

1 AN ACT concerning regulation.

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

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

6 (225 ILCS 45/1a-1)

7 Sec. 1a-1. Pre-need contracts.

8 (a) It shall be unlawful for any seller doing business
9 within this State to accept sales proceeds from a purchaser,
10 either directly or indirectly by any means, unless the seller
11 enters into a pre-need contract with the purchaser which meets
12 the following requirements:

13 (1) It states the name and address of the principal
14 office of the seller and the parent company of the seller,
15 if any.

16 (1.5) If funded by a trust, it clearly identifies the
17 trustee's name and address and the primary state or federal
18 regulator of the trustee as a corporate fiduciary.

19 (1.7) If funded by life insurance, it clearly
20 identifies the life insurance provider and the primary
21 regulator of the life insurance provider.

22 (2) It clearly identifies the provider's name and
23 address, the purchaser, and the beneficiary, if other than

1 the purchaser.

2 (2.5) If the provider has branch locations, the
3 contract gives the purchaser the opportunity to identify
4 the branch at which the funeral will be provided.

5 (3) It contains a complete description of the funeral
6 merchandise and services to be provided and the price of
7 the merchandise and services, and it clearly discloses
8 whether the price of the merchandise and services is
9 guaranteed or not guaranteed as to price.

10 (A) Each guaranteed price contract shall contain
11 the following statement in 12 point bold type:

12 THIS CONTRACT GUARANTEES THE BENEFICIARY THE
13 SPECIFIC GOODS AND SERVICES CONTRACTED FOR. NO
14 ADDITIONAL CHARGES MAY BE REQUIRED. FOR DESIGNATED
15 GOODS AND SERVICES, ADDITIONAL CHARGES MAY BE INCURRED
16 FOR UNEXPECTED EXPENSES INCLUDING, BUT NOT LIMITED TO,
17 CASH ADVANCES, SHIPPING OF REMAINS FROM A DISTANT
18 PLACE, OR DESIGNATED HONORARIA ORDERED OR DIRECTED BY
19 SURVIVORS.

20 (B) Except as provided in subparagraph (C) of this
21 paragraph (3), each non-guaranteed price contract
22 shall contain the following statement in 12 point bold
23 type:

24 THIS CONTRACT DOES NOT GUARANTEE THE PRICE THE
25 BENEFICIARY WILL PAY FOR ANY SPECIFIC GOODS OR
26 SERVICES. ANY FUNDS PAID UNDER THIS CONTRACT ARE ONLY A

1 DEPOSIT TO BE APPLIED TOWARD THE FINAL PRICE OF THE
2 GOODS OR SERVICES CONTRACTED FOR. ADDITIONAL CHARGES
3 MAY BE REQUIRED.

4 (C) If a non-guaranteed price contract may
5 subsequently become guaranteed, the contract shall
6 clearly disclose the nature of the guarantee and the
7 time, occurrence, or event upon which the contract
8 shall become a guaranteed price contract.

9 (4) It provides that if the particular supplies and
10 services specified in the pre-need contract are
11 unavailable at the time of delivery, the provider shall be
12 required to furnish supplies and services similar in style
13 and at least equal in quality of material and workmanship.

14 (5) It discloses any penalties or restrictions,
15 including but not limited to geographic restrictions or the
16 inability of the provider to perform, on the delivery of
17 merchandise, services, or pre-need contract guarantees.

18 (6) Regardless of the method of funding the pre-need
19 contract, the following must be disclosed:

20 (A) Whether the pre-need contract is to be funded
21 by a trust, life insurance, or an annuity;

22 (B) The nature of the relationship among the person
23 funding the pre-need contract, the provider, and the
24 seller; and

25 (C) The impact on the pre-need contract of (i) any
26 changes in the funding arrangement including but not

1 limited to changes in the assignment, beneficiary
2 designation, or use of the funds; (ii) any specific
3 penalties to be incurred by the contract purchaser as a
4 result of failure to make payments; (iii) penalties to
5 be incurred or moneys or refunds to be received as a
6 result of cancellations; and (iv) all relevant
7 information concerning what occurs and whether any
8 entitlements or obligations arise if there is a
9 difference between the proceeds of the particular
10 funding arrangement and the amount actually needed to
11 pay for the funeral at-need.

12 (D) The method of changing the provider.

13 (b) All pre-need contracts are subject to the Federal Trade
14 Commission Rule concerning the Cooling-Off Period for
15 Door-to-Door Sales (16 CFR Part 429).

16 (c) No pre-need contract shall be sold in this State unless
17 there is a provider for the services and personal property
18 being sold. If the seller is not a provider, then the seller
19 must have a binding agreement with a provider, and the identity
20 of the provider and the nature of the agreement between the
21 seller and the provider shall be disclosed in the pre-need
22 contract at the time of the sale and before the receipt of any
23 sales proceeds. The failure to disclose the identity of the
24 provider, the nature of the agreement between the seller and
25 the provider, or any changes thereto to the purchaser and
26 beneficiary, or the failure to make the disclosures required in

1 subdivision (a)(1), constitutes an intentional violation of
2 this Act.

3 (d) All pre-need contracts must be in writing in at least
4 11 point type, numbered, and executed in duplicate. A signed
5 copy of the pre-need contract must be provided to the purchaser
6 at the time of entry into the pre-need contract. The
7 Comptroller may by rule develop a model pre-need contract form
8 that meets the requirements of this Act.

9 (e) The State Comptroller shall by rule develop a booklet
10 for consumers in plain English describing the scope,
11 application, and consumer protections of this Act. After the
12 adoption of these rules, no pre-need contract shall be sold in
13 this State unless (i) the seller distributes to the purchaser
14 prior to the sale a booklet promulgated or approved for use by
15 the State Comptroller; (ii) the seller explains to the
16 purchaser the terms of the pre-need contract prior to the
17 purchaser signing; and (iii) the purchaser initials a statement
18 in the contract confirming that the seller has explained the
19 terms of the contract prior to the purchaser signing.

20 (f) All sales proceeds received in connection with a
21 pre-need contract shall be deposited into a trust account as
22 provided in Section 1b and Section 2 of this Act, or shall be
23 used to purchase a life insurance policy or tax-deferred
24 annuity as provided in Section 2a of this Act.

25 (g) No pre-need contract shall be sold in this State unless
26 it is accompanied by a funding mechanism permitted under this

1 Act, and unless the seller is licensed by the Comptroller as
2 provided in Section 3 of this Act. Nothing in this Act is
3 intended to relieve sellers of pre-need contracts from being
4 licensed under any other Act required for their profession or
5 business, and being subject to the rules promulgated to
6 regulate their profession or business, including rules on
7 solicitation and advertisement.

8 (h) Each pre-need contract entered into under this Section
9 shall be registered on an online database maintained by the
10 State Comptroller. Information to be included in the database
11 shall include, but not be limited to, the name of licensee,
12 purchaser, date of contract, amount of contract, and
13 disposition of the funds. This information must be registered
14 into the State Comptroller's online database within 45 days
15 after the date of the pre-need contract.

16 (Source: P.A. 96-879, eff. 2-2-10.)

17 (225 ILCS 45/2) (from Ch. 111 1/2, par. 73.102)

18 Sec. 2. (a) If a purchaser selects a trust arrangement to
19 fund the pre-need contract, all trust deposits as determined by
20 Section 1b shall be made within 30 days of receipt.

21 (b) A trust established under this Act must be maintained
22 with a corporate fiduciary as defined in Section 1-5.05 of the
23 Corporate Fiduciary Act or with a foreign corporate fiduciary
24 recognized by Article IV of the Corporate Fiduciary Act.

25 (c) Trust agreements and amendments to the trust agreements

1 used to fund a pre-need contract shall be filed with the
2 Comptroller.

3 (d) (Blank).

4 (e) A seller or provider shall furnish to the trustee and
5 depository the name of each payor and the amount of payment on
6 each such account for which deposit is being so made. Nothing
7 shall prevent the trustee from commingling the deposits in any
8 such trust fund for purposes of its management and the
9 investment of its funds as provided in the Common Trust Fund
10 Act. In addition, multiple trust funds maintained under this
11 Act may be commingled or commingled with other funeral or
12 burial related trust funds if all record keeping requirements
13 imposed by law are met.

14 (f) (Blank).

15 (g) Upon no less than 30 days prior notice to the
16 Comptroller, the seller may change the trustee of the fund.
17 Failure to provide the Comptroller with timely prior notice is
18 an intentional violation of this Act.

19 (h) A trustee shall at least annually furnish to each
20 purchaser a statement containing: (1) the receipts,
21 disbursements, and inventory of the trust, including an
22 explanation of any fees or expenses charged by the trustee
23 under Section 5 of this Act or otherwise, (2) an explanation of
24 the purchaser's right to a refund, if any, under this Act, and
25 (3) identifying the primary regulator of the trust as a
26 corporate fiduciary under state or federal law.

1 (Source: P.A. 96-879, eff. 2-2-10.)

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

3 Sec. 3. Licensing.

4 (a) No person, firm, partnership, association or
5 corporation may act as seller without first securing from the
6 State Comptroller a license to so act. Application for such
7 license shall be in writing, signed by the applicant and duly
8 verified on forms furnished by the Comptroller. Each
9 application shall contain at least the following:

10 (1) The full name and address (both residence and place
11 of business) of the applicant, and every member, officer
12 and director thereof if the applicant is a firm,
13 partnership, association, or corporation, and of every
14 shareholder holding more than 10% of the corporate stock if
15 the applicant is a corporation;

16 (2) A statement of the applicant's assets and
17 liabilities;

18 (3) The name and address of the applicant's principal
19 place of business at which the books, accounts, and records
20 shall be available for examination by the Comptroller as
21 required by this Act;

22 (4) The names and addresses of the applicant's branch
23 locations at which pre-need sales shall be conducted and
24 which shall operate under the same license number as the
25 applicant's principal place of business;

1 (5) For each individual listed under item (1) above, a
2 detailed statement of the individual's business experience
3 for the 10 years immediately preceding the application; any
4 present or prior connection between the individual and any
5 other person engaged in pre-need sales; any felony or
6 misdemeanor convictions for which fraud was an essential
7 element; any charges or complaints lodged against the
8 individual for which fraud was an essential element and
9 which resulted in civil or criminal litigation; any failure
10 of the individual to satisfy an enforceable judgment
11 entered against him based upon fraud; and any other
12 information requested by the Comptroller relating to past
13 business practices of the individual. Since the
14 information required by this item (5) may be confidential
15 or contain proprietary information, this information shall
16 not be available to other licensees or the general public
17 and shall be used only for the lawful purposes of the
18 Comptroller in enforcing this Act;

19 (6) The name of the trustee and, if applicable, the
20 names of the advisors to the trustee, including a copy of
21 the proposed trust agreement under which the trust funds
22 are to be held as required by this Act; and

23 (7) Such other information as the Comptroller may
24 reasonably require in order to determine the qualification
25 of the applicant to be licensed under this Act.

26 (b) Applications for license shall be accompanied by a

1 fidelity bond executed by the applicant and a surety company
2 authorized to do business in this State or an irrevocable,
3 unconditional letter of credit issued by a bank, credit union,
4 or trust company authorized to do business in the State of
5 Illinois, as approved by the State Comptroller, in such amount
6 not exceeding \$10,000 as the Comptroller may require. If, after
7 notice and an opportunity to be heard, it has been determined
8 that a licensee has violated this Act within the past 5
9 calendar years, the Comptroller may require an additional bond
10 or letter of credit from the licensee from time to time in
11 amounts equal to one-tenth of such trust funds, which bond or
12 letter of credit shall run to the Comptroller for the use and
13 benefit of the beneficiaries of such trust funds.

14 The licensee shall keep accurate accounts, books and
15 records in this State, at the principal place of business
16 identified in the licensee's license application or as
17 otherwise approved by the Comptroller in writing, of all
18 transactions, copies of all pre-need contracts, trust
19 agreements, and other agreements, dates and amounts of payments
20 made and accepted thereon, the names and addresses of the
21 contracting parties, the persons for whose benefit such funds
22 are accepted, and the names of the depositaries of such funds.
23 Each licensee shall maintain the documentation for a period of
24 3 years after the licensee has fulfilled his obligations under
25 the pre-need contract. Additionally, for a period not to exceed
26 6 months after the performance of all terms in a pre-need sales

1 contract, the licensee shall maintain copies of the contract at
2 the licensee branch location where the contract was entered or
3 at some other location agreed to by the Comptroller in writing.
4 If an insurance policy or tax-deferred annuity is used to fund
5 the pre-need contract, the licensee under this Act shall keep
6 and maintain accurate accounts, books, and records in this
7 State, at the principal place of business identified in the
8 licensee's application or as otherwise approved by the
9 Comptroller in writing, of all insurance policies and
10 tax-deferred annuities used to fund the pre-need contract, the
11 name and address of insured, annuitant, and initial
12 beneficiary, and the name and address of the insurance company
13 issuing the policy or annuity. If a life insurance policy or
14 tax-deferred annuity is used to fund a pre-need contract, the
15 licensee shall notify the insurance company of the name of each
16 pre-need contract purchaser and the amount of each payment when
17 the pre-need contract, insurance policy or annuity is
18 purchased.

19 The licensee shall make reports to the Comptroller annually
20 or at such other time as the Comptroller may require, on forms
21 furnished by the Comptroller. The licensee shall file the
22 annual report with the Comptroller within 75 days after the end
23 of the licensee's fiscal year. The Comptroller shall for good
24 cause shown grant an extension for the filing of the annual
25 report upon the written request of the licensee. Such extension
26 shall not exceed 60 days. If a licensee fails to submit an

1 annual report to the Comptroller within the time specified in
2 this Section, the Comptroller shall impose upon the licensee a
3 penalty of \$5 per day for the first 15 days past due, \$10 per
4 day for 16 through 30 days past due, \$15 per day for 31 through
5 45 days past due, and \$20 per day for the 46th day and every day
6 thereafter ~~for each and every day~~ the licensee remains
7 delinquent in submitting the annual report. The Comptroller may
8 abate all or part of the ~~\$5~~ daily penalty for good cause shown.
9 Every application shall be accompanied by a check or money
10 order in the amount of \$25 and every report shall be
11 accompanied by a check or money order in the amount of \$10
12 payable to: Comptroller, State of Illinois.

13 The licensee shall make all required books and records
14 pertaining to trust funds, insurance policies, or tax-deferred
15 annuities available to the Comptroller for examination. The
16 Comptroller, or a person designated by the Comptroller who is
17 trained to perform such examinations, may at any time
18 investigate the books, records and accounts of the licensee
19 with respect to trust funds, insurance policies, or
20 tax-deferred annuities and for that purpose may require the
21 attendance of and examine under oath all persons whose
22 testimony he may require. The licensee shall pay a fee for such
23 examination in accordance with a schedule established by the
24 Comptroller. The fee shall not exceed the cost of such
25 examination. For pre-need contracts funded by trust
26 arrangements, the cost of an initial examination shall be borne

1 by the licensee if it has \$10,000 or more in trust funds,
 2 otherwise, by the Comptroller. The charge made by the
 3 Comptroller for an examination shall be based upon the total
 4 amount of trust funds held by the licensee at the end of the
 5 calendar or fiscal year for which the report is required by
 6 this Act and shall be in accordance with the following
 7 schedule:

- 8 Less than \$10,000..... no charge;
- 9 \$10,000 or more but less than \$50,000..... \$10;
- 10 \$50,000 or more but less than \$100,000 \$40;
- 11 \$100,000 or more but less than \$250,000..... \$80;
- 12 \$250,000 or more \$100.

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

- 21 (1) material and unverified changes or fluctuations in
 22 trust balances or insurance or annuity policy amounts;
- 23 (2) the licensee changing trustees more than twice in
 24 any 12-month period;
- 25 (3) any withdrawals or attempted withdrawals from the
 26 trusts, insurance policies, or annuity contracts in

1 violation of this Act; or

2 (4) failure to maintain or produce documentation
3 required by this Act for deposits into trust accounts,
4 trust investment activities, or life insurance or annuity
5 policies.

6 The licensee shall bear the full cost of that examination
7 or audit, up to a maximum of \$20,000. The Comptroller may elect
8 to pay for the examination or audit and receive reimbursement
9 from the licensee. Payment of the costs of the examination or
10 audit by a licensee shall be a condition of receiving,
11 maintaining, or renewing a license under this Act. All moneys
12 received by the Comptroller for examination or audit fees shall
13 be maintained in a separate account to be known as the
14 Comptroller's Administrative Fund. This Fund, subject to
15 appropriation by the General Assembly, may be utilized by the
16 Comptroller for enforcing this Act and other purposes that may
17 be authorized by law.

18 For pre-need contracts funded by life insurance or a
19 tax-deferred annuity, the cost of an examination shall be borne
20 by the licensee. The fee schedule for such examination shall be
21 established in rules promulgated by the Comptroller. In the
22 event such investigation or other information received by the
23 Comptroller discloses a substantial violation of the
24 requirements of this Act, the Comptroller shall revoke the
25 license of such person upon a hearing as provided in this Act.
26 Such licensee may terminate all further responsibility for

1 compliance with the requirements of this Act by voluntarily
2 surrendering the license to the Comptroller, or in the event of
3 its loss, furnishing the Comptroller with a sworn statement to
4 that effect, which states the licensee's intention to
5 discontinue acceptance of funds received under pre-need
6 contracts. Such license or statement must be accompanied by an
7 affidavit that said licensee has lawfully expended or refunded
8 all funds received under pre-need contracts, and that the
9 licensee will accept no additional sales proceeds. The
10 Comptroller shall immediately cancel or revoke said license.
11 (Source: P.A. 96-879, eff. 2-2-10.)

12 (225 ILCS 45/3a-5)

13 Sec. 3a-5. License requirements.

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

24 (b) Individual salespersons representing a licensee shall
25 not be required to obtain licenses in their individual

1 capacities, but must acknowledge, by affidavit, that they have
2 been provided with a copy of and have read this Act. The
3 licensee shall retain copies of the affidavits of its sellers
4 for its records and shall make the affidavits available to the
5 Comptroller for examination upon request.

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

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

11 (e) No license shall be transferable or assignable without
12 the express written consent of the Comptroller. A transfer of
13 more than 50% of the ownership of any business licensed
14 hereunder shall be deemed to be an attempted assignment of the
15 license originally issued to the licensee for which consent of
16 the Comptroller shall be required.

17 (f) Every license issued hereunder shall be renewed every 5
18 years for a renewal fee of \$100. The renewal fee shall be
19 deposited into the Comptroller's Administrative Fund ~~remain in~~
20 ~~force until it has been suspended, surrendered, or revoked in~~
21 ~~accordance with this Act.~~ The Comptroller, upon the request of
22 an interested person or on his own motion, may issue new
23 licenses to a licensee whose license or licenses have been
24 revoked, if no factor or condition then exists which would have
25 warranted the Comptroller to originally refuse the issuance of
26 such license.

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

2 Section 10. The Cemetery Oversight Act is amended by
3 changing Sections 15-15, 15-40, and 75-55 as follows:

4 (225 ILCS 411/15-15)

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

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

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

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

23 (c) The setting-aside and deposit of care funds shall be
24 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 Department to revoke a license issued pursuant to this Act and
3 for creation of a receivership as provided in this Act, the
4 trust shall not be subject to judgment, execution, garnishment,
5 attachment, or other seizure by process in bankruptcy or
6 otherwise, nor to sale, pledge, mortgage, or other alienation,
7 and shall not be assignable except as approved by the
8 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 411/75-55)

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

23 Sec. 75-55. Transition.

24 (a) Within 60 days after the effective date of this Act,
25 the Comptroller shall provide the Department copies of records

1 in 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 with the
5 exception of records pertaining to care funds ~~and the Crematory~~
6 ~~Regulation Act shall be transferred to the Department by March~~
7 ~~1, 2012. In the case of records that pertain both to the~~
8 ~~administration of the Cemetery Care Act or the Crematory~~
9 ~~Regulation Act and to a function retained by the Comptroller,~~
10 ~~the Comptroller, in consultation with the Department, shall~~
11 ~~determine, within 60 days after the repeal of the Cemetery Care~~
12 ~~Act, whether the records shall be transferred, copied, or left~~
13 ~~with the Comptroller, until this determination has been made~~
14 ~~the transfer shall not occur.~~

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

23 (c) To support the costs that may be associated with
24 implementing and maintaining a licensure and regulatory
25 process for the licensure and regulation of cemetery
26 authorities, cemetery managers, customer service employees,

1 and cemetery workers, all cemetery authorities not maintaining
2 a full exemption or partial exemption shall pay a one-time fee
3 of \$20 to the Department plus an additional charge of \$1 per
4 burial unit per year within the cemetery. The Department may
5 establish forms for the collection of the fee established under
6 this subsection and shall deposit such fee into the Cemetery
7 Oversight Licensing and Disciplinary Fund. The Department may
8 begin to collect the aforementioned fee after the effective
9 date of this Act. In addition, the Department may establish
10 rules for the collection process, which may include, but shall
11 not be limited to, dates, forms, enforcement, or other
12 procedures necessary for the effective collection, deposit,
13 and overall process regarding this Section.

14 (d) Any cemetery authority that fails to pay to the
15 Department the required fee or submits the incorrect amount
16 shall be subject to the penalties provided for in Section
17 25-110 of this Act.

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

22 (f) (Blank). ~~All proportionate funds held in the~~
23 ~~Comptroller's Administrative Fund related to unexpended moneys~~
24 ~~collected under the Cemetery Care Act and the Crematory~~
25 ~~Regulation Act shall be transferred to the Cemetery Oversight~~
26 ~~Licensing and Disciplinary Fund within 60 days after the~~

1 ~~effective date of the repeal of the Cemetery Care Act.~~

2 (g) (Blank). ~~Personnel employed by the Comptroller on~~
3 ~~February 29, 2012, to perform the duties pertaining to the~~
4 ~~administration of the Cemetery Care Act and the Crematory~~
5 ~~Regulation Act, are transferred to the Department on March 1,~~
6 ~~2012.~~

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

13 ~~All transferred employees who are members of collective~~
14 ~~bargaining units shall retain their seniority, continuous~~
15 ~~service, salary, and accrued benefits. During the pendency of~~
16 ~~the existing collective bargaining agreement, the rights~~
17 ~~provided for under that agreement shall not be abridged.~~

18 ~~The Department shall continue to honor during their~~
19 ~~pendency all bargaining agreements in effect at the time of the~~
20 ~~transfer and to recognize all collective bargaining~~
21 ~~representatives for the employees who perform or will perform~~
22 ~~functions transferred by this Act. For all purposes with~~
23 ~~respect to the management of the existing agreement and the~~
24 ~~negotiation and management of any successor agreements, the~~
25 ~~Department shall be deemed the employer of employees who~~
26 ~~perform or will perform functions transferred to the Department~~

1 ~~by this Act.~~

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

3 Section 15. The Illinois Pre-Need Cemetery Sales Act is
4 amended by changing Sections 6, 8, 14, 15, and 20 as follows:

5 (815 ILCS 390/6) (from Ch. 21, par. 206)

6 Sec. 6. License application.

7 (a) An application for a license shall be made in writing
8 to the Comptroller on forms prescribed by him or her, signed by
9 the applicant under oath verified by a notary public, and
10 accompanied by a non-returnable \$125 ~~\$25~~ application fee, \$100
11 of which shall be deposited into the Comptroller's
12 Administrative Fund. The Comptroller may prescribe abbreviated
13 application forms for persons holding a license under the
14 Cemetery Care Act. Applications (except abbreviated
15 applications) must include at least the following information:

16 (1) The full name and address, both residence and
17 business, of the applicant if the applicant is an
18 individual; of every member if applicant is a partnership;
19 of every member of the Board of Directors if applicant is
20 an association; and of every officer, director and
21 shareholder holding more than 10% of the corporate stock if
22 applicant is a corporation;

23 (2) A detailed statement of applicant's assets and
24 liabilities;

1 (2.1) The name and address of the applicant's principal
2 place of business at which the books, accounts, and records
3 are available for examination by the Comptroller as
4 required by this Act;

5 (2.2) The name and address of the applicant's branch
6 locations at which pre-need sales will be conducted and
7 which will operate under the same license number as the
8 applicant's principal place of business;

9 (3) For each individual listed under (1) above, a
10 detailed statement of the individual's business experience
11 for the 10 years immediately preceding the application; any
12 present or prior connection between the individual and any
13 other person engaged in pre-need sales; any felony or
14 misdemeanor convictions for which fraud was an essential
15 element; any charges or complaints lodged against the
16 individual for which fraud was an essential element and
17 which resulted in civil or criminal litigation; any failure
18 of the individual to satisfy an enforceable judgment
19 entered against him or her based upon fraud; and any other
20 information requested by the Comptroller relating to the
21 past business practices of the individual. Since the
22 information required by this paragraph may be confidential
23 or contain proprietary information, this information shall
24 not be available to other licensees or the general public
25 and shall be used only for the lawful purposes of the
26 Comptroller in enforcing this Act;

1 (4) The name of the trustee and, if applicable, the
2 names of the advisors to the trustee, including a copy of
3 the proposed trust agreement under which the trust funds
4 are to be held as required by this Act;

5 (5) Where applicable, the name of the corporate surety
6 company providing the performance bond for the
7 construction of undeveloped spaces and a copy of the bond;
8 and

9 (6) Such other information as the Comptroller may
10 reasonably require in order to determine the qualification
11 of the applicant to be licensed under this Act.

12 (b) Applications for license shall be accompanied by a
13 fidelity bond executed by the applicant and a security company
14 authorized to do business in this State in such amount, not
15 exceeding \$10,000, as the Comptroller may require. The
16 Comptroller may require additional bond from time to time in
17 amounts equal to one-tenth of such trust funds but not to
18 exceed \$100,000, which bond shall run to the Comptroller for
19 the use and benefit of the beneficiaries of such trust funds.
20 Such licensee may by written permit of the Comptroller be
21 authorized to operate without additional bond, except such
22 fidelity bond as may be required by the Comptroller for the
23 protection of the licensee against loss by default by any of
24 its employees engaged in the handling of trust funds.

25 (c) Any application not acted upon within 90 days may be
26 deemed denied.

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

2 (815 ILCS 390/8) (from Ch. 21, par. 208)

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

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

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

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

25 (e) Any person engaged in pre-need sales, as defined

1 herein, prior to the effective date of this Act may continue
2 operations until the application for license under this Act is
3 denied; provided that such person shall make application for a
4 license within 60 days of the date that application forms are
5 made available by the Comptroller.

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

12 (g) Every license issued hereunder shall be renewed every 5
13 years for a fee of \$100. The renewal fee shall be deposited
14 into the Comptroller's Administrative Fund. The ~~remain in force~~
15 ~~until the same has been suspended, surrendered or revoked in~~
16 ~~accordance with this Act, but the~~ Comptroller, upon the request
17 of an interested person or on his own motion, may issue new
18 licenses to a licensee whose license or licenses have been
19 revoked, if no factor or condition then exists which would have
20 warranted the Comptroller in refusing originally the issuance
21 of such license.

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

23 (815 ILCS 390/14) (from Ch. 21, par. 214)

24 Sec. 14. Contract required.

25 (a) It is unlawful for any person doing business within

1 this State to accept sales proceeds, either directly or
2 indirectly, by any means unless the seller enters into a
3 pre-need sales contract with the purchaser which meets the
4 following requirements:

5 (1) A written sales contract shall be executed in at
6 least 11 point type in duplicate for each pre-need sale
7 made by a licensee, and a signed copy given to the
8 purchaser. Each completed contract shall be numbered and
9 shall contain: (i) the name and address of the purchaser,
10 the principal office of the licensee, and the parent
11 company of the licensee; (ii) the name of the person, if
12 known, who is to receive the cemetery merchandise, cemetery
13 services or the completed interment, entombment or
14 inurnment spaces under the contract; and (iii) specific
15 identification of such merchandise, services or spaces to
16 be provided, if a specific space or spaces are contracted
17 for, and the price of the merchandise, services, or space
18 or spaces.

19 (2) In addition, such contracts must contain a
20 provision in distinguishing typeface as follows:

21 "Notwithstanding anything in this contract to the
22 contrary, you are afforded certain specific rights of
23 cancellation and refund under the Illinois Pre-Need
24 Cemetery Sales Act, enacted by the 84th General Assembly of
25 the State of Illinois".

26 (3) All pre-need sales contracts shall be sold on a

1 guaranteed price basis. At the time of performance of the
2 service or delivery of the merchandise, the seller shall be
3 prohibited from assessing the purchaser or his heirs or
4 assigns or duly authorized representative any additional
5 charges for the specific merchandise and services listed on
6 the pre-need sales contract.

7 (4) Each contract shall clearly disclose that the price
8 of the merchandise or services is guaranteed and shall
9 contain the following statement in 12 point bold type:

10 "THIS CONTRACT GUARANTEES THE BENEFICIARY THE SPECIFIC
11 GOODS, SERVICES, INTERMENT SPACES, ENTOMBMENT SPACES, AND
12 INURNMENT SPACES CONTRACTED FOR. NO ADDITIONAL CHARGES MAY
13 BE REQUIRED FOR DESIGNATED GOODS, SERVICES, AND SPACES.
14 ADDITIONAL CHARGES MAY BE INCURRED FOR UNEXPECTED
15 EXPENSES."

16 (5) The pre-need sales contract shall provide that if
17 the particular cemetery services, cemetery merchandise, or
18 spaces specified in the pre-need contract are unavailable
19 at the time of delivery, the seller shall be required to
20 furnish services, merchandise, and spaces similar in style
21 and at least equal in quality of material and workmanship.

22 (6) The pre-need contract shall also disclose any
23 specific penalties to be incurred by the purchaser as a
24 result of failure to make payments; and penalties to be
25 incurred or moneys or refunds to be received as a result of
26 cancellation of the contract.

1 (7) The pre-need contract shall disclose the nature of
2 the relationship between the provider and the seller.

3 (8) Each pre-need contract that authorizes the
4 delivery of cemetery merchandise to a licensed and bonded
5 warehouse shall provide that prior to or upon delivery of
6 the merchandise to the warehouse the title to the
7 merchandise and a warehouse receipt shall be delivered to
8 the purchaser or beneficiary. The pre-need contract shall
9 contain the following statement in 12 point bold type:

10 "THIS CONTRACT AUTHORIZES THE DELIVERY OF MERCHANDISE TO A
11 LICENSED AND BONDED WAREHOUSE FOR STORAGE OF THE
12 MERCHANDISE UNTIL THE MERCHANDISE IS NEEDED BY THE
13 BENEFICIARY. DELIVERY OF THE MERCHANDISE IN THIS MANNER MAY
14 PRECLUDE REFUND OF SALE PROCEEDS THAT ARE ATTRIBUTABLE TO
15 THE DELIVERED MERCHANDISE."

16 The purchaser shall initial the statement at the time
17 of entry into the pre-need contract.

18 (9) Each pre-need contract that authorizes the
19 placement of cemetery merchandise at the site of its
20 ultimate use prior to the time that the merchandise is
21 needed by the beneficiary shall contain the following
22 statement in 12 point bold type:

23 "THIS CONTRACT AUTHORIZES THE PLACEMENT OF MERCHANDISE AT
24 THE SITE OF ITS ULTIMATE USE PRIOR TO THE TIME THAT THE
25 MERCHANDISE IS NEEDED BY THE BENEFICIARY. DELIVERY OF THE
26 MERCHANDISE IN THIS MANNER MAY PRECLUDE REFUND OF SALE

1 PROCEEDS THAT ARE ATTRIBUTABLE TO THE DELIVERED
2 MERCHANDISE."

3 The purchaser shall initial the statement at the time
4 of entry into the pre-need contract.

5 (10) Each pre-need contract that is funded by a trust
6 shall clearly identify the trustee's name and address and
7 the primary state or federal regulator of the trustee as a
8 corporate fiduciary.

9 (b) Every pre-need sales contract must be in writing. The
10 Comptroller may by rule develop a model pre-need sales contract
11 form that meets the requirements of this Act.

12 (c) To the extent the Rule is applicable, every pre-need
13 sales contract is subject to the Federal Trade Commission Rule
14 concerning the Cooling-Off Period for Door-to-Door Sales (16
15 CFR Part 429).

16 (d) No pre-need sales contract may be entered into in this
17 State unless there is a provider for the cemetery merchandise,
18 cemetery services, and undeveloped interment, inurnment, and
19 entombment spaces being sold. If the seller is not the
20 provider, then the seller must have a binding agreement with a
21 provider, and the identity of the provider and the nature of
22 the agreement between the seller and the provider must be
23 disclosed in the pre-need sales contract at the time of sale
24 and before the receipt of any sale proceeds. The failure to
25 disclose the identity of the provider, the nature of the
26 agreement between the seller and the provider, or any changes

1 thereto to the purchaser and beneficiary, or the failure to
2 make the disclosures required by this Section constitutes an
3 intentional violation of this Act.

4 (e) No pre-need contract may be entered into in this State
5 unless it is accompanied by a funding mechanism permitted under
6 this Act and unless the seller is licensed by the Comptroller
7 as provided in this Act. Nothing in this Act is intended to
8 relieve providers or sellers of pre-need contracts from being
9 licensed under any other Act required for their profession or
10 business or from being subject to the rules promulgated to
11 regulate their profession or business, including rules on
12 solicitation and advertisement.

13 (f) No pre-need contract may be entered into in this State
14 unless the seller explains to the purchaser the terms of the
15 pre-need contract prior to the purchaser signing and the
16 purchaser initials a statement in the contract confirming that
17 the seller has explained the terms of the contract prior to the
18 purchaser signing.

19 (g) The State Comptroller shall develop a booklet for
20 consumers in plain English describing the scope, application,
21 and consumer protections of this Act. After the booklet is
22 developed, no pre-need contract may be sold in this State
23 unless the seller distributes to the purchaser prior to the
24 sale a booklet developed or approved for use by the State
25 Comptroller.

26 (h) Each pre-need contract entered into under this Section

1 shall be registered on an online database maintained by the
2 State Comptroller. Information to be included in the database
3 shall include, but not be limited to, the name of licensee,
4 purchaser, date of contract, amount of contract, and
5 disposition of the funds. This information must be registered
6 into the State Comptroller's online database within 45 days
7 after the date of the pre-need contract.

8 (Source: P.A. 96-879, eff. 2-2-10.)

9 (815 ILCS 390/15) (from Ch. 21, par. 215)

10 Sec. 15. (a) Whenever a seller receives anything of value
11 under a pre-need sales contract, the person receiving such
12 value shall deposit 50% of all proceeds received into one or
13 more trust funds maintained pursuant to this Section, except
14 that, in the case of proceeds received for the purchase of
15 outer burial containers, 85% of the proceeds shall be deposited
16 into one or more trust funds. Such deposits shall be made until
17 the amount deposited in trust equals 50% of the sales price of
18 the cemetery merchandise, cemetery services and undeveloped
19 spaces included in such contract, except that, in the case of
20 deposits for outer burial containers, deposits shall be made
21 until the amount deposited in trust equals 85% of the sales
22 price. In the event an installment contract is factored,
23 discounted or sold to a third party, the seller shall deposit
24 an amount equal to 50% of the sales price of the installment
25 contract, except that, for the portion of the contract

1 attributable to the sale of outer burial containers, the seller
2 shall deposit an amount equal to 85% of the sales price.
3 Proceeds required to be deposited in trust which are
4 attributable to cemetery merchandise and cemetery services
5 shall be held in a "Cemetery Merchandise Trust Fund". Proceeds
6 required to be deposited in trust which are attributable to the
7 sale of undeveloped interment, entombment or inurnment spaces
8 shall be held in a "Pre-construction Trust Fund". If
9 merchandise is delivered for storage in a bonded warehouse, as
10 authorized herein, and payment of transportation or other
11 charges totaling more than \$20 will be required in order to
12 secure delivery to the site of ultimate use, upon such delivery
13 to the warehouse the seller shall deposit to the trust fund the
14 full amount of the actual or estimated transportation charge.
15 Transportation charges which have been prepaid by the seller
16 shall not be deposited to trust funds maintained pursuant to
17 this Section. As used in this Section, "all proceeds" means the
18 entire amount paid by a purchaser in connection with a pre-need
19 sales contract, including finance charges and Cemetery Care Act
20 contributions, but excluding sales taxes and credit life
21 insurance premiums.

22 (b) The seller shall act as trustee of all amounts received
23 for cemetery merchandise, services, or undeveloped spaces
24 until those amounts have been deposited into the trust fund.
25 All trust deposits required by this Act shall be made within 30
26 days following the end of the month of receipt. The seller must

1 retain a corporate fiduciary as an independent trustee for any
2 amount of trust funds. Upon 30 days' prior written notice from
3 the seller to the Comptroller, the seller may change the
4 trustee of the trust fund. Failure to provide the Comptroller
5 with timely prior notice is an intentional violation of this
6 Act.

7 (c) A trust established under this Act must be maintained
8 with a corporate fiduciary as defined in Section 1-5.05 of the
9 Corporate Fiduciary Act or with a foreign corporate fiduciary
10 recognized by Article IV of the Corporate Fiduciary Act.

11 (d) Funds deposited in the trust account shall be
12 identified in the records of the seller by the name of the
13 purchaser. Nothing shall prevent the trustee from commingling
14 the deposits in any such trust fund for purposes of the
15 management thereof and the investment of funds therein as
16 provided in the "Common Trust Fund Act", approved June 24,
17 1949, as amended. In addition, multiple trust funds maintained
18 pursuant to this Act may be commingled or commingled with other
19 funeral or burial related trust funds, provided that all record
20 keeping requirements imposed by or pursuant to law are met.

21 (e) In lieu of a pre-construction trust fund, a seller of
22 undeveloped interment, entombment or inurnment spaces may
23 obtain and file with the Comptroller a performance bond in an
24 amount at least equal to 50% of the sales price of the
25 undeveloped spaces or the estimated cost of completing
26 construction, whichever is greater. The bond shall be

1 conditioned on the satisfactory construction and completion of
2 the undeveloped spaces as required in Section 19 of this Act.

3 Each bond obtained under this Section shall have as surety
4 thereon a corporate surety company incorporated under the laws
5 of the United States, or a State, the District of Columbia or a
6 territory or possession of the United States. Each such
7 corporate surety company must be authorized to provide
8 performance bonds as required by this Section, have paid-up
9 capital of at least \$250,000 in cash or its equivalent and be
10 able to carry out its contracts. Each pre-need seller must
11 provide to the Comptroller, for each corporate surety company
12 such seller utilizes, a statement of assets and liabilities of
13 the corporate surety company sworn to by the president and
14 secretary of the corporation by January 1 of each year.

15 The Comptroller shall prohibit pre-need sellers from doing
16 new business with a corporate surety company if the company is
17 insolvent or is in violation of this Section. In addition the
18 Comptroller may direct a pre-need seller to reinstate a
19 pre-construction trust fund upon the Comptroller's
20 determination that the corporate surety company no longer is
21 sufficient security.

22 All performance bonds issued pursuant to this Section must
23 be irrevocable during the statutory term for completing
24 construction specified in Section 19 of this Act, unless
25 terminated sooner by the completion of construction.

26 (f) Whenever any pre-need contract shall be entered into

1 and include 1) items of cemetery merchandise and cemetery
2 services, and 2) rights to interment, inurnment or entombment
3 in completed spaces without allocation of the gross sale price
4 among the items sold, the application of payments received
5 under the contract shall be allocated, first to the right to
6 interment, inurnment or entombment, second to items of cemetery
7 merchandise and cemetery services, unless some other
8 allocation is clearly provided in the contract.

9 (g) Any person engaging in pre-need sales who enters into a
10 combination sale which involves the sale of items covered by a
11 trust or performance bond requirement and any item not covered
12 by any entrustment or bond requirement, shall be prohibited
13 from increasing the gross sales price of those items not
14 requiring entrustment with the purpose of allocating a lesser
15 gross sales price to items which require a trust deposit or a
16 performance bond.

17 (Source: P.A. 96-879, eff. 2-2-10.)

18 (815 ILCS 390/20) (from Ch. 21, par. 220)

19 Sec. 20. Records.

20 (a) Each licensee must keep accurate accounts, books and
21 records in this State at the principal place of business
22 identified in the licensee's license application or as
23 otherwise approved by the Comptroller in writing of all
24 transactions, copies of agreements, dates and amounts of
25 payments made or received, the names and addresses of the

1 contracting parties, the names and addresses of persons for
2 whose benefit funds are received, if known, and the names of
3 the trust depositories. Additionally, for a period not to
4 exceed 6 months after the performance of all terms in a
5 pre-need sales contract, the licensee shall maintain copies of
6 each pre-need contract at the licensee branch location where
7 the contract was entered or at some other location agreed to by
8 the Comptroller in writing.

9 (b) Each licensee must maintain such records for a period
10 of 3 years after the licensee shall have fulfilled his or her
11 obligation under the pre-need contract or 3 years after any
12 stored merchandise shall have been provided to the purchaser or
13 beneficiary, whichever is later.

14 (c) Each licensee shall submit reports to the Comptroller
15 annually, under oath, on forms furnished by the Comptroller.
16 The annual report shall contain, but shall not be limited to,
17 the following:

18 (1) An accounting of the principal deposit and
19 additions of principal during the fiscal year.

20 (2) An accounting of any withdrawal of principal or
21 earnings.

22 (3) An accounting at the end of each fiscal year, of
23 the total amount of principal and earnings held.

24 (d) The annual report shall be filed by the licensee with
25 the Comptroller within 75 days after the end of the licensee's
26 fiscal year. An extension of up to 60 days may be granted by

1 the Comptroller, upon a showing of need by the licensee. Any
2 other reports shall be in the form furnished or specified by
3 the Comptroller. If a licensee fails to submit an annual report
4 to the Comptroller within the time specified in this Section,
5 the Comptroller shall impose upon the licensee a penalty of \$5
6 per day for the first 15 days past due, \$10 per day for 16
7 through 30 days past due, \$15 per day for 31 through 45 days
8 past due, and \$20 per day for the 46th day and every day
9 thereafter ~~for each and every day~~ the licensee remains
10 delinquent in submitting the annual report. The Comptroller may
11 abate all or part of the \$5 daily penalty for good cause shown.
12 Each report shall be accompanied by a check or money order in
13 the amount of \$10 payable to: Comptroller, State of Illinois.

14 (e) On and after the effective date of this amendatory Act
15 of the 91st General Assembly, a licensee may report all
16 required information concerning the sale of outer burial
17 containers on the licensee's annual report required to be filed
18 under this Act and shall not be required to report that
19 information under the Illinois Funeral or Burial Funds Act, as
20 long as the information is reported under this Act.

21 (Source: P.A. 91-7, eff. 1-1-00; 92-419, eff. 1-1-02.)

22 Section 99. Effective date. This Act takes effect upon
23 becoming law.