold lots,
4 plots, or parts thereof in which there are human remains may
5 not be renumbered or renamed. Nothing contained in this
6 subsection, however, shall prevent the cemetery authority from
7 enlarging an interment right by selling to its owner the excess
8 space next to the interment right and permitting interments
9 therein, provided reasonable access to the interment right and
10 to adjoining interment rights is not thereby eliminated.

11 (d) A cemetery authority shall keep a record of every
12 interment, entombment, and inurnment completed after the
13 effective date of this Act. The record shall include the
14 deceased's name, age, date of burial, and parcel identification
15 number identifying where the human remains are interred,
16 entombed, or inurned. The record shall also include the unique
17 personal identifier as may be further defined by rule, which is
18 the parcel identification number in addition to the term of
19 burial in years; the numbered level or depth in the grave,
20 plot, crypt, or niche; and the year of death.

21 (e) (Blank).

22 (f) A cemetery authority shall make available for
23 inspection and, upon reasonable request and the payment of a
24 reasonable copying fee, provide a copy of its rules and
25 regulations. A cemetery authority shall make available for
26 viewing and provide a copy of its current prices of interment,

1 inurnment, or entombment rights.

2 (g) A cemetery authority shall provide access to the
3 cemetery under the cemetery authority's reasonable rules and
4 regulations.

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

8 (i) Any corporate or other business organization trustee of
9 the care funds of every licensed cemetery authority shall be
10 located in or a resident of this State. The licensed cemetery
11 authority and the trustee of care funds shall keep in this
12 State and use in its business such books, accounts, and records
13 as will enable the Comptroller Department to determine whether
14 such licensee or trustee is complying with the provisions of
15 this Act and with the rules, regulations, and directions made
16 by the Comptroller Department under this Act. The licensed
17 cemetery authority shall keep the books, accounts, and records
18 in electronic or written format at the location identified in
19 the license issued by the Comptroller Department or as
20 otherwise agreed by the Comptroller Department in writing. The
21 books, accounts, and records shall be accessible for review
22 upon demand of the Comptroller Department.

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

24 (225 ILCS 411/20-6)

25 (Section scheduled to be repealed on January 1, 2021)

1 Sec. 20-6. Cemetery Oversight Database.

2 (a) Within 10 business days after an interment, entombment,
3 or inurnment of human remains, the cemetery manager shall cause
4 a record of the interment, entombment, or inurnment to be
5 entered into the Cemetery Oversight Database. The requirement
6 of this subsection (a) also applies in any instance in which
7 human remains are relocated.

8 (b) Within 9 months after the effective date of this Act,
9 the Comptroller ~~Department~~ shall certify a database as the
10 Cemetery Oversight Database. Upon certifying the database, the
11 Comptroller ~~Department~~ shall:

12 (1) provide reasonable notice to cemetery authorities
13 identifying the database; and

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

17 (c) In certifying the Cemetery Oversight Database, the
18 Comptroller ~~Department~~ shall ensure that the database:

19 (1) provides real-time access through an Internet
20 connection or, if real-time access through an Internet
21 connection becomes unavailable due to technical problems
22 with the Cemetery Oversight Database incurred by the
23 database provider or if obtaining use of an Internet
24 connection would be an undue hardship on the cemetery
25 authority, through alternative mechanisms, including, but
26 not limited to, telephone;

1 (2) is accessible to the Comptroller ~~Department~~ and to
2 cemetery managers in order to ensure compliance with this
3 Act and in order to provide any other information that the
4 Comptroller ~~Department~~ deems necessary;

5 (3) requires cemetery authorities to input whatever
6 information required by the Comptroller ~~Department~~;

7 (4) maintains a real-time copy of the required
8 reporting information that is available to the Comptroller
9 ~~Department~~ at all times and is the property of the
10 Comptroller ~~Department~~; and

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

13 (d) A cemetery authority may rely on the information
14 contained in the Cemetery Oversight Database as accurate and is
15 not subject to any administrative penalty or liability as a
16 result of relying on inaccurate information contained in the
17 database.

18 (e) The Cemetery Oversight Database provider shall
19 indemnify cemetery authorities against all claims and actions
20 arising from illegal, willful, or wanton acts on the part of
21 the Database provider. The Cemetery Oversight Database
22 provider shall at all times maintain an electronic backup copy
23 of the information it receives pursuant to subsection (a).

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

1 (Section scheduled to be repealed on January 1, 2021)

2 Sec. 20-20. Display of license. Every cemetery authority,
3 cemetery manager, and customer service employee license issued
4 by the Comptroller ~~Department~~ shall state the number of the
5 license and the address at which the business is to be
6 conducted. Such license shall be kept conspicuously posted in
7 the place of business of the licensee and shall not be
8 transferable or assignable. Nothing in this Act shall prevent
9 an individual from acting as a licensed cemetery manager or
10 customer service employee for more than one cemetery. A
11 cemetery manager or customer service employee who works at more
12 than one cemetery shall display an original version of his or
13 her license at each location for which the individual serves as
14 a cemetery manager or customer service employee.

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

16 (225 ILCS 411/20-25)

17 (Section scheduled to be repealed on January 1, 2021)

18 Sec. 20-25. Annual report. Each licensed cemetery
19 authority shall annually, on or before April 15, file a report
20 with the Comptroller ~~Department~~ giving such information as the
21 Comptroller ~~Department~~ may reasonably require concerning the
22 business and operations during the preceding calendar year as
23 provided for by rule. The report must be received by the
24 Comptroller ~~Department~~ on or before April 15, unless such date
25 is extended for reasonable cause up to 90 days by the

1 ~~Comptroller Department~~. The report shall be made under oath and
2 in a form prescribed by the Comptroller ~~Department~~. The
3 Comptroller ~~Department~~ may fine each licensee an amount as
4 determine by rule for each day beyond April 15 the report is
5 filed.

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

7 (225 ILCS 411/20-30)

8 (Section scheduled to be repealed on January 1, 2021)

9 Sec. 20-30. Signage. The Comptroller ~~Department~~ shall
10 create, and each cemetery authority shall conspicuously post
11 signs in English and Spanish in each cemetery office that
12 contain the Comptroller's ~~Department's~~ consumer hotline
13 number, information on how to file a complaint, and whatever
14 other information that the Comptroller ~~Department~~ deems
15 appropriate.

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

17 (225 ILCS 411/22-1)

18 (Section scheduled to be repealed on January 1, 2021)

19 Sec. 22-1. Cemetery association requirements. The
20 requirements of this Article apply to those entities formed as
21 and acting as cemetery associations that act as a cemetery and
22 are otherwise exempt from this Act pursuant to Section 5-20 of
23 this Act. A cemetery association offering or providing services
24 as a cemetery that is exempt pursuant to Section 5-20 of this

1 Act shall remain subject to the provisions of this Article and
2 its requirements, mandates, and discipline in accordance with
3 the provisions of this Act. Any cemetery association not exempt
4 in accordance with Section 5-20 of this Act shall obtain a
5 license from the Comptroller ~~Department~~ in accordance with the
6 provisions of this Act and shall remain subject to all
7 provisions of this Act.

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

9 (225 ILCS 411/22-3)

10 (Section scheduled to be repealed on January 1, 2021)

11 Sec. 22-3. Certificate of organization. Any person who has
12 received a certificate of organization from the Secretary of
13 State must record the certificate of organization with the
14 recorder's office of the county in which the cemetery is
15 situated, and when so recorded, the association shall be deemed
16 fully organized as a body corporate under the name adopted and
17 in its corporate name may sue and be sued. Whenever two-thirds
18 of the trustees of the cemetery association approve a
19 resolution to change the name of the cemetery association, a
20 copy of such resolution and approval thereof duly certified by
21 the President and Secretary of the association shall be filed
22 with the Comptroller ~~Department~~ and upon approval thereof shall
23 be filed in the Office of the Secretary of State. Whenever
24 two-thirds of the trustees of a cemetery association approve a
25 resolution to dissolve the association, a copy of such

1 resolution and approval of the trustees of the cemetery
2 association duly certified by the President and Secretary shall
3 be submitted to the Comptroller ~~Department~~, and if approved by
4 the Comptroller ~~Department~~, a copy of such resolution and
5 approval of the Comptroller ~~Department~~ shall be duly filed by
6 the Comptroller ~~Department~~ in the Office of the Secretary of
7 State. If the association has care funds as defined in this
8 Act, the Comptroller ~~Department~~ shall not approve the
9 dissolution of any cemetery association unless proper
10 disposition has been made of such care funds, as provided by
11 law, and in accordance with this Act. Upon the filing of the
12 resolution of either change of name or dissolution of such
13 cemetery association in the Office of the Secretary of State,
14 such change of name or dissolution of such cemetery association
15 shall be complete. The Comptroller ~~Department~~ shall so notify
16 the trustees of such cemetery association. Thereupon the
17 trustees shall cause a copy of such resolution of either change
18 of name or dissolution to be recorded in the recorder's office
19 of the county where the cemetery is situated.

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

21 (225 ILCS 411/22-4)

22 (Section scheduled to be repealed on January 1, 2021)

23 Sec. 22-4. Cemetery association composition; board of
24 trustees. A cemetery association meeting the requirements set
25 forth in Section 22-3 of this Act shall proceed to elect from

1 their own number a board of trustees for the association. The
2 board shall consist of not less than 6 and not more than 10
3 members. The trustees, once elected, shall immediately
4 organize by electing from their own membership a president,
5 vice president, and treasurer, and shall also elect a
6 secretary, who may or may not be a member of the board of
7 trustees. The officers shall hold their respective offices for
8 and during the period of one year, and until their successors
9 are duly elected and qualified. Trustees, once elected, shall
10 divide themselves by lot into 2 classes, the first of which
11 shall hold their offices for a period of 3 years, and the
12 second of which shall hold their offices for a period of 6
13 years. Thereafter the term of office of the trustees shall be 6
14 years. Upon the expiration of the term of office of any of the
15 trustees, or the resignation or death or removal from the State
16 of Illinois of any trustees, or their removal from office as
17 provided in this Act, the remaining trustees shall fill the
18 vacancy by electing a person residing in the county where the
19 cemetery is located for a new 6-year term or, if no one can be
20 nominated, the President of the cemetery association shall
21 notify the Comptroller ~~Department~~ of such vacancy or vacancies
22 in writing. Thereafter the Comptroller ~~Department~~ shall fill
23 the vacancy or vacancies by appointing a suitable person or
24 persons as trustees. In making such appointments, the
25 Comptroller ~~Department~~ shall exercise its power such that at
26 least two-thirds of the trustees shall be selected from

1 suitable persons residing within 15 miles of the cemetery, or
2 some part thereof, and the other appointees may be suitable
3 persons interested in said cemetery association through family
4 interments or otherwise who are citizens of the State of
5 Illinois.

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

7 (225 ILCS 411/22-10)

8 (Section scheduled to be repealed on January 1, 2021)

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

1 may be filed and execution had thereon in the same manner as
2 any judgment from any court of record.

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

4 (225 ILCS 411/22-11)

5 (Section scheduled to be repealed on January 1, 2021)

6 Sec. 22-11. Fees; fines. Except as otherwise provided in
7 this Act, the fees for the administration and enforcement of
8 this Article shall be set by rule of the Comptroller
9 ~~Department~~. The fees shall be nonrefundable.

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

11 (225 ILCS 411/22-12)

12 (Section scheduled to be repealed on January 1, 2021)

13 Sec. 22-12. Deposit of fees and fines. All of the fees,
14 fines, or other moneys collected by the Comptroller ~~Department~~
15 from cemetery associations under this Article shall be
16 deposited into the Cemetery Oversight Licensing and
17 Disciplinary Fund.

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

19 (225 ILCS 411/22-13)

20 (Section scheduled to be repealed on January 1, 2021)

21 Sec. 22-13. Injunctive relief.

22 (a) If any cemetery association otherwise exempted under
23 the provisions of this Act violates any of the provisions of

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

17 (b) For misconduct in office any trustee of a cemetery
18 association may be removed from office by a court of competent
19 jurisdiction. Any trustee of an association who converts any
20 funds of an association to his or her own use or to a use other
21 than that intended shall be guilty of embezzlement as provided
22 by State law.

23 (c) All cemetery associations shall remain subject to the
24 duties, obligations, and requirements of this Act unless
25 otherwise exempted by this Act. Those cemetery associations
26 exempted under this Act shall comply with the provisions of

1 this Article.

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

3 (225 ILCS 411/22-21)

4 (Section scheduled to be repealed on January 1, 2021)

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

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

13 (225 ILCS 411/25-1)

14 (Section scheduled to be repealed on January 1, 2021)

15 Sec. 25-1. Denial of license or exemption from licensure.
16 If the Comptroller ~~Department~~ determines that an application
17 for licensure or exemption from licensure should be denied
18 pursuant to Section 25-10, then the applicant shall be sent a
19 notice of intent to deny license or exemption from licensure
20 and the applicant shall be given the opportunity to request,
21 within 20 days of the notice, a hearing on the denial. If the
22 applicant requests a hearing, then the Comptroller ~~Secretary~~
23 shall schedule a hearing within 30 days after the request for a
24 hearing, unless otherwise agreed to by the parties. The

1 ~~Comptroller Secretary~~ shall have the authority to appoint an
2 attorney duly licensed to practice law in the State of Illinois
3 to serve as the hearing officer. The hearing officer shall have
4 full authority to conduct the hearing. The hearing shall be
5 held at the time and place designated by the Comptroller
6 ~~Secretary~~. The Comptroller Secretary shall have the authority
7 to prescribe rules for the administration of this Section.

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

9 (225 ILCS 411/25-3)

10 (Section scheduled to be repealed on January 1, 2021)

11 Sec. 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 Comptroller Department in the event of a consumer
15 complaint:

16 (a) Complaints to cemetery:

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

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

23 (b) Complaints to the Comptroller Department:

24 (1) if the Comptroller Department receives a
25 complaint, the Comptroller Department shall make an

1 initial determination as to whether the complaint has a
2 reasonable basis and pertains to this Act;

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

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

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

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

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

1 unprofessional conduct of a character likely to deceive,
2 defraud, or harm the public; (iii) gross, willful, or
3 continued overcharging for services; (iv) incompetence;
4 (v) unjustified failure to honor its contracts; or (vi)
5 failure to adequately maintain its premises. The
6 Comptroller ~~Department~~ may issue a citation or institute
7 disciplinary action and cause the matter to be prosecuted
8 and may thereafter issue and enforce its final order as
9 provided in this Act.

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

11 (225 ILCS 411/25-5)

12 (Section scheduled to be repealed on January 1, 2021)

13 Sec. 25-5. Citations.

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

1 established by rule.

2 (b) The Comptroller ~~Department~~ shall adopt rules
3 designating violations for which a citation may be issued. Such
4 rules shall designate as citation violations those violations
5 for which there is no substantial threat to the public health,
6 safety, and welfare. Citations shall not be utilized if there
7 was any significant consumer harm resulting from the violation.

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

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

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

14 (225 ILCS 411/25-10)

15 (Section scheduled to be repealed on January 1, 2021)

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

17 (a) The Comptroller ~~Department~~ may refuse to issue or renew
18 a license or may revoke, suspend, place on probation,
19 reprimand, or take other disciplinary action as the Comptroller
20 ~~Department~~ may deem appropriate, including imposing fines not
21 to exceed \$10,000 for each violation, with regard to any
22 license under this Act, for any one or combination of the
23 following:

24 (1) Material misstatement in furnishing information to
25 the Comptroller ~~Department~~.

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

3 (3) Conviction of, or entry of a plea of guilty or nolo
4 contendere to, any crime within the last 10 years that is a
5 Class X felony or is a felony involving fraud and
6 dishonesty under the laws of the United States or any state
7 or territory thereof.

8 (4) Making any misrepresentation for the purpose of
9 obtaining licensure or violating any provision of this Act
10 or the rules adopted under this Act.

11 (5) Professional incompetence.

12 (6) Gross malpractice.

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

15 (8) Failing, within 10 business days, to provide
16 information in response to a written request made by the
17 Comptroller ~~Department~~.

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

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

25 (11) Discipline by another state, District of
26 Columbia, territory, or foreign nation, if at least one of

1 the grounds for the discipline is the same or substantially
2 equivalent to those set forth in this Section.

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

8 (13) A finding by the Comptroller ~~Department~~ that the
9 licensee, after having his or her license placed on
10 probationary status, has violated the terms of probation.

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

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

17 (16) Failure to file an annual report or to maintain in
18 effect the required bond or to comply with an order,
19 decision, or finding of the Comptroller ~~Department~~ made
20 pursuant to this Act.

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

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

25 (19) Fraud or misrepresentation in applying for, or
26 procuring, a license under this Act or in connection with

1 applying for renewal of a license under this Act.

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

4 (21) Unjustified failure to honor its contracts.

5 (22) Negligent supervision of a cemetery manager,
6 customer service employee, cemetery worker, or independent
7 contractor.

8 (23) A pattern of practice or other behavior which
9 demonstrates incapacity or incompetence to practice under
10 this Act.

11 (24) Allowing an individual who is not, but is required
12 to be, licensed under this Act to perform work for the
13 cemetery authority.

14 (25) Allowing an individual who has not, but is
15 required to, submit a Worker's Statement in accordance with
16 Section 10-22 of this Act to perform work at the cemetery.

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

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

24 (225 ILCS 411/25-13)

25 (Section scheduled to be repealed on January 1, 2021)

1 Sec. 25-13. Independent contractors.

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

19 (b) Notwithstanding any provision of this Act to the
20 contrary, a cemetery authority may allow an unlicensed
21 independent contractor who otherwise would be required to
22 become licensed, or an independent contractor that has not
23 submitted a Worker's Statement who otherwise would be required
24 to submit a Worker's Statement, to perform work on a special
25 project basis, and only to perform work other than the
26 following services: openings and closings of vaults and graves,

1 stone settings, inurnments, interments, entombments,
2 administrative work, handling of any official burial records,
3 and all other work that is customarily performed by one or more
4 cemetery workers before the effective date of the Act,
5 including, but not limited to, the preparation of foundations
6 for memorials and routine cemetery maintenance. For purposes of
7 this subsection, "routine cemetery maintenance" includes those
8 activities described in items (1), (2), (3), and (6) of Section
9 20-5(a) of this Act.

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

11 (225 ILCS 411/25-14)

12 (Section scheduled to be repealed on January 1, 2021)

13 Sec. 25-14. Mandatory reports.

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

25 (b) The State's Attorney of each county shall report to the

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

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

9 (225 ILCS 411/25-15)

10 (Section scheduled to be repealed on January 1, 2021)

11 Sec. 25-15. Cease and desist.

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

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

22 (c) The ~~Comptroller Secretary~~ shall serve notice of his or
23 her action, designated as an order to cease and desist made
24 pursuant to this Section, including a statement of the reasons
25 for the action, either personally or by certified mail, return

1 receipt requested. Service by certified mail shall be deemed
2 completed when the notice is deposited in the United States
3 mail and sent to the address of record or, in the case of
4 unlicensed activity, the address known to the Comptroller
5 ~~Department~~.

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

9 (e) The Comptroller ~~Secretary~~ shall schedule a hearing
10 within 30 days after the request for a hearing unless otherwise
11 agreed to by the parties.

12 (f) The Comptroller ~~Secretary~~ shall have the authority to
13 prescribe rules for the administration of this Section.

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

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

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

1 (225 ILCS 411/25-25)

2 (Section scheduled to be repealed on January 1, 2021)

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

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

1 (4) require the production of a copy of any record, book,
2 document, account, or paper that is produced in accordance with
3 this Act and retain it in his or her possession until the
4 completion of all proceedings in connection with which it is
5 produced.

6 (b) The Comptroller ~~Secretary~~ may, after 10 days notice by
7 certified mail with return receipt requested to the licensee at
8 the address of record or to the last known address of any other
9 person stating the contemplated action and in general the
10 grounds therefor, fine such licensee an amount not exceeding
11 \$10,000 per violation or revoke, suspend, refuse to renew,
12 place on probation, or reprimand any license issued under this
13 Act if he or she finds that:

14 (1) the licensee has failed to comply with any
15 provision of this Act or any order, decision, finding,
16 rule, regulation, or direction of the Comptroller
17 ~~Secretary~~ lawfully made pursuant to the authority of this
18 Act; or

19 (2) any fact or condition exists which, if it had
20 existed at the time of the original application for the
21 license, clearly would have warranted the Comptroller
22 ~~Secretary~~ in refusing to issue the license.

23 (c) The Comptroller ~~Secretary~~ may fine, revoke, suspend,
24 refuse to renew, place on probation, reprimand, or take any
25 other disciplinary action as to the particular license with
26 respect to which grounds for the fine, revocation, suspension,

1 refuse to renew, probation, or reprimand, or other disciplinary
2 action occur or exist, but if the Comptroller ~~Secretary~~ finds
3 that grounds for revocation are of general application to all
4 offices or to more than one office of the licensee, the
5 Comptroller ~~Secretary~~ shall fine, revoke, suspend, refuse to
6 renew, place on probation, reprimand, or otherwise discipline
7 every license to which such grounds apply.

8 (d) In every case in which a license is revoked, suspended,
9 placed on probation, reprimanded, or otherwise disciplined,
10 the Comptroller ~~Secretary~~ shall serve the licensee with notice
11 of his or her action, including a statement of the reasons for
12 his or her actions, either personally or by certified mail,
13 return receipt requested. Service by certified mail shall be
14 deemed completed when the notice is deposited in the United
15 States mail and sent to the address of record.

16 (e) An order assessing a fine, an order revoking,
17 suspending, placing on probation, or reprimanding a license or,
18 an order denying renewal of a license shall take effect upon
19 service of the order unless the licensee requests, in writing,
20 within 20 days after the date of service, a hearing. In the
21 event a hearing is requested, an order issued under this
22 Section shall be stayed until a final administrative order is
23 entered.

24 (f) If the licensee requests a hearing, then the
25 Comptroller ~~Secretary~~ shall schedule a hearing within 30 days
26 after the request for a hearing unless otherwise agreed to by

1 the parties. The Comptroller ~~Secretary~~ shall have the authority
2 to appoint an attorney duly licensed to practice law in the
3 State of Illinois to serve as the hearing officer in any
4 disciplinary action with regard to a license. The hearing
5 officer shall have full authority to conduct the hearing.

6 (g) The hearing shall be held at the time and place
7 designated by the Comptroller ~~Secretary~~.

8 (h) The Comptroller ~~Secretary~~ shall have the authority to
9 prescribe rules for the administration of this Section.

10 (i) Fines imposed and any costs assessed shall be paid
11 within 60 days.

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

13 (225 ILCS 411/25-30)

14 (Section scheduled to be repealed on January 1, 2021)

15 Sec. 25-30. Consent order. At any point in any
16 investigation or disciplinary proceeding provided for in this
17 Act, both parties may agree to a negotiated consent order. The
18 consent order shall be final upon signature of the Comptroller
19 ~~Secretary~~.

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

21 (225 ILCS 411/25-35)

22 (Section scheduled to be repealed on January 1, 2021)

23 Sec. 25-35. Record of proceedings; transcript. The
24 Comptroller ~~Department~~, at its expense, shall preserve a record

1 of all proceedings at the formal hearing of any case. Any
2 notice, all documents in the nature of pleadings, written
3 motions filed in the proceedings, the transcripts of testimony,
4 and orders of the Comptroller ~~Department~~ shall be in the record
5 of the proceeding.

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

7 (225 ILCS 411/25-40)

8 (Section scheduled to be repealed on January 1, 2021)

9 Sec. 25-40. Subpoenas; depositions; oaths.

10 (a) The Comptroller ~~Department~~ has the power to subpoena
11 documents, books, records, or other materials and to bring
12 before it any individual and to take testimony either orally or
13 by deposition, or both, with the same fees and mileage and in
14 the same manner as prescribed in civil cases in the courts of
15 this State.

16 (b) The Comptroller ~~Secretary~~ and the designated hearing
17 officer have the power to administer oaths to witnesses at any
18 hearing that the Comptroller ~~Department~~ is authorized to
19 conduct and any other oaths authorized in any Act administered
20 by the Comptroller ~~Department~~.

21 (c) Every individual having taken an oath or affirmation in
22 any proceeding or matter wherein an oath is required by this
23 Act, who shall swear willfully, corruptly, and falsely in a
24 matter material to the issue or point in question, or shall
25 suborn any other individual to swear as aforesaid, shall be

1 guilty of perjury or subornation of perjury, as the case may be
2 and shall be punished as provided by State law relative to
3 perjury and subornation of perjury.

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

5 (225 ILCS 411/25-45)

6 (Section scheduled to be repealed on January 1, 2021)

7 Sec. 25-45. Compelling testimony. Any circuit court, upon
8 application of the Comptroller ~~Department~~ or designated
9 hearing 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.

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

15 (225 ILCS 411/25-50)

16 (Section scheduled to be repealed on January 1, 2021)

17 Sec. 25-50. Findings and recommendations.

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

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

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

1 this Act.

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

3 (225 ILCS 411/25-55)

4 (Section scheduled to be repealed on January 1, 2021)

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

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

1 (225 ILCS 411/25-60)

2 (Section scheduled to be repealed on January 1, 2021)

3 Sec. 25-60. Comptroller Secretary; rehearing. Whenever
4 the Comptroller Secretary believes that substantial justice
5 has not been done in the revocation, suspension, or refusal to
6 issue, restore, or renew a license, or other discipline of an
7 applicant or licensee, he or she may order a rehearing by the
8 same or other hearing officers.

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

10 (225 ILCS 411/25-65)

11 (Section scheduled to be repealed on January 1, 2021)

12 Sec. 25-65. Order or certified copy; prima facie proof. An
13 order or certified copy thereof, over the seal of the
14 Comptroller Department and purporting to be signed by the
15 Comptroller Secretary, is prima facie proof that:

16 (1) the signature is the genuine signature of the
17 Comptroller Secretary;

18 (2) the Comptroller Secretary is duly appointed and
19 qualified; and

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

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

22 (225 ILCS 411/25-70)

23 (Section scheduled to be repealed on January 1, 2021)

1 Sec. 25-70. Receivership. In the event a cemetery
2 authority license is suspended or revoked or where an
3 unlicensed person has conducted activities requiring cemetery
4 authority licensure under this Act, the Comptroller
5 ~~Department~~, through the Attorney General, may petition the
6 circuit courts of this State for appointment of a receiver to
7 administer the care funds of such licensee or unlicensed person
8 or to operate the cemetery.

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

11 (1) to ensure the orderly and proper conduct of a
12 licensee's professional business and affairs during or in
13 the aftermath of the administrative proceeding to revoke or
14 suspend the cemetery authority's license;

15 (2) for the protection of the public's interest and
16 rights in the business, premises, or activities of the
17 person sought to be placed in receivership;

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

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

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

1 or

2 (6) upon proof of other grounds that the court deems
3 good and sufficient for instituting receivership action
4 concerning the respondent sought to be placed in
5 receivership.

6 (b) A receivership under this Section may be temporary, or
7 for the winding up and dissolution of the business, as the
8 Comptroller ~~Department~~ may request and the court determines to
9 be necessary or advisable in the circumstances. Venue of
10 receivership proceedings may be, at the Comptroller's
11 ~~Department's~~ election, in Cook County or the county where the
12 subject of the receivership is located. The appointed receiver
13 shall be the Comptroller ~~Department~~ or such person as the
14 Comptroller ~~Department~~ may nominate and the court shall
15 approve.

16 (c) The Comptroller ~~Department~~ may adopt rules for the
17 implementation of this Section.

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

19 (225 ILCS 411/25-75)

20 (Section scheduled to be repealed on January 1, 2021)

21 Sec. 25-75. Cemetery Relief Fund.

22 (a) A special income-earning fund is hereby created in the
23 State treasury, known as the Cemetery Relief Fund.

24 (b) Beginning on July 1, 2011, and occurring on an annual
25 basis every year thereafter, three percent of the moneys in the

1 Cemetery Oversight Licensing and Disciplinary Fund shall be
2 deposited into the Cemetery Relief Fund.

3 (c) All monies deposited into the fund together with all
4 accumulated undistributed income thereon shall be held as a
5 special fund in the State treasury. The fund shall be used
6 solely for the purpose of providing grants to units of local
7 government and not-for-profit organizations, including, but
8 not limited to, not-for-profit cemetery authorities, to clean
9 up cemeteries that have been abandoned, neglected, or are
10 otherwise in need of additional care.

11 (d) The grant program shall be administered by the
12 Comptroller Department.

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

14 (225 ILCS 411/25-80)

15 (Section scheduled to be repealed on January 1, 2021)

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

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

22 (225 ILCS 411/25-85)

23 (Section scheduled to be repealed on January 1, 2021)

24 Sec. 25-85. Inactive status.

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

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

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

17 (225 ILCS 411/25-90)

18 (Section scheduled to be repealed on January 1, 2021)

19 Sec. 25-90. Restoration of license from discipline. At any
20 time after the successful completion of a term of indefinite
21 probation, suspension, or revocation of a license, the
22 Comptroller ~~Department~~ may restore the license to the licensee,
23 unless after an investigation and a hearing the Comptroller
24 ~~Secretary~~ determines that restoration is not in the public
25 interest.

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

2 (225 ILCS 411/25-95)

3 (Section scheduled to be repealed on January 1, 2021)

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

5 (a) All final administrative decisions of the Comptroller
6 ~~Department~~ are subject to judicial review under the
7 Administrative Review Law and its rules. The term
8 "administrative decision" is defined as in Section 3-101 of the
9 Code of Civil Procedure.

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

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

15 (225 ILCS 411/25-100)

16 (Section scheduled to be repealed on January 1, 2021)

17 Sec. 25-100. Certifications of record; costs. The
18 Comptroller ~~Department~~ shall not be required to certify any
19 record to the court, to file an answer in court, or to
20 otherwise appear in any court in a judicial review proceeding
21 unless and until the Comptroller ~~Department~~ has received from
22 the plaintiff payment of the costs of furnishing and certifying
23 the record, which costs shall be determined by the Comptroller
24 ~~Department~~. Failure on the part of the plaintiff to file the

1 receipt in court is grounds for dismissal of the action.

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

3 (225 ILCS 411/25-105)

4 (Section scheduled to be repealed on January 1, 2021)

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

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

18 (225 ILCS 411/25-110)

19 (Section scheduled to be repealed on January 1, 2021)

20 Sec. 25-110. Civil action and civil penalties. In addition
21 to the other penalties and remedies provided in this Act, the
22 Comptroller ~~Department~~ may bring a civil action in the county
23 in which the cemetery is located against a licensee or any
24 other person to enjoin any violation or threatened violation of

1 this Act. In addition to any other penalty provided by law, any
2 person who violates this Act shall forfeit and pay a civil
3 penalty to the Comptroller ~~Department~~ in an amount not to
4 exceed \$10,000 for each violation as determined by the
5 Comptroller ~~Department~~. The civil penalty shall be assessed by
6 the Comptroller ~~Department~~ in accordance with the provisions of
7 this Act. Any civil penalty shall be paid within 60 days after
8 the effective date of the order imposing the civil penalty. The
9 order shall constitute a judgment and may be filed and
10 execution had thereon in the same manner as any judgment from
11 any court of record. All moneys collected under this Section
12 shall be deposited into the Cemetery Oversight Licensing and
13 Disciplinary Fund.

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

15 (225 ILCS 411/25-125)

16 (Section scheduled to be repealed on January 1, 2021)

17 Sec. 25-125. Cemetery Oversight Board. The Cemetery
18 Oversight Board is created and shall consist of the Comptroller
19 ~~Secretary~~, who shall serve as its chairperson, and 8 members
20 appointed by the Comptroller ~~Secretary~~. Appointments shall be
21 made within 90 days after the effective date of this Act. Three
22 members shall represent the segment of the cemetery industry
23 that does not maintain a partial exemption or full exemption,
24 one member shall represent the segment of the cemetery industry
25 that maintains a partial exemption as a public cemetery, one

1 member shall represent the segment of the cemetery industry
2 that maintains a partial exemption as a religious cemetery, 2
3 members shall be consumers as defined in this Act, and one
4 member shall represent the general public. No member shall be a
5 licensed professional from a non-cemetery segment of the death
6 care industry. Board members shall serve 5-year terms and until
7 their successors are appointed and qualified. The membership of
8 the Board should reasonably reflect representation from the
9 geographic areas in this State. No member shall be reappointed
10 to the Board for a term that would cause his or her continuous
11 service on the Board to be longer than 10 successive years.
12 Appointments to fill vacancies shall be made in the same manner
13 as original appointments, for the unexpired portion of the
14 vacated term. Five members of the Board shall constitute a
15 quorum. A quorum is required for Board decisions. The
16 Comptroller ~~Secretary~~ may remove any member of the Board for
17 misconduct, incompetence, neglect of duty, or for reasons
18 prescribed by law for removal of State officials. The
19 Comptroller ~~Secretary~~ may remove a member of the Board who does
20 not attend 2 consecutive meetings. The Comptroller ~~Department~~
21 may, at any time, seek the expert advice and knowledge of the
22 Board on any matter relating to the administration or
23 enforcement of this Act. The Comptroller ~~Secretary~~ shall
24 consider the recommendations of the Board in the development of
25 proposed rules under this Act and for establishing guidelines
26 and examinations as may be required under this Act. Notice of

1 any proposed rulemaking under this Act shall be transmitted to
2 the Board and the Comptroller ~~Department~~ shall review the
3 response of the Board and any recommendations made therein.

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

5 (225 ILCS 411/35-10)

6 (Section scheduled to be repealed on January 1, 2021)

7 Sec. 35-10. Consumer privileges.

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

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

25 (c) Consumers have the right to complain to the cemetery

1 authority or to the Comptroller ~~Department~~ regarding
2 cemetery-related products and services as well as issues with
3 customer service, maintenance, or other cemetery activities.
4 Complaints may be brought by a consumer or the consumer's agent
5 appointed for that purpose.

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

7 (225 ILCS 411/35-15)

8 (Section scheduled to be repealed on January 1, 2021)

9 Sec. 35-15. Cemetery duties.

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

21 (b) A contract for the interment, inurnment, or entombment
22 of human remains must be signed by both parties: the consumer
23 and the cemetery authority or its representative. Before a
24 contract is signed, the prices for the purchased services and
25 merchandise must be disclosed on the contract and in plain

1 language. If a contract is for a term burial, the term, the
2 option to extend the term, and the subsequent disposition of
3 the human remains post-term must be in bold print and discussed
4 with the consumer. Any contract for the sale of a burial plot,
5 when designated, must disclose the exact location of the burial
6 plot based on the survey of the cemetery map or plat on file
7 with the cemetery authority.

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

19 (d) If any rules or regulations, including the operational
20 or maintenance requirements, of a cemetery change after the
21 date a contract is signed for the purchase of cemetery-related
22 or funeral-related products or services, the cemetery may not
23 require the consumer, purchaser, or such individual's relative
24 or representative to purchase any merchandise or service not
25 included in the original contract or in the rules and
26 regulations in existence when the contract was entered unless

1 the purchase is reasonable or required to make the cemetery
2 authority compliant with applicable law.

3 (e) No cemetery authority or its agent may engage in
4 deceptive or unfair practices. The cemetery authority and its
5 agents may not misrepresent legal or cemetery requirements.

6 (f) The Comptroller ~~Department~~ may adopt rules regarding
7 green burial certification, green cremation products and
8 methods, and consumer education.

9 (g) The contractual requirements contained in this Section
10 only apply to contracts executed after the effective date of
11 this Act.

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

13 (225 ILCS 411/75-5)

14 (Section scheduled to be repealed on January 1, 2021)

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

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

24 (225 ILCS 411/75-15)

1 (Section scheduled to be repealed on January 1, 2021)

2 Sec. 75-15. Civil Administrative Code. The Comptroller
3 ~~Department~~ shall exercise the powers and duties prescribed by
4 the Civil Administrative Code of Illinois and shall exercise
5 all other powers and duties set forth in this Act.

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

7 (225 ILCS 411/75-20)

8 (Section scheduled to be repealed on January 1, 2021)

9 Sec. 75-20. Rules. The Comptroller ~~Department~~ may adopt
10 rules for the administration and enforcement of this Act. The
11 rules shall include standards for licensure, professional
12 conduct, and discipline.

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

14 (225 ILCS 411/75-35)

15 (Section scheduled to be repealed on January 1, 2021)

16 Sec. 75-35. Roster. The Comptroller ~~Department~~ shall, upon
17 request and payment of the required fee, provide a list of the
18 names and business addresses of all licensees under this Act.

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

20 (225 ILCS 411/75-45)

21 (Section scheduled to be repealed on January 1, 2021)

22 Sec. 75-45. Fees. The Comptroller ~~Department~~ shall by rule
23 provide for fees for the administration and enforcement of this

1 Act, and those fees are nonrefundable. All of the fees and
2 fines collected under this Act shall be deposited into the
3 Cemetery Oversight Licensing and Disciplinary Fund and be
4 appropriated to the Comptroller Department for the ordinary and
5 contingent expenses of the Comptroller Department in the
6 administration and enforcement of this Act.

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

8 (225 ILCS 411/75-50)

9 (Section scheduled to be repealed on January 1, 2021)

10 Sec. 75-50. Burial permits. Notwithstanding any law to the
11 contrary, a cemetery authority shall ensure that every burial
12 permit applicable to that cemetery authority contains the
13 decedent's parcel identification number or other information
14 as provided by rule regarding the location of the interment,
15 entombment, or inurnment of the deceased that would enable the
16 Comptroller Department to determine the precise location of the
17 decedent.

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

19 (225 ILCS 411/75-55)

20 (Section scheduled to be repealed on January 1, 2021)

21 Sec. 75-55. Transition.

22 (a) Within 60 days after March 1, 2010 (the effective date
23 of Public Act 96-863) ~~the effective date of this Act~~, the
24 Comptroller shall provide the Department copies of records in

1 the Comptroller's possession pertaining to the Cemetery Care
2 Act and the Crematory Regulation Act that are necessary for the
3 Department's immediate responsibilities under this Act. All
4 other records pertaining to the Cemetery Care Act and the
5 Crematory Regulation Act shall be transferred to the Department
6 by March 1, 2012. In the case of records that pertain both to
7 the administration of the Cemetery Care Act or the Crematory
8 Regulation Act and to a function retained by the Comptroller,
9 the Comptroller, in consultation with the Department, shall
10 determine, within 60 days after the repeal of the Cemetery Care
11 Act, whether the records shall be transferred, copied, or left
12 with the Comptroller; until this determination has been made
13 the transfer shall not occur.

14 Within 60 days after this amendatory Act of the 97th
15 General Assembly, the Department shall provide copies of
16 records in the Department's possession pertaining to the
17 Cemetery Care Act and the Crematory Regulation Act that are
18 necessary for the Comptroller's immediate responsibilities
19 under this Act.

20 (b) A person licensed under one of the Acts listed in
21 subsection (a) of this Section or regulated under the Cemetery
22 Association Act shall continue to comply with the provisions of
23 those Acts until such time as the person is licensed under this
24 Act or those Acts are repealed or the amendatory changes made
25 by this amendatory Act of the 96th General Assembly take
26 effect, as the case may be, whichever is earlier.

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

19 (d) Any cemetery authority that fails to pay to the
20 Comptroller ~~Department~~ the required fee or submits the
21 incorrect amount shall be subject to the penalties provided for
22 in Section 25-110 of this Act.

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

1 (f) All proportionate funds held in the Comptroller's
2 Administrative Fund related to unexpended moneys collected
3 under the Cemetery Care Act and the Crematory Regulation Act
4 shall be transferred to the Cemetery Oversight Licensing and
5 Disciplinary Fund within 60 days after the effective date of
6 the repeal of the Cemetery Care Act.

7 (g) (Blank). ~~Personnel employed by the Comptroller on~~
8 ~~February 29, 2012, to perform the duties pertaining to the~~
9 ~~administration of the Cemetery Care Act and the Crematory~~
10 ~~Regulation Act, are transferred to the Department on March 1,~~
11 ~~2012.~~

12 ~~The rights of State employees, the State, and its agencies~~
13 ~~under the Comptroller Merit Employment Code and applicable~~
14 ~~collective bargaining agreements and retirement plans are not~~
15 ~~affected under this Act, except that all positions transferred~~
16 ~~to the Department shall be subject to the Personnel Code~~
17 ~~effective March 1, 2012.~~

18 ~~All transferred employees who are members of collective~~
19 ~~bargaining units shall retain their seniority, continuous~~
20 ~~service, salary, and accrued benefits. During the pendency of~~
21 ~~the existing collective bargaining agreement, the rights~~
22 ~~provided for under that agreement shall not be abridged.~~

23 ~~The Department shall continue to honor during their~~
24 ~~pendency all bargaining agreements in effect at the time of the~~
25 ~~transfer and to recognize all collective bargaining~~
26 ~~representatives for the employees who perform or will perform~~

1 ~~functions transferred by this Act. For all purposes with~~
2 ~~respect to the management of the existing agreement and the~~
3 ~~negotiation and management of any successor agreements, the~~
4 ~~Department shall be deemed the employer of employees who~~
5 ~~perform or will perform functions transferred to the Department~~
6 ~~by this Act.~~

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

8 Section 99. Effective date. This Act takes effect upon
9 becoming law.

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